



Portsmouth Concerned Citizens NEWSLETTER

“Information is the currency of Democracy”

- Thomas Jefferson

December 5, 2017 - Volume XI, Edition 1

From the President -- Larry Fitzmorris

Judi Staven

The people of Portsmouth lost a strong and dedicated advocate when Judi Staven passed away on November 1. Twice elected to the Town Council, in 2002 and 2010, she was a tireless champion for the people of Portsmouth. She had the uncommon ability to put aside her own interests for the good of the people she represented and spoke for at Town meetings. Her numerous contributions extended from sewers to the budget and most recently, to the efforts to preserve the Transfer Station. Her knowledge of Station operations was unsurpassed and her contribution was critical to the outcome. The People of Portsmouth, whether or not they knew her, will be worse off without her.

In This Issue:

The Transfer Station Survives – The effort by elements of the Council and the Town Administration to close the Transfer Station were turned back by the citizens in two special meetings. The people made their views known and with excellent leadership and control of the facts, Council member Paul Kesson led the opposition to success.

Landfill Developments – September 20, 2016 was the date the landfill capping operation was supposed to be completed. The delivery of capping material proceeds at a slow pace, but in the mean time the owner is advocating for a Sports Complex at the site.

Pawsox & Eminent Domain – This Assembly legislation is intended to support construction of a baseball stadium in Pawtucket. But the bill also contains a proposal that broadens the power of eminent domain in all municipalities. That new power has the potential of greatly expanding Council authority in this area, to the detriment of the citizen's right to property.

AIPC Goes Private – A ruling by the Attorney General, sought by AIPC, converts this Island-wide planning organization into a private non-profit. Yet the organization wants to continue to represent the Town of Portsmouth before State and Federal agencies.

The Door into the Rain Tax – AIPC has received two grants totaling approximately \$1.3 million. This money is funding a supposed solution to storm water runoff on the Island. But the devil is in the details and this approach may be opening the door to a regional government with the authority to implement a rain tax.

The Transfer Station Survives

Portsmouth voters turned out in strength at two Council meetings to block a plan to implement curb side pickup and close the station. The plan to close the station was an example of Government deciding what is best for its citizens and manipulating studies to support their objectives. It was also a demonstration of what happens when voters actively engage in local government as well as the vital importance of principled leadership by Council members.

It was at the August 29 Council meeting that some members of the Council learned once again that the issue of trash collection is very important to the citizens of our Town. Before an overflow group of citizens in Council chambers, the Administration presented cost estimates that indicated the price of the sticker would increase dramatically in January. They cited considerable cost growth in the three station cost areas: the operator's contract, the Town's overhead, and the delivery fees at the State run central landfill. The Administration projected station costs to grow from the current sticker fee of \$160 to \$278, a 68% increase. The Administration also cited a dramatic decline in recycling tonnage at the station. They also presented the intended alternative; curb side pickup, at \$264 to \$368 per year, depending upon volume. It was clear that the advocates for curb side pickup believed that the people would choose that option over the transfer station because the price was close. This proposal was supported by Council members Hamilton, Ujifusa and Ryan.

The PCC advocated for a second round of station operator contract bids and an increase in control over who is using the station to reduce illegal use, a point made by most of the people who spoke to the Council at the meeting. The PCC also pointed out that DEM delivery fees are going to affect all options, not just the station as the Administration suggested in its presentation. The people who spoke almost universally made the point that contractors were using the station without authorization or intervention by staff, and that the Town was not doing its duty. Council President Hamilton then asked for a show of hands; about 80% supported keeping the station open. The Council then voted to proceed for a new round of station operation contract bids and to reconsider the matter in October.

The second meeting, held October 10 in the Middle School Auditorium, was attended by approximately 120 citizens, many of whom spoke during the meeting. There was very little voter support for the curb side pickup option. Many of the people speaking made the case for the station's convenience and a wish to avoid the unsightly mess curb side pickup produces.

Prior to the meeting, the Administration disqualified the lowest bid on a technicality, denying the Council the opportunity to make that decision. We believe this was done to increase their estimates of station costs and reduce its support among the citizens. Council member Gleason specifically objected to this decision.

