



Portsmouth Concerned Citizens

NEWSLETTER

“Information is the currency of Democracy”

- Thomas Jefferson

www.portsmouthconcernedcitizens.org

Editors: Joe Robicheau & Tom Vadney

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From the President -- Larry Fitzmorris

The sewer proposal continues to survive in the Council despite heavy opposition among the people in the proposed sewer districts and in the Town, generally. The PCC continues to oppose this ill-conceived project at every opportunity. As an alternative, we continue to advocate for a Wastewater Management District in which people would, largely, retain the systems they presently have and would avoid the heavy costs of a sewer system. The PCC has also conducted a cost study of a Wastewater Management District in parallel with that conducted by the Town.

Membership: I am pleased to announce that our membership in the PCC has exceeded 500 active members. Our organization's opposition to the sewer project has resulted in a spike in new memberships.

In This Issue:

Council Keeps Sewers Alive – The sewer project remains viable. The Council is presently awaiting the results of a cost study on a Wastewater Management District in the North End. Some members of the Council also remained concerned about the Town's legal exposure to DEM due to agreements the town signed with that department.

Wastewater Management Districts – This article provides a short course on what a WMD district is and why the PCC believes it is a viable and much preferable alternative to sewers.

Government Reform – This project of the PCC is intended to introduce to the Council a number of proposed changes to the Charter for consideration by citizens on the November ballot. This article outlines our proposals.

Budget Woes – All Rhode Islanders who are paying attention know that the state government is experiencing severe budget problems. Those problems are translating into local funding problems for Portsmouth, and this article outlines what is ahead. We also address the unfunded post retirement obligations of Portsmouth government, which are a serious problem.

Citizen Access – This article discusses recent efforts by the PCC to defend citizen access to the Council agenda.

Council Keeps Sewers Alive

(Larry Fitzmorris) At its January 25 meeting, the Portsmouth Town Council, led by the Republican majority, voted 4 to 3 to keep the proposed sewer project alive. While vigorously stating their opposition to sewers, the Council majority, led by Keith Hamilton and Huck Little and supported by Peter McIntyre and Democrat Jim Seveney, refused to put an end to the sewer project. Instead, citing legal concerns they were unwilling to identify and concerns for septic system and cesspool costs, they decided to initiate another study.

The Portsmouth Concerned Citizens submitted an agenda item to ensure an opportunity to be heard during the discussion of sewers. That agenda item, however, was altered by the Town Solicitor to eliminate the reference to ending the sewer project. The PCC, nonetheless, asked the Council to “vote to end all consideration, planning and expenditures for the proposed sewer project and adopt a Wastewater Management District.”

Council member Dennis Canario introduced a motion to amend Mr. Hamilton's original motion to keep the sewer project under consideration. His motion would have ended the sewer project and established a Wastewater Management District. Mr. Canario's motion was supported by Karen Gleason and Jeff Plumb, but failed on a three-to-four vote. Council members Hamilton, Little, McIntyre and Seveney voted against the motion.

Town Administrator, Robert Driscoll, possibly the strongest advocate for sewers in Town government, was directed to lead a study group to produce a cost-benefit analysis comparing sewers and a Wastewater Management District. The study group will also include the Finance Director and Town Planner. The directive covered the areas of Island Park, Portsmouth Park, Common Fence Point and the Hummocks, but it now appears that the study will be limited to Island Park and Portsmouth Park. The Council, specifically, did not adopt a Wastewater Management District, the primary alternative to sewers.

A cost study of a Wastewater Management District was not included in the Facilities Plan completed in January by the engineering firm, Woodard & Curran. Collectively, the town has expended over \$500,000 on four wastewater studies.

The cost-benefit analysis is expected to be completed sometime in March.

The Council's legal concerns appear to be based upon contracts signed with DEM in April of 2007 and July 2008 to secure financial support for the sewer study and any legal authority DEM may have to unilaterally impose sewers on the citizens of Portsmouth. While some members of the Council, especially President Peter McIntyre, obviously fear legal action by DEM, the contracts are public documents, as is any legal authority granted by the Assembly to DEM. Even so, the Council refuses to openly discuss its legal concerns. Town Solicitor Andre D'Andrea insisted throughout the discussion on January 25 that the Council members could not discuss these legal matters in public session. He maintained that all discussions must be held in secret to avoid revealing legal strategy in some future lawsuit by DEM. It is clear from this discussion that the Town Council has entered into a business relationship with a state agency that the Council fears will sue the Town. The Town's Environmental counsel Mr. Christopher D'Ovidio, in response to a question from audience member, Liz Pedro, confirmed that DEM has never sued a municipality to force implementation of sewers.

