



# Portsmouth Concerned Citizens

## NEWSLETTER

“Information is the currency of Democracy”

-Thomas Jefferson

www.portsmouthconcernedcitizens.org

Editor: Joe Robicheau, Guest Editor: Tom Vadney

October 15, 2007

Volume III, Edition 4

### *From the President* – Larry Fitzmorris

**November Ballot Proposals** – The Portsmouth Special Election is scheduled for Tuesday, November 6<sup>th</sup> and I encourage all readers to go and vote. Although Portsmouth traditionally has very good turnouts for its special elections, the ballot issues will still be decided by a relatively small number of voters. The Council removed the sewer proposal from the ballot so the major spending proposal is no longer going to be decided by the voters. The Council’s proposed Charter change to eliminate the Town Meeting and two bond proposals remain for the voters’ consideration. The two proposed bond issues consist of one combined bond for open space and recreational improvements and a bond for a town owned windmill generator.

**The PCC’s Request for an Investigation** – Our organization requested that the Council investigate the circumstances of the budget increases in last year’s budget. This issue is a matter of high importance as it involves the rights of the electors of Portsmouth versus the power of our town government. I encourage everyone to follow this event closely and to read our article on the matter in this issue.

### *In This Issue:*

**Ballot Recommendations** – The recommendations of the members of the PCC for the Special Election are summarized.

**Changing the Charter** – The Council’s proposal for changing the charter is on the ballot. The full text of the proposal is on our web site. We also offer our view of this proposed change.

**The Sewer Proposal is Withdrawn** – Liz Pedro describes the latest twists and turns in the sewer project.

**Windmills Anyone?** – Joe Robicheau asks the question - can we afford a windmill in light of a depleted Fund Balance?

**The Open Space & Recreation Bond** – Exactly much open-space funding will this bond really provide?

**PCC Requests Investigation** – Our request to the Council is outlined.

**Latest Test Scores** – RISC Chairman Harry Staley comments on the second set of falling test scores in Rhode Island public schools.

## PCC Ballot Recommendations

*(Larry Fitzmorris)* – The PCC does not tell its members how to vote, but our members have taken votes during our meetings on the ballot proposals before us in this special election. Our recommendations are summarized below. We have also included articles in this edition which discuss in detail each issue on the ballot. Our members recommend the following:

Charter Change on Town Meeting	NO
Open Space & Recreation Bond for \$4 million	NO
Windmill Bond for \$3 million	NO

## Changing the Charter

*(Larry Fitzmorris)* – The current majority on the Town Council is determined to change the Portsmouth Town Charter in a manner that would effectively remove the right of our voters to overrule their budget decisions. In the process of developing this proposal the Council also decided to ignore the traditional approach to changing the Charter in Portsmouth.

The Council’s proposal to replace the tent meeting with a special election has one fatal flaw; no group can raise the necessary number of petition signatures in the time allotted. That means that the provision that the Council would have us adopt will end completely any citizen control of Council budget decisions. We will lose our rights completely. I quote from the proposal; “*All petition forms shall be approved by the Registrar of Voters before circulation, and must be returned to the Town Clerk on or before a return date, which shall be two (2) weeks after the adoption of the final Town Budget.*”

That means that any electors that decide to change the budget will have two weeks to collect approximately 1,300 signatures. The PCC has collected a petition twice. **Even we could not do this in two weeks.** The proposed change also provides for the Registrar to approve the wording of our petition, which is deeply inappropriate. The individuals who initiate the petition should decide how it is worded.

The Council has decided to forgo the usual practice of empanelling a Charter Review Committee made up of electors. They have decided that that is not necessary in this case.

The charter is the document by which the people of Portsmouth define how their government works, and what authority it exercises. Home Rule Charters are authorized under the State Constitution and establish a process in which citizens can form a government that they define through their local Charter. These Charters provide for local control of local issues. Our charter specifically defines the powers of the Council. It does not, unfortunately, define a process for changing the charter, and that is where the trouble lies.

The Council's practical authority over the process for modification of the charter is almost unlimited. That may seem a strong statement, but it is, unfortunately, true. This is, in part, because of the lack of a defined process for changing the charter, but also because the formal state organizations, which are tasked with monitoring the actions of public officials, refuse to get involved. The Attorney General, the Ethics Board, and the Board of Elections all refuse to get caught up in charter issues. That leaves the citizens, when faced with a Council in violation of its own Town Charter, nowhere to go except the state courts. All you need is twenty thousand dollars and a lawyer you trust.