Upon completion of the Administration's presentation on the two main options, keeping the station open or going to town wide curb side pickup, Council member Paul Kesson immediately made a motion to retain the station and award the bid to the lowest bidder, with Liz Pedro's second. These two Council members, with David Gleason in support, did an outstanding job. With vocal citizens in attendance, and supported by the research of a number of citizens, such as Judi Staven, they proved that detailed knowledge of a matter is critical in these contests.

The motion to retain the station passed 5:2, with Mr. Aguiar joining the majority and Ms. Ujifusa and Dr. Ryan voting no. Mr. Hamilton, who had verbally supported curb side pickup at previous meetings, switched his vote to retain the station.

At the October 23 Council meeting the Council President and the Administration manipulated the agenda to block Council member Gleason's initiative to review the disqualification of the Lawrence Waste bid. That action prevented any effort to vote on the issue. At the same meeting, a new agenda item was included to revote the October 10 Council decision to award the station operator bid to the lowest qualified bidder. That action was intended to formalize the administration's decision to remove the lowest bidder. The vote was 4:3, with Council members Kesson, Pedro and Gleason voting no. The November 27 Council meeting marked the end of the maneuvering, setting the sticker price at \$140 by a unanimous vote on Mr. Kesson's motion. While that is a reduction from the current \$160, the cost of waste bags will be additional. Bags will cost about \$35 a year for an average family. This motion also removed of the cost of the Prudence Island solid waste operation from the Transfer Station operations. The Prudence Island cost will be funded from the General Fund. The operation at the station will remain much the same as it is now. The main change is the implementation of the pay-as-you-throw program approved by the Council November 13. Residents will be required to purchase yellow bags at local merchants and place their general waste in those bags. A 30 gallon bag will cost \$2 and a 15 gallon bag \$1.25. Recyclables will be disposed of as we do now. The curb side pickup option remains with a number of commercial companies.

Landfill Developments

The Owner of the Portsmouth Landfill property in Island Park is substantially beyond the required deadline of September 20, 2016, set for completion by the Department of Environmental Management. Despite the deadline, capping operations continue at a slow pace.

According to the August 11, 2017 APE report, the site still requires an estimated 12,000 cu. yards of material to finish the capping. The clean fill is being used to build a two foot thick cap to isolate the high arsenic soil. At this rate the company has a projected completion date in June of 2018.

While proceeding at a slow rate on the capping operation, the owner of the property has also been advocating for his proposed Athletic Complex with the Town's Economic Development Committee. He has taken this course despite the fact he submitted a written agreement to DEM in March 2011, which stipulated that he had removed all plans for development on the site. This was done as a condition for the modification of the DEM's Beneficial Use Document to allow the addition of 8 feet of soil with up to 40 ppm Arsenic content. The industrial standard set by DEM is a limit of 7 ppm and the residential limit is even lower. There are also critical issues that must be resolved by the Council; disposition of the paper roads contained inside the landfill site and the required zoning changes for some of the lots that are now designated residential.

DEM has refused to rule on APE's plans for the site and a supporting commercial septic system on Walnut St. until the capping is completed.

Pawsox & Eminent Domain

The campaign to construct a new stadium for the Pawtucket Red Socks is well known to Rhode Island taxpayers, but an issue contained in the proposal is of direct interest to citizens throughout the State. That issue is the use of the government power of eminent domain to condemn land and property. It looks likely that the legislation will pass in the 2018 Assembly and the Governor appears ready to sign the bill.

For us in Portsmouth the expansion of eminent domain means a Council with the power to condemn anyone's land for use by another private entity or individual. Current state law limits the use of eminent domain to "blighted and substandard" property and for construction of public housing.

When the Senate Finance Committee conducted a hearing at the Roger Williams Law School on the Pawsox project, members of the PCC testified against the provisions for the expansion of municipal eminent domain. We believe the alteration of State law on eminent domain is being done because the supporters of the stadium project do not want to risk a ballot measure vote in the city of Pawtucket. That vote is required by the State Constitution when a law is changed only for a specific municipality. A change in State law that affects all municipalities does not require approval by the citizens.

