



Portsmouth Concerned Citizens

NEWSLETTER

“Information is the currency of Democracy”

- Thomas Jefferson

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From the President -- Larry Fitzmorris

The people are the sole guarantors of their own rights. In the great Jeffersonian bargain, we grant political power to those we elect, in return for their solemn promise to obey the rules we set down for our governments.

In our national government and to a large degree our State government, the growth of bureaucratic power has been stunning. We as citizens must first ask ourselves if the government will permit our intended action. Every day our freedom to decide matters for ourselves is further hemmed in by new rules. It is true when we buy or sell a house, modify our property or plan our retirement. Increasingly, the bureaucracy involved is operating on rules it produced on its own, without benefit of law. Our basic laws clearly specify the legislatures as the sole authority in writing legislation, yet the courts have upheld rule writing in general. The problem is that the Congress and Assembly are reluctant to counter decisions in the agencies due to the complexity of the laws they are passing and frankly the lack of knowledge of what those agencies are doing. Increasingly we are ruled by people we did not elect.

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RhodeMap RI – Coming to a neighborhood near you is the worst social engineering plan you have ever seen. And the Government of Rhode Island is helping out.

A Good Portsmouth Budget – One of the best budgets passed in recent years, it contains good news for the hard pressed property tax payers of Portsmouth.

Secrecy in Government – Portsmouth Government Continues to make major Town decision in secret. A generally compliant Attorney General has not helped this long term problem. Despite numerous official complaints against the Council and School Committee the beat goes on.

School Department Budget – The Schools spends the majority of our taxes, but have been running a large surplus in recent years. This year they have accepted a zero increase.

Landfill Deposits to End? – We may be coming to the end of the extended deposits of contaminated soil at the Island Park Landfill site.

RhodeMap RI

RhodeMap RI is the local version of the nationwide campaign by the Federal department of Housing and Urban Development (HUD) to radically remake America's neighborhoods. This effort uses both the Federal carrot and the stick. First HUD offers money to State or local governments, in return for a contract guaranteeing that the receiving government will implement HUD's version of how American neighborhoods should look. If we have learned nothing in the last few years, we should realize that the Federal Government is incapable of running anything so large and sweeping without the heavy hand of government. Municipal zoning has always been a locally controlled process. With RhodeMap RI and HUD's new rules, this is rapidly changing. With this program we will be victims of radical social engineering.

On June 8 of this year, we in the PCC requested the Portsmouth Council to support giving the Town an escape clause from RhodeMap RI. Unfortunately, the Council decided not to act to defend the Town's property owners. A Council motion, to support opt out legislation in the Assembly, introduced by Mr. Robicheau and supported by Ms. Pedro and Mr. Gleason, failed in a 3:4 vote. Fortunately, the opt out legislation did pass the Rhode Island House on June 24 by a vote of 69 to 1. Although placed on the Senate calendar for a floor vote, the bill was stranded by the sudden end to the Senate session. The bill may be considered in September, if a special session is held.

The nature of the RhodeMap RI/HUD initiative is complex and difficult for our citizens and our elected officials to understand. While we do not know the motivation of the State Planners or HUD, this complexity works in their favor. We have been constantly told, especially by the State Planner, that there is nothing to fear here and that we should all just move on. But this program involves our basic property rights and our ability to control zoning in our neighborhoods. The State Planner and our local Planner have consistently and vigorously opposed any legislation that would allow municipalities to opt out of RhodeMap RI. But recent governments have squandered their credibility. Frankly, we live in an age when governments actively seek to deceive us and those who are opposed to RhodeMap RI believe that this is the case with the State's Planning Committee and with HUD.

RhodeMap RI was produced under a \$1.9 million HUD contract, which was approved by the Assembly, and initiated by a signed contract in 2011. RhodeMap RI is intended to be the State's Economic policy document, but the entire \$1.9 million was expended on housing studies, housing specialists and urban planning studies, as well as public relations. None of these funds were expended on economic studies by experts.

