

PORTSMOUTH TOWN COUNCIL MEETING
DECEMBER 9, 2019 MINUTES

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

MEMBERS PRESENT: Kevin M. Aguiar, Linda L. Ujifusa, J. Mark Ryan, Keith E. Hamilton, Leonard B. Katzman, Andrew V. Kelly and Daniela T. Abbott

Time: 7:00 PM

EMERGENCY EVACUATION PLAN

PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was followed by a Moment of Silence for our men and women serving around the world in harm's way.

SITTING AS THE PORTSMOUTH TOWN COUNCIL

PRESIDENT'S EXECUTIVE SUMMARY – Mr. Aguiar gave an update that the East Main Road Safety Audit started today. Mr. Rainer will be giving an update in his Town Administrator's report.

CONSENT AGENDA

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 – Motion to approve as presented made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

MINUTES – Motion to approve made by Mr. Katzman, seconded by Dr. Ryan. Motion passed 7-0.
TCM 11/12/19
TCM 11/25/19

TOWN ADMINISTRATOR'S REPORT

1. Senior Center – The State Fire Marshal's office recently inspected the Senior Center. Their report has been turned over the Public Works and Fire Departments for review, comment and action as required. The Deputy State Fire Marshal will meet with Director Woodhead and Chief Ford tomorrow morning to walk through the building and create a priority listing of the issues identified. I will meet with the inspector following the walk-through and will keep the Council informed as to what our action plan will be.

2. McCorrie Beach – 1) DPW actions: Installation of two removable speed bumps. Removed after Columbus Day and installed before Memorial Day. Trash barrels were added in the summer and overflowing occurred immediately. Town Council approved Carry in/Carry out program. DPW will be placing signage about the policy and removed the barrels on November 8th. DPW will be monitoring the area for litter. DPW will remove any debris collected in neighborhood clean-ups.

2) Police: The PD increased its presence at McCorrie Point through increased beat patrols as well as directed patrols during the season. From May to October, our officers initiated 479 compliance checks. During this period, we received 19 calls for service resulting in two arrests and 1 municipal court summons. 13 of the 19 calls for service were received from May through July. Only one call for service was received in August. We believe this indicates the increased patrols appear to have improved the conditions regarding behavior and actions occurring at McCorrie Point. Additionally, the Fire and Police Departments are now sharing the Fire Permit Database. There was discussion last year of placing parking spots on the beach, but we are advising against this right now. The measures we have put in place seem to be working and we can look at this again next year. When

the weather warms, we will look to continue additional directed patrols. The increased presence, especially during the summer months, is significantly helping to ensure good behavior at the beach.

3. Road Safety Assessment of East Main Road – The Road Safety Assessment kicked off today. The assessment is of the corridor from Turnpike to the Middletown Line. It will also include pedestrian crossings and multiple intersections between Boyd Lane and Mitchell’s Lane. The RSA concentrated today on a presentation of the existing conditions (crashes, hot spots along the corridors, signage, etc.) and a discussion among stakeholders of known conditions. The team also visited numerous hot spot locations along the corridor. Following the field review, the team discussed appropriate countermeasures for identified safety concerns. RI DOT will now work to develop a detailed report of findings and recommendations. I anticipate this will be ready in late winter or early spring.

REMOVALS, RESIGNATIONS AND APPOINTMENTS

1. Removals:

a. Bristol Ferry Town Common Committee – E. Smith, H.W. Wilson – Motion to accept with regret made by Mr. Katzman, seconded by Dr. Ryan. Motion passed 7-0.

2. Appointment:

a. Melville Park Committee (Re-Appt.) – Motion to re-appoint Jeffrey Richard made by Dr. Ryan, seconded by Mr. Hamilton. Motion passed 7-0.

OLD BUSINESS (Discussion/Action)

1. Community Needs Assessment Survey results. – No votes taken.

NEW BUSINESS (Discussion/Action)

1. Request to advertise for a Public Hearing to amend the Portsmouth Code of Ordinances Chapter 15: Emergency Management, Section 3: Declaration of local disaster emergency. – Motion to approve the request to advertise for a Public Hearing to be held January 13, 2020 made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

2. PUBLIC HEARING: To consider the proposed amendments to the Portsmouth Code of Ordinances Chapter 274 Peddling and Soliciting:

- a. to amend Article I Hawkers and Peddlers to update the language and for consistency with current state law
- b. to add a new article, Article IV Mobile Food Establishments

Ms. West stated that we were updating this ordinance to comply with the new state law requiring an ordinance for Mobile Food Establishments. No comments were made during the public hearing. Motion to approve made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0. Motion to close the public hearing made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 7-0.