A review by PCC members of the Town's contracts with DEM reveal a termination clause that permits DEM or Portsmouth, upon 30 days notice, to end the contract without penalty. At the close of the sewer discussion, Mrs. Gleason made a motion to ensure that the town will reject any future DEM payments. Environmental council, D'Ovidio, commented that such action would be 'prudent' and the motion passed unanimously.

Wastewater Management Districts

(Larry Fitzmorris) – The Council on January 25 directed a cost-benefit study comparing the cost of sewers to those of a Wastewater Management District (WMD). The PCC has, for some time advocated for a WMD as an efficient, low cost alternative to sewers. That fact should have been self evident to the Council, but they wanted the study in any case. There remains, however, some confusion among our residents about the exact nature of a WMD and what it will mean for them if one is adopted. Cost is the primary issue in this comparison and we have found that a WMD is less than one quarter of the costs of a sewer system in the study areas, including replacement of all cesspools within 200 feet of the shoreline.

The PCC has been conducting research on this subject and we believe that a WMD, in addition to being much less expensive, will also meet our environmental needs. At the foundation of this debate over sewers should be the question of how much pollution is introduced into the bay. A WMD, based upon the recent history of municipal sewer systems, especially during the rains in late March, wins easily. The history of the Newport sewer system is instructive: in 2009, there were fifty incidents of pumping of a mixture of raw sewage and rainwater into the harbor; twelve of them exceeded one million gallons; and their sewer bills are going to nearly double. Other communities in our areas have records every bit as bad.

The most important part of the WMD concept is that it retains the private maintenance of the wastewater treatment systems we presently have and avoids a brutally expensive public sewer system. In short, having a WMD is doing what we are doing now, with minor improvements to current procedures. The exception is those who have cesspools within 200 feet of tidal water areas. A recent state law requires cesspools in that region be inspected by 1 January 2012 and replaced by 1 January 2013. There are approximately 182 cesspools in the proposed sewer areas. Replacement costs are approximately \$20,000 to \$22,000 for advanced systems and about \$12,000 to \$18,000 for conventional septic systems. These replacement costs could be reduced if the Town coordinated the purchase and installation of systems and or cluster systems are used with the advanced systems to service small areas.

What would be new is Town management of a system of periodic inspections to ensure that homeowners conduct the required maintenance, ensuring that these systems remain functional. A number of communities in the state, such as Charlestown, already do this. A separate Town program is already set to handle the issue of the minor pollution in some of the streams and storm drains flowing into the Sakonnet. The Town will establish an office to ensure that authorized system inspectors routinely complete three-year inspections. That office will also ensure that septic systems and cesspools are repaired and pumped as necessary. We already do these things, if we are properly maintaining our septic systems and cesspools.

The PCC estimates each homeowner's costs over twenty years of \$14,680 to maintain the average private system in the study area. Contrast that with the cost of a sewer over twenty years of \$57,127 in Island Park and the Hummocks and \$49,627 in Portsmouth Park, with those costs likely to rise during construction and administration of the sewer system during the twenty years. Sewers have a cost four times greater than a WMD, and this within the areas with the highest density of cesspools in the shoreline zone. The choice is clear, if the interests of the people involved is the primary concern.

Government Reform

(Larry Fitzmorris) The PCC is proposing three Government Reform changes to the Portsmouth Home Rule Charter for inclusion on the November ballot. In Portsmouth, as elsewhere in Rhode Island, the Council is the gatekeeper for proposals to change the Charter. The past Council (2006 – 2008) abandoned the traditional process of forming a periodic Charter Review Committee of citizens and sent their own proposals directly to the ballot for citizen approval. While consistent with Rhode Island Supreme Court decisions, the new process clearly abandons Portsmouth's citizen involvement in changing their Charter. This process has continued with the present Council with its proposal to change provisions for sale of public property and therefore the PCC will propose Government Reforms directly to this Council. The PCC will present to the Council three proposals to reform local government. Clearly, this is a direct challenge to their self-interest as office holders but the PCC will appeal to them to let our citizens decide if these proposals have merit.