Past Councils have abused the charter amendment process to a considerable degree. In the 2004 election, the people of Portsmouth approved a number of changes to the charter. The new Council, which took office following the election, did not agree with the previous body's support of two of the amendments. When they submitted the amendments to the Assembly to be passed as law, as they are required to do, they proceeded to signal to the Assembly that they did not want two of the voter approved amendments adopted. The two approved amendments died in Committee, exactly as the Council desired. That was a flagrant abuse of power.

This Council is now involved in changing the charter in a situation where they have a profound conflict of interest. They are proposing a change to the people's charter, which will in effect reduce the rights of the people and increase their own power over the budget. And, they control the process. They have decided to circumvent the traditional practice of using a charter review committee made up of citizens because they do not trust the outcome.

The ethical obligations of the Council are clear. They have an obligation to uphold the Charter. It has been my observation over six years of experience with the Council and the School Committee that most elected officials, when presented with limitations to their authority, search for excuses in state law to relieve themselves of their duty to the Charter. Often the option presented in state law as 'may' is used to overcome the 'must' of the Charter. The parts of the Charter that govern the Council's authority to tax, however, remain rigid in their enforcement. Nothing must be allowed to interfere with the flow of money.

We in Portsmouth must have a formal process for modifying our Charter, one that is not completely subject to the political whims of the Council and that provides procedures that ensure

the people regain control over their own charter. Until that day, we can expect the Council to act in its own interest – at our expense.

## Sewer Proposal Withdrawn

*(Liz Pedro)* – The sewer project has unraveled. At its September 17<sup>th</sup> meeting, resisting heavy pressure from the state Department of Environmental Management during the day, the Council voted 7:0 to withdraw the sewer proposal from the November Special Election ballot. The vote resulted from a decision to reintroduce the subject by Council President Canario. Mr. Canario had voted with the majority to place the proposal on the ballot at the September 4 Council meeting. The resolution to remove the proposal from the ballot was made by Mr. Seveney and seconded by Mr. Little.

This project came to a standstill amid rising cost estimates, a special deal for O'Neill Properties Group, and a very high level of financial risk. The PCC was also getting very strong indications that the proposal was finding little support in Island Park, the principal service area.

Political support for this version of the project evaporated and the Council decided to explore the wastewater management district solution to correct our pollution problems. The Wastewater Advisory Committee will meet with the Council on October 15<sup>th</sup>. It was this committee that recommended the Council investigate other options before adopting an expensive sewer solution.

A preliminary meeting of the Wastewater Advisory Committee was arranged by Mr. Gilstein and held on October 4<sup>th</sup>. Department of Environmental Management representatives were present, as well as a representative from Woodard & Curran, the firm hired by the Town to develop a sewer system plan. DEM indicated that any wastewater management plan other than sewers would not be acceptable, and pressured the committee to advocate actually expanding the project. Several PCC members were present to observe, and agreed that this project has not yet died, and will be resurrected when a new plan is developed by Woodard & Curran.

The PCC membership voted at its August 7<sup>th</sup> meeting to support the recommendations of the Wastewater Advisory Committee for a wastewater management district, and to oppose an expensive sewer project until it was clearly demonstrated to be necessary. Many PCC members did extensive research on this project, with the following results:

Our estimates of the total cost over the twenty-year life of the bond were approximately \$53,000 for each homeowner. In addition to this already very high cost estimate, there were at least three major cost risks built into this plan by town officials; the risk that O'Neill Properties would not build out his planned developments on time or at all, the ever present risk of cost overruns on construction projects managed by the town, and the likely intervention by the state Department of

Environmental Management. DEM has already demonstrated a strong desire to expand our system into the entire town and into a regional system with Middletown and Newport. Of the three, the possibility that O'Neil Properties Group would not build out his planned developments on time was the greatest threat.

It is important to understand that while property owners in Island Park and Portsmouth Park who own buildable lots would pay assessments, O'Neil Properties would not be required to do so. As a result, any delay in building on the West side would shift the cost to the service areas onto the East side. The already high costs for homeowners would skyrocket.

In the end the Council did the right thing, and should be congratulated for their decision. While we have an obligation as citizens to correct our pollution problems, we don't have to bankrupt everyone in the process. This project was already far too expensive and had far too much risk built into the concept. It was time to take another approach.