**Ordinance # 2019-12-09
AN ORDINANCE AMENDING CHAPTER 274
OF THE PORTSMOUTH CODE OF ORDINANCES
Chapter 274: Peddling and Soliciting**

Be it ORDAINED by the Town Council of the Town of Portsmouth, Rhode Island:

Section 1. Chapter 274, Article I, is hereby amended as follows:

Article I. Hawkers and Peddlers

§ 274-1. **Definitions.** For the purpose of this ordinance, the following definitions shall apply:

HAWKER – any person selling or offering for sale any goods, wares, or merchandise on any public street, highway, or public right of way in the Town of Portsmouth from a stationary location.

PEDDLER – any person selling or offering for sale any goods, wares, or merchandise from a vehicle, cart, or any other conveyance that is not stationary.

A **MOBILE FOOD ESTABLISHMENT** registered pursuant to Title 5, Chapter 11.1 of the General Laws and any regulations promulgated thereunder, or permitted pursuant to Article IV of this Chapter, are not hawkers or peddlers and are explicitly exempted from this Article.

§ 274-2. **License required.**

No person shall sell or offer for sale any goods, wares, or merchandise as a hawker or peddler without first obtaining a hawker or peddler license from the Town Council, unless specifically exempted pursuant to Title 5, Chapter 11, Section 18 of the General Laws of the state, or any amendment thereof or addition thereto.

§ 274-3. **Application for license.**

All hawkers and peddlers shall make application for a license to the Town Council. Upon approval of such application by the Town Council, the Town Clerk shall issue a license accordingly to such applicant to sell the goods, wares, or merchandise hereinbefore mentioned in such manner as shall be specified in such license for the period and from the date of such license.

§ 274-4. **Fees.**

Every person to whom a license shall be granted by the Town Council, before receiving such license, shall pay to the Town Clerk a fee of \$50.

§ 274-5. **License term; revocation.**

Each license shall expire on December 1 next after date of issuance, but may be revoked at any time at the pleasure of the Town Council.

§ 274-6. **Transfer of license.**

No license shall authorize any person other than the one named therein to act thereunder, and no license shall be transferable except by express authorization of the Town Council.

§ 274-7. **Display of license.**

Any person who shall neglect or refuse, for the space of 10 minutes after demand by any police officer, to exhibit to such officer his license shall be deemed for the purpose of this article to be unlicensed and to have violated the provisions thereof.

§ 274-8. **Special event peddler's license.**

A. Any special event, as recognized and approved by the Town Council, may utilize any vendor that is duly licensed by this chapter.

B. A special event peddler's license may be issued to hawkers or peddlers not currently licensed by the Town Council. Application for said license shall be submitted to the Town Clerk or his or her designee along with a fee of \$50 per event. Application must include the nature of items for sale, the special event title, location and date(s), a copy of the state tax permit. Said license will be issued administratively by the Town Clerk. Said license shall be displayed conspicuously at all times. All sales under this special event peddler's license will be limited only to the hours of the special event and shall be conducted where the special event is being held. Any person who has had his or her license revoked by the Town Council shall not be eligible for a special event peddler's license by the Town Clerk.

Section 2. Chapter 274 is hereby amended to add the following new Article:

Article IV. Mobile Food Establishments

§ 274-26. Definitions. For the purpose of this ordinance, the following definitions shall apply:

MOBILE FOOD ESTABLISHMENT or MFE – a food service operation that is operated from a movable motor driven or propelled vehicle, portable structure, or watercraft that can change location. Mobile food establishments specifically includes but is not limited to, food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts.

MOBILE FOOD ESTABLISHMENT EVENT – an event where an individual has ordered or commissioned the operation of one or more MFE at a private or public gathering.

§ 274-27. Purpose.

The purpose of this Article is to regulate the registration process for MFEs consistent with the provisions of Chapter 5-11.1 of the Rhode Island General Laws.

§ 274-28. Application for town permit; fee.

- A. No mobile food establishment shall operate within the Town without first obtaining a registration from the department pursuant to R.I. Gen. Laws Chapter 5-11.1 and a Town permit issued by the Town Council pursuant to this ordinance. The MFE operator shall provide with its application for a Town permit a complete copy of a current and valid state MFE registration.
- B. The Town shall accept applications for municipal MFE permits by email or other electronic means.
- C. The Town MFE permit shall expire on the same date that the state MFE registration expires.
- D. The fee for each Town MFE permit shall be no more than \$75 per year or any part of a year, or such other fee that shall not exceed the maximum fee set by the department.
- E. The permit fee for each MFE event or for each temporary mass gathering shall be no more than \$300, or such other fee that shall not exceed the maximum fee set by the department.
- F. Any person or entity desiring to hold a MFE event within the Town shall obtain a separate MFE event permit or temporary mass gathering permit, as applicable, prior to holding the event, and pay the applicable fee.

