

PORTSMOUTH TOWN COUNCIL MEETING
MAY 11, 2020 MINUTES

On May 11, 2020, the Portsmouth Town Council met in Executive Session at 6:30 PM. At 7:00 PM, the Portsmouth Town Council Meeting was live streamed on the web and by phone dial-in using the Zoom remote meeting service due to Covid-19 and the Governor's Executive order on social distancing and gatherings of no more than 5 people.

6:30 PM – Town Council Chambers, Portsmouth Town Hall, 2200 East Main Road

Time: 6:34 PM

MEMBERS PRESENT: Kevin M. Aguiar in Town Council Chambers

MEMBERS PRESENT BY ZOOM: Linda L. Ujifusa, J. Mark Ryan, Keith E. Hamilton, Leonard B. Katzman, Andrew V. Kelly

STAFF PRESENT: Richard Rainer and Jennifer West in Town Council Chambers

STAFF PRESENT BY ZOOM: Lisa Puglia

EXECUTIVE SESSION – Motion to go into Executive Session under RIGL §42-46-5(a)(2) pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 6-0.

1. RIGL 42-46-5(a)(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation.

Time: 6:38 PM Daniela T. Abbott arrives via Zoom

ADJOURN – Motion to adjourn and go into Open Session made by Mr. Hamilton, seconded by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

Time 6:40 PM

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

Time: 7:00 PM

PLEDGE OF ALLEGIANCE

SITTING AS THE PORTSMOUTH TOWN COUNCIL

1. Roll Call – All present.

PRESIDENT'S EXECUTIVE SUMMARY – Due to technical difficulties Executive Session will resume at the end of the Council Meeting. No votes were taken.

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

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

2. CRMC – PUBLIC NOTICE:

The Application of Department of Environmental Management, Division of Marine Fisheries, 3 Fort Wetherill Road, Jamestown, RI for a State of Rhode Island Assent to create and maintain a 2.88 acre oyster reef restoration area within the DEM Shellfish Management Area in Town Pond, Portsmouth.

3. CRMC – PUBLIC NOTICE:

An Application of Robert Johnson, 391 South Lake Road, Tiverton, RI, for a State of Rhode Island Assent to construct and maintain a residential boating facility consisting of a 4’x68’ fixed pier, a 3’x20 ramp, and a 8’x18.75’ terminal float. The facility is proposed to extend 50 feet past mean low water achieving a water depth of approx. 4 feet at its terminus. Project Location: 52 Point Road

4. Walgreen Eastern Co., Inc. d/b/a Rite Aid #10233, 2456 East Main Rd, has changed its’ name to Walgreens #18945 (#1554)

5. Peddler License - Mobile Food Establishment (MFE), Renewals:

Chelsea’s Creamery, 654 Metacom Ave, Warren, RI, 1 truck (#1706)

SITTING AS THE BOARD OF LICENSE COMMISSIONERS

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. Request approval for a temporary seasonal expansion of the service area:

Localz, Inc., 657 Park Avenue, to allow food and alcohol service in an outside dining area from May 1, 2020 to December 31, 2020

Motion to approve made by Mr. Hamilton, seconded by Ms. Ujifusa. Motion passed 7-0.

ADJOURN – Motion to adjourn as the Board of License Commissioners made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

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

TCM 4/20/20 & Exec.

TCM 4/21/20

TCM 4/22/20

TCM 4/23/20

TAX VOUCHERS

Request approval for Tax Vouchers #20200511-01 to #20200511-02. – Motion to approve made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

TOWN ADMINISTRATOR’S REPORT

1. DEM recreation grant – RI DEM has announced the municipalities to be awarded recreation grants. Portsmouth’s application for a grant to replace the Mt. Hope Sea Wall was granted for \$54,000. DEM Director, Janet Coit, recognized the value of the seawall project and made an award, however, it is less than what we applied for. DEM will soon start working with us to work out how the Town can incorporate the reduced funding into the projected scope of work.

2. U.S. EDA financial assistance award – We were notified last week that the RI Infrastructure Bank’s application to the US Department of Commerce Economic Development Administration for assistance with the assessment of the Navy infrastructure inventory along the Defense Highway

corridor was approved. The total cost of the project is projected to be \$600,000. The EDA will provide \$300K, to be matched by \$300K from the RIIB.

3. PHS graduation support – Unfortunately, the High School graduation ceremony cannot be held in its traditional format due to measures and executive orders enacted in response to the current pandemic. Town Departments have partnered with a graduation steering committee put together by the School Administration to support an alternative event. A plan is being worked out and will be disseminated by the High School as details are developed and vetted by the committee.

4. COVID-19 update – Phase 1 of the reopening of RI and our economy has started. There is an incredible amount of information to absorb and stay ahead of and I encourage people to regularly visit the Town