## Windmills Anyone?

*(Joe Robicheau)* – Windmills are fascinating things. The proposal for the Town of Portsmouth to construct its own wind generator at the Middle School has received a good deal of attention and has been well researched by its advocates. But when we get beyond our own fascination, this proposal is a bond issue and will require the town to extend its debt to construct. Therein lays the problem.

While this project has its merits, the town is overextended. The financial management by the Council over the last three years has left the town in a difficult financial position. We have, frankly, been spending more that we have been taking in on the revenue side of the ledger. Our Fund Balance has been depleted by approximately \$1.3 million over the last three years dealing with deficits and funding shortfalls in the school department and extension of town side budgets. Our Fund Balance, the town's discretionary reserve, is now at \$1.6 million, when it should be at least \$4 million. We are using reserves to add to revenues to keep up the spending pace when we should be reducing spending.

Our bond rating is also in danger. Standard & Poor, the bond rating company, warned the town that it will downgrade our rating if something is not done about our reserves. The town's auditor also warned the Council last spring that the Fund Balance is far too low. Taking on more debt in the current circumstances is very unwise. Nice to have projects should wait until the town government can balance its needs with its income.

There are two other problems with this project; limits to the bond expenditures do not exist and a cost estimate which has already exceeded the bond amount.

As with the Open Space & Recreation Bond, this project lacks effective limits on the amount that can be spent. As long as the project spends its money on windmills the wording of the

bond language permits considerably more spending than the \$3 million limit.

This project is also already over cost. While the total spending authorization is for \$3 million the needed revenue is already estimated to be \$3.2 million. Before the project is even approved we are planning to exceed the authorized spending levels. That is certainly new.

## Open Space & Recreation

*(Larry Fitzmorris & Tom Vadney)* – We are all concerned about the decline in open space in Portsmouth, but this bond proposal is just a bad idea. The bond proposal is for both open space and recreation, split evenly. The advocates for open space did not want to be lumped in with the recreation proposal, but that was apparently done to make the \$2 million for recreation spending more acceptable.

Like the Windmill proposal, this bond lacks restraints over how much money can actually be spent. Because the bond language passed by the Assembly did not specifically limit bonding authority to the specified amount, with provisions for returning to the electors for authorization to spend above the \$4 million, cost overruns are possible. They are not only possible, they are likely, considering the history of bond projects in Portsmouth. Anyone remember the gym? Anyone remember the renovation of Town Hall?

Until corrective action is taken by the Council to modify the methods by which we manage these bond projects, we simply cannot trust that the money will be spent as promised or that cost overruns will be avoided.

## PCC Requests Investigation

*(Larry Fitzmorris & Joe Robicheau)* – At the September 7<sup>th</sup> meeting of the Council the PCC formally requested the Council investigate what we believe were unauthorized increases in the budget totals for the Town municipal departments and the School Department in the 2006 – 2007 fiscal year. At the August 2006 Town Meeting the electors set budget totals for the school and the town side departments, as well as the tax rate for the 2006-2007 fiscal year.

Our allegation of unauthorized activity caused a firestorm of protest among the Town's managers and some elected officials. As Portsmouth's tax watchdogs, we are determined to defend the authority of the Town's electors, exercised at the Town Meeting, against encroachment by anyone in town government. At this point no one disputes the town side department budget total was raised \$384,077 above the levels set at the meeting with the adjustments of the subsequent Caruolo suit added. On the School Department side of the budget, the totals were increased by at least \$150,000 above the amount authorized in Judge Indeglia's ruling. Property taxes were not increased beyond the supplemental tax increase resulting from the Caruolo case because the funds were transferred from reserves.

The Town Charter is very clear on this matter; the Council does not have authority to increase total spending after the Town Meeting sets budget totals. It also does not have authority to increase budget totals after the late June adoption of the final budget in any year.

Although everyone should be fully aware of provisions of the Town Charter, few of us are; however, all elected and appointed officials should be thoroughly familiar. I think you will agree they are not.

It is irrefutable that the Charter allows for one and only one town budget each year. The Town Council has no authority to increase the budget unless so ordered by a state court.