The scope of this new power is not obvious at first blush. The real problem with an expansion of eminent domain authority in Portsmouth is that it broadens the opportunity to use that power significantly. Because the Council would not be required to raise funds to purchase the property being condemned, the scope and number of actions could expand. All that would be required is for the Council to develop a business partner willing to commit the funds to purchase the property. The Council would no longer be required to either pass a bond or budget the money to fund the seizure. The scope of eminent domain would also be expanded to any property, developed or not or substandard or not. The opportunity for corruption in local government would also be expanded, and that is never a good option.

AIPC Goes Private

Last September the RI Attorney General ruled that AIPC (Aquidneck Island Planning Commission) is a private organization, no longer a joint municipal planning commission or a public body. The AG did this in response to a petition from AIPC, paid for by their major donor -the van Beuren Charitable Fund (vBCF). This change has broad implications. As a private organization AIPC is no longer required to obey the Open Meeting Act or the Access to Public Records Act. Therefore the public will know only what AIPC chooses to tell them about their efforts. This is a real problem because AIPC is primarily funded by a special interest group (vBCF) whose goals and objectives are not necessarily the same as the Town of Portsmouth's goals and objectives. Yet because of AIPC's past history as a joint municipal planning commission, many residents and State agencies are being misled about who AIPC is now representing.

The PCC has been a leader in addressing this AIPC issue with the Town. It is our position that since AIPC is no longer a municipal planning commission or a public body, the Town should no longer appoint board members, provide a liaison or help fund AIPC salaries and overhead. Doing those things suggests to the public and State government officials that AIPC is still a municipal public body representing the Town. Furthermore, the Town does not do those things for any other private organization.

Just as concerning is the fact that AIPC has not provided an on time or correct financial statement in the last year. AIPC's salary and overhead expense as a percentage of expenditures is almost double what is recommended for a nonprofit organization. Yet they are now asking for donations from the general public. AIPC is an organization with a real identity crisis and Portsmouth needs to sever its ties.

The Door into the Rain Tax

The citizens of Portsmouth are facing a real threat of a new taxing authority as the regional storm water treatment and water quality concept expands. We may already be close to the point of no return. All of this may come as a surprise to most residents, but most of the recent developments are occurring outside of Portsmouth. The Council, even if determined to avoid this new taxing approach, may be unable to resist.

An alliance of regional non-profits, combined with two major grants, is enabling a regional storm water agency. The funding is from a \$960,000 Federal Environmental Protection

Agency grant to the Aquidneck Island Planning Commission (AIPC), and by a recent \$300,000 grant from the State's Department of Environmental Management to the same organization. This funding has been fueled by AIPC's political influence, especially with the Governor and DEM.

AIPC presently represents the interests of the Town with State and Federal agencies, despite the recent ruling by the Attorney General that the Commission is a private entity.

The concern about a regional taxing authority comes from our experience with East Bay regional water departments and quasi-governmental agencies. Citizen approval will likely not be permitted in the legislation founding the Regional Authority, as it hasn't been in the past. This was true for the East Bay Energy Consortium, a now defunct wind turbine project. For these regional authorities, the structural format and basic enabling legislation already exist, awaiting only an Assembly law to establish a specific regional government or authority. The rub is that no government, regional or otherwise, operates without the authority to levy taxes. They are established to solve real, or imagined, problems and require funds to operate.

If the road to approval is dependent upon a positive vote by the local governments involved there are ways around that problem. In the past, waving opportunities for new revenue at Councils has been the door to approval. New funding is the solvent for good judgment and AIPC, and its supporting non-profits, are flush with start up cash. New money, or cost sharing, is the siren's song and usually buys Council approval of these regional governments.

Once established, the regional government (a storm water management district in this case) will exercise taxing authority which will include the three municipalities on Aquidneck Island. In that configuration the district is fundamentally uncontrollable. A good example is the East Bay Education Collaborative. The vast majority of Portsmouth Taxpayers have never heard of this organization, but their property taxes have helped pay for the Collaborative buildings

Once established, Portsmouth citizens will have limited control over a regional authority, even if we elect one third of its controlling board. These Boards have been historically adept at playing two communities off against the uncooperative municipality's representatives. The best approach is to avoid any support for authorizing legislation, no matter how high soundings its intent.

BECOME A PCC MEMBER TODAY!

PORTSMOUTH CONCERNED CITIZENS - MEMBERSHIP APPLICATION FORM

NAME _____ 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, 02871

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50 Kristen Ct.
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