Recall

Rhode Island is a state where the Attorney General's Office, the Assembly's Auditor General and the Executive branch's Division of Municipal Finance routinely refuse to 'get involved' when issues of local government's adherence to state and local law are brought forward by citizens. The State's courts also prohibit taxpayer involvement in tax cases. In short, there is no practical and effective oversight of local government. That means that when citizens object to a failure in local government to follow the rules, recall is the only practical option. Added to this is the situation where office holders repudiate their campaign promises and follow a completely different course.

I often find local elected officials deaf to discussions of the legal limits to their authority. It is what I call the 'thousand yard stare.' When a citizen points out that an action is inconsistent with the Town Charter they stare back with incomprehension on their faces. "How could such a thing be possible?" They almost never direct the Town Solicitor to produce a written opinion supporting their actions. They are simply just not concerned about such discussions. When the subject is changed to the other side of the ledger – citizen adherence to the council's authority in the Charter to tax – exact and aggressive adherence to the Charter is suddenly the order of the day.

It is time that elected officials demonstrate that they understand for whom they work. It is time to modify our charter to provide for the recall of all of our elected officials. It should be a process that is not easy, but one that remains an option when our elected officials do not live up to what we expect of them.

The Straight Party Lever

A number of Rhode Island cities and towns have non-partisan local elections, including such diverse communities such as Tiverton, Woonsocket, East Providence and Middletown (School Committee only). It is time Portsmouth joins the modern world and makes local elections non-partisan. The simple fact is that party membership is no predictor of what policies local elected officials will adopt. Some current Republicans uniformly follow a policy of maximizing spending and some Democrats are fiscal conservatives. In addition, the straight party vote in Portsmouth makes effective Independent candidacies nearly impossible. In the history of recent Portsmouth elections, only one Independent candidate has been successful.

The primary objective of non-partisan elections is to ensure that the electors voting for local candidates are well informed. Many of the November 2008 voters voted for President by using the straight party option on the ballot. There were 1,409 straight party ballots cast in the last election, with 3,724 votes sufficient for election to the Council.

Our founding fathers believed that our democracy was dependent upon an informed electorate. Many of those who voted in Portsmouth's last election never looked at the local candidates, and were ignorant of their qualifications and positions. This process does not lead to good government. Elimination of the straight party lever will provide elections in which candidates would be required to run on their own record and with their own ideas.

Two-Year Terms

In our Town, the Council and Town Clerk serve two-year terms and the members of the School Committee serve four. The history of the School Committee is a clear demonstration that four-year terms are simply too long. In recent years, four members of the Committee have resigned short of their terms. In the Council, there has been none. There is also the matter of candidates and their reluctance to run for four-year terms. While State and Federal four year terms are probably an inducement, at the local level the commitment to what are, in effect, part time positions is a severe limit for first time candidates. It is rare for Portsmouth to have a full slate of candidates for the School Committee elections. In the 2008 election, there were no Republican or Independent candidates at all. That situation retards the public policy debate so critical to the proper functioning of any election. School Committee members often state that the four-year terms for members provide the opportunity to develop expertise on the Committee. However, service on the Council, with two-year terms, is just as stable. Councilpersons serve as long as any on the Committee. What is missing, however, is the opportunity for the citizens to make changes in the policy course on the Committee. The School Committee is spending two-thirds of the Town's budget and mid-course corrections by the voters are even more important than on the Council. The PCC will present these proposals to the Council as formal Charter changes for their review and action.