§ 274-29. Denial, suspension or revocation of permit.

The Town Council may deny, suspend or revoke a permit that the Town has issued if the operation of the registrant within the Town violates the Town's land use regulations, zoning, or other ordinances in relation to the operation of a MFE.

§ 274-30. Display of permit.

The Town MFE permit shall be affixed to the mobile food establishment in a conspicuous place.

§ 274-31. Special event mobile food establishment permit.

- A. Any special event, as recognized and approved by the Town Council, may utilize any MFE that is duly registered by the department and permitted by the Town Council pursuant to this chapter.
- B. A special event MFE permit may be issued to an MFE not currently permitted by the Town Council. Application for said permit shall be submitted to the Town Clerk or his or her designee along with a fee of up to \$75 per event. Application must include a complete copy of a valid and current state MFE registration. Said permit will be issued administratively by the Town Clerk. Said permit shall be displayed conspicuously at all times. All sales under this special event MFE permit will be limited only to the hours of the special event and shall be conducted where the special event is being held. Any person who has had his or her MFE permit revoked by the Town Council shall not be eligible for a special event MFE permit by the Town Clerk.

Section 3. This Ordinance shall take effect on January 1, 2020.

ADOPTED BY TOWN COUNCIL
ACTION ON DECEMBER 9, 2019

Jennifer M. West, Town Clerk

3. Request to award Miscellaneous Construction and Roadway Repair contracts. – Motion to approve made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

4. Prudence Island Transfer Station Rules and Regulations. – Motion to approve made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

5. Resolution to transfer Portsmouth town funds to Rhode Island Municipal Retirement System. – Motion to approve made by Mr. Katzman, seconded by Mr. Hamilton. Motion passed 7-0.

**TOWN OF PORTSMOUTH, RI
RESOLUTION # 2019-12-09**

WHEREAS: The International Association of Firefighters, AFL-CIO Local 1949, has requested to transfer from the existing Pension Plan for Employees of the Town of Portsmouth, Rhode Island; and

WHEREAS: The Town of Portsmouth has ratified a contract with the International Association of Firefighters, AFL-CIO Local 1949 authorizing Firefighters to become part of the Rhode Island Municipal Retirement Plan (aka MERS) as of July 1, 2019; and

WHEREAS: The Town of Portsmouth will initiate funding to the Rhode Island Municipal Retirement Plan by transferring to the Rhode Island Municipal Retirement Plan the employee and employer contributions plus accrued interest in the ICMA-RC plan.

NOW, THEREFORE, BE IT RESOLVED that the Portsmouth Town Council does hereby authorize the transfer of the Town of Portsmouth Firefighters to the Rhode Island Municipal Retirement Plan, effective July 1, 2019, subject to the provisions of and retirement benefits consistent with RIGL 45-21.2 and the Cost of Living Adjustment (COLA) consistent with RIGL 45-21-52.

BE IT FURTHER RESOLVED, that all transferred employee contributions and earnings from ICMA-RC to the Rhode Island Municipal Retirement Plan are to be received as and categorized as employee contributions by the Rhode Island Municipal Retirement Plan.

BE IT FURTHER RESOLVED, that all transferred employer contributions and earnings from ICMA-RC to the Rhode Island Municipal Retirement Plan are to be received as and categorized as employer contributions by the Rhode Island Municipal Retirement Plan.

Approved by Town Council Action
December 9, 2019

Kevin Aguiar, President
Portsmouth Town Council

ATTEST: _____
Jennifer M. West, Town Clerk

CORRESPONDENCE

1. Resolution regarding field trip funding law.
2. Public notice of proposed rulemaking: Management Procedures.

Motion to receive correspondence and place on file made by Dr. Ryan, seconded by Mr. Hamilton.
Motion passed 7-0.

FUTURE MEETINGS

- Dec 23 Canceled
- Jan 13 6:00 PM - Town Council Meeting
- Jan 27 7:00 PM - Town Council Meeting
- Feb 10 7:00 PM - Town Council Meeting

ADJOURN – Motion to adjourn made by Dr. Ryan, seconded by Mr. Kelly. Motion passed 7-0.

Time: 8:06 PM

Jennifer M. West, Town Clerk