The key element in the above process is the implementation of HUD's Affirmatively Forwarding Fair Housing rules; a cumbersome phrase, but important none the less. Those standards are the core of the problem and the center of the public debate over RhodeMap RI. It is the 2011 contract signed by Associate State Planner Kevin Flynn which committed the State to conformance with HUD rules on housing and resulted in its elements being integrated in RhodeMap RI. While municipal governments can commit themselves directly by signing HUD contracts, with the 2011 agreement Rhode Island became the first, and only, state to consign itself to HUD's housing rules.

This is how RhodeMap RI connects to local zoning: RhodeMap RI tenants are automatically integrated into the State Guide Plan, in accordance with existing State Law. Municipal Comprehensive Plans integrate the elements of the Guide Plan, in accordance with existing State Law. Municipal Zoning is then adjusted to match tenets of the Comprehensive Plan, also in accordance with existing State Law.

The AFFH rules require low income housing in each of the Portsmouth's three census tracts. The intent is to re-engineer our neighborhoods to reflect all ethnic, racial and economic strata and in the quotas established by HUD. On July 8, HUD Secretary Julian Castro formally announced the new housing rules. These rules were not developed with public input and review, as is usual with new Federal regulations. Fortunately, the new HUD rules are facing growing opposition in Congress.

In addition, a bill was quietly introduced this session in the Rhode Island House (H6107A) which would provide for a property tax break for low income housing, shifting 80% of their assessed taxes to the other taxpayers. While the bill was withdrawn, it was reinstated in a last minute committee hearing and sent to the House floor for a vote. If the House reconvenes in September the bill might be in play.

RhodeMap RI further intends to concentrate our State population into a smaller portion of land than we now occupy. Its goal is to preserve some 63% of the State's land area as green space with the population herded into "growth centers."

HUD wants to redesign the three census blocks in Portsmouth to meet their standards for racial, ethnic and economic status. That will mean public housing will be imposed on Portsmouth and all of the State's suburban communities.

We believe that HUD must control local zoning in order to achieve its goals, as even HUD lacks the vast amounts of money necessary to directly impose its new rules. HUD knows that this effort will be in conflict with local home owners. So it must be able to impose its plans forcibly.

This is not about fair housing. The 1968 Fair Housing Act forbids discrimination in the sale and renting of houses. In

Portsmouth, and all other Rhode Island communities, anyone who can afford to do so is free to move into our communities. This is about a far away, unelected bureaucracy in Washington deciding how our Town should look and who should live here. It is also a bureaucracy that intends to impose their design by force, and which does so without the benefit of law.

A Good Portsmouth Budget

The members of the PCC adopted a policy of a zero tax increase for the budget that began July first. We have been making the case to the Council for the last few years that Portsmouth property owners were being given tax increases significantly above inflation. While there were clearly other factors involved, we may have finally had an effect.

When queried about changes in the tax rate by the PCC at the budget hearing, Mr. Hamilton deferred to the Finance Director and he responded that it would be zero. The reason is the addition of new construction and especially the increase in property valuations. This is principally true because of Newport Water Department improvements at their West Main Road facility near Raytheon. The Town taxes that property. The increase in projected tax revenue was very close to the initial tax increase. The change in projected tax revenue was recent and the Council decided to reduce taxes instead of spending the money.

The budget was drafted by departing Town Administrator John Klimm. This budget also continues deposits into the Fund Balance and a solid road paving effort. It is a conservative, solid budget that should do a great deal to support our AAA bond rating. Importantly, the Council rescinded its plan to raise ambulance fees on residents, under pressure from Judi Staven and the PCC. The PCC successfully made the argument that this service is a basic function of government and should not be funded through additional fees.

The Council formally approved the final budget on June 22 by formal adoption of a budget ordinance.

The budget increased by .29% or \$165,433.

The total budget: \$58,157,942.

The total tax levy: \$48,175,369.

Please remember that fees and rentals are significant revenue to the Town as well as taxes. Together they total an additional \$3,271,485 in revenue to the Town.