The fundamental dispute in all of this is who the ultimate authority over the Town Budget is going to be; the electors and their Town Charter—or the town government. The Council voted to request the State's Auditor General to investigate the issue. That is a good start, but this matter must be resolved. The authority of the citizens of Portsmouth and the primacy of the Town Charter over the government must be reaffirmed. (*Ed –The complete text of this abridged article, including excerpts the Charter may be viewed at our website.*)

## Latest Test Scores

**(Harry L. Staley)** – Once again we hear that Rhode Island students are underperforming in essential curriculum areas, principally English and Math (*The Sun, Saturday, Sept. 29*).

And, once again, we hear from Commissioner McWalters that things are not as bad as they look, that the results in our suburban schools are OK, it is the urban schools that bring the statewide results down. Are we to infer that urban children, even if they come from poor homes, cannot learn?

Mr. McWalters has been at the helm of the Rhode Island Department of Education for 15 years. The bad news has continued unabated; the usual excuses and assurances that things will get better continue to follow from his office.

How long does it take to develop a plan to turn things around? How long must we wait to see substantial improvement in educational performance in every school district in Rhode Island urban and suburban?

On June 25, the Rhode Island Statewide Coalition Board of Directors, in a letter to the Board of Regents, the governor and key members of the General Assembly, stated their conviction that the time has come for a change of leadership. We asked that the board request the resignation of Mr. McWalters and undertake a search for a qualified replacement, someone with a plan of action to meet the challenge and the energy to make it happen.

Rhode Island children cannot wait another year, let alone 15, until something is done that will offer the promise that they have a future in a world that will demand more than they are currently receiving. Excuses for failure, and assurances that things will be better, will not suffice when they find themselves unprepared to compete in a global economy.

We are literally watching our children's future being sacrificed right before our eyes.

Enough is enough. Mr. McWalters has had all the time needed to prove that he has no answer for the serious educational problems of Rhode Island.

It is time to move on with new leadership.



CHARLESTOWN – (*The Westerly Sun August 4, 2007*) Governor Donald L. Carcieri told members of the Rhode Island Statewide Coalition Saturday that the two biggest issues facing the state are balancing the budget and improving education. “You need to balance the budget, control spending and get schools performing,” the governor said while speaking at RISC’s fifth annual meeting, “We’ve got to figure out how to run this state more efficiently, smarter, with fewer people and deliver less services at the end of the day because you can’t deliver them all.” The governor called RISC “one of the key salvations for our state. In the short time I’ve been at this job it’s clear to me that we need a public counter-balance to all the special interests that are out there that are doing well taking care of themselves. Their political influence on the legislature is extraordinary,” he said. Governors come and go, Carcieri said, but the state needs people who decide they’re going to have a say about what’s happening in their state and on the direction it’s headed.

## A Lot is at RISC...A Membership Plea

As Portsmouth Concerned Citizens have learned, much can be accomplished by a group of people united in purpose. RISC is proud of its affiliate, PCC, for the fight against high taxes in 2006.

But, the fight is not over. Much is yet to be done to accomplish real change in the Ocean State. RISC’s activities are financed by *individual memberships*. If it is to continue its efforts on behalf of Rhode Island taxpayers, more individuals and families must join.

If you have found RISC a valuable resource and its email communications beneficial, please consider membership.

[www.risc-ri.org](http://www.risc-ri.org) 401-213-6316

# WE MAKE A DIFFERENCE

JOIN  
PORTSMOUTH CONCERNED  
CITIZENS  
**HELP US HELP YOU**

Call Drena Robicheau at 847-1098  
Or use the membership form in this  
Newsletter



*INSIDE PORTSMOUTH*  
THE PCC CABLE PROGRAM  
ON LOCAL EVENTS

-  
CABEL CHANNEL 18  
Look for us in October

*PCC has a number of fundamental goals: limited and moderate property tax increases, open, efficient and responsive town government, access to decision makers and the deliberative process and superior public schools.*

*If you are of the same mind...*

## **BECOME A PCC MEMBER TODAY!**

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### PORTSMOUTH CONCERNED CITIZENS MEMBERSHIP FORM

NAME \_\_\_\_\_ DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/TOWN \_\_\_\_\_

HOME PHONE \_\_\_\_\_ OFFICE PHONE \_\_\_\_\_ E-MAIL \_\_\_\_\_

ANNUAL DUES:      \$20 (Single)      \$25 (Family)      \$100+ (Founder's Club)

Call: 683-6127, or mail this form and your contribution to:      Portsmouth Concerned Citizens  
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**ELECTION ISSUE**