**YOU MAKE A
DIFFERENCE!**

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PORTSMOUTH CONCERNED
CITIZENS**

HELP US HELP YOU

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

Budget Woes

(Larry Fitzmorris) – Some things are obvious. The approaching budget storm in Rhode Island is something everyone could see coming. Yet our Council continues to delay actions to reduce expenditures, hoping for salvation in the form of Federal funding or some other manna from heaven. While the Council has taken actions that would be considered excellent in normal years, they are avoiding the fundamental necessity to match our cost of Government to the revenues we receive. Therefore, they face hard decisions

much sooner than they anticipated. The State's recession is driving this crisis, which has dramatically reduced revenues. The current and expected State deficits are as follows:

Projected State Budget Deficits

Fiscal Year	Deficit
FY 2009 - 2010	\$220 Million
FY 2010 - 2011	\$440 Million
FY 2011 - 2012	\$960 Million

The Current Budget

The State budget crisis is expected to last through at least 2012, when employment is predicted to regain much of its present losses. The impact on Portsmouth budgets will obviously continue to grow rapidly. The Assembly has still not (at the time we go to press) acted on the Supplemental budget. When it does act, the Assembly is likely to reduce revenue to the cities and towns as it moves to deal with the deficit and produce next year's budget. Portsmouth will not be exempt, and thanks to delayed action in the Assembly and foot-dragging in the Council, the Town will have little time to react. The municipal departments currently receive about \$2 million and the School Department receives about \$5 million in state revenue, most of which has been received. On the municipal side, the Town is widely expected to lose the fourth quarter automobile excise tax rebate of \$390,000. State funding for Portsmouth schools remains unclear.

The Portsmouth Council continues to await the Assembly's supplemental budget decision before taking action to reduce expenditures. This is the short view. As time runs out for reductions in town spending, the Council will be increasingly dependent upon tax increases and further depletion of the Fund Balance – our town's reserve. As the current budget already maximizes property taxes under the cap in state law, any action by the Council to raise additional taxes will require six of seven affirmative votes.

The Council did act to freeze hiring in the current year and that has resulted in an approximately \$200,000 reduction in the deficit adopted in the current budget of \$240,000. On the other side of the ledger, town revenues are off because of the slowdown in the housing market. There is a current shortage of about \$278,000 in projected revenues from inspections and new construction transfer fees.

The Council's delays have limited their options: increase taxes deplete the Fund Balance further or employee furloughs. They will not like their options, but their own decisions are what have led them to this hard spot.

Next Year's Budget

The budget development for the town's fiscal year 2010 – 2011, which will begin July 1 of this year, is going to be extremely difficult. The Assembly, in its new budget, must resolve the state's projected deficit of \$440 million, and that is likely to directly translate into reductions to the cities and towns. Against declining revenues, the failure to adequately

address serious shortfalls in retirement obligations and the shortage in the Fund balance have put the council in a vice.

The School Committee also expects the Council to increase its property tax revenue by the maximum under the tax cap law. However, the recent Rhode Island School Funding Formula proposal, if adopted, could reduce next year's revenue from the state by about \$260,000.

Some of our problems are homegrown. The town's unfunded obligations to retirees (pensions and health care) were completely reported for the first time in the latest annual audit. This is a very serious problem for the town. The total unfunded obligations are approximately \$37 million, which should have declined somewhat as the investment markets improve after July 1, the date of the audit. The Council has never discussed this problem publically, but recent budgets are significantly underfunding retirement obligations. They have only budgeted pay-as-you-go payments for health care programs. The School Committee is also underfunding health care, only budgeting for current year costs. No investment fund has been established for future health care costs and as a result, town obligations will be much higher.

The Fund Balance was not funded in the current budget and the Council is unlikely to do so in the next. The Council is likely to use a large part of the remaining \$2 million to resolve the current year deficit, and deplete it to near zero in the next fiscal year as budget pressures mount. They have painted themselves into a corner. Our bond rating will undoubtedly suffer.

While Portsmouth government faces an uncertain future it is important to point out that other communities have prepared for the recession much more effectively. Communities such as Jamestown and Westerly are implementing very low tax increases, having cut back on expenses going into the recession. They have preserved basis levels of service while avoiding tax increases on citizens hard pressed by the recession.



THE RISC BUSINESS NETWORK

www.statewidecoalition.com/

The Rhode Island Statewide Coalition has launched the **RISC Business Network**. This effort is intended to bring lasting change to our state through change in Assembly members. RISC is appealing to the small businesses of our state to join in support for candidates that seek the fundamental changes so necessary to alter the economic course of state government.

Portsmouth Concerned Citizens
PO Box 686
Portsmouth, Rhode Island 02871

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