More Secrecy in Government

A long simmering problem with secrecy in Portsmouth government continues to get worse. Many of the Town's important issues, such as the sewers and the windmill, continue to be debated and decided in secret. The Labor agreements have not been reported or discussed in public for many years. As the citizens of Portsmouth who wrote and approved our Town Charter appreciated, any real evaluation of the performance of our government must be done in open session. Otherwise we do not know who among our elected officials opposed or supported issues that were decided, or the costs to the citizens of those decisions. The opening passages of the Open Meetings Act state: "It is essential to the

maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.”

The Rhode Island Supreme Court has also commented that “...that the OMA be broadly construed and interpreted in the light most favorable to public access in order to effectuate this significant remedial and protective purpose.” – Tanner v. Town Council of Town of East Greenwich.

We in the PCC challenged the Council in an Open Meetings complaint on the secret meeting with DEM representatives held April 1, 2014, but the Attorney General sided with the Council, supporting its citation of “Litigation.” In a matter that requires no secrecy for legal reasons; the justification the Council used to close that meeting. The deliberations and decisions made in that meeting remain secret.

In recent months the pace of complaints against Portsmouth governmental entities has continued apace. While Portsmouth elected and appointed bodies, meeting in executive session, may be in conformance with the Attorney General’s interpretation of the law, they clearly are not acting in the public interest. It is time to let the sun shine on the big decisions.

School Department Budget

The Portsmouth schools are our largest budget expenditure every year, which is no surprise. But the department has clearly been overfunded, with surpluses in each of the last four years. As late as FY 13 - 14 the auditor reports a surplus of \$1.2 million. This year the School Committee has accepted the same level of funding as last year.

In this fiscal year’s budget the Department’s budget is a total operational expenditure of \$35,125,874, or 57.8% of the total Town budget. When the \$986,771 for school debt (a new low) is added, the total expenditures on Portsmouth schools is \$36,112,645, or 62.1% of all funds spent by the Town.

Landfill Deposits to End?

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.

The long ordeal of dust and contaminated soil may be coming to a close in Island Park, and a large sports complex may be in our future.

After a number of extensions, the Department of Environmental Management has finally enforced the end date on landfill deposits of arsenic soils that exceed DEM’s own maximum standard for residential properties of 7ppm. That approval (Beneficial Use Document) for deposits of soil containing elevated arsenic was originally issued in September of 2010. It was last extended September 20 of 2014 with the stipulation that deposits would end September 20, 2015. During the last year of landfill operations, a deposit of arsenic soils from the Omega Pond Fish Ladder Project in East Providence that exceed the BUD limit of 7 ppm was detected at the landfill site by DEM sampling activities. That deposit was made on September 12. It did not exceed either the BUD limit of a maximum of 40 ppm or the average of 20 ppm (it was an average of 18.7 ppm and had a maximum of 22.7 ppm arsenic). However, the required notice to DEM was also not made.

In another incident, on October 30, 2014 DEM issued a Notice of Intent to Enforce regarding a deposit of soils from 590 Bellevue Ave. in Newport that contained arsenic above the maximum sample level of 40 ppm. DEM took a sample from the delivering truck and tested at 61 ppm. DEM requires ten samples to be taken from all loads of elevated arsenic soil prior to delivery. DEM ordered AP Enterprises to remove the soil from the site and that was accomplished on January 21, 2015.

AP Enterprises is now moving to develop the landfill site into a sports complex. It has purchased property adjacent to the landfill (on Russell Ave.), apparently to support the site. AP Enterprises presented its basic plan to the Portsmouth Economic Development Committee on July 15. DEM has indicated in the past that the top soil cannot be disturbed below two feet, so building on the site may be difficult.

A more formal process before the Zoning Board will be required. Any required zoning changes will have to be approved by the Council.

BECOME A PCC MEMBER TODAY!

PORTSMOUTH CONCERNED CITIZENS MEMBERSHIP APPLICATION 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
50 Kristen Ct.
Portsmouth, RI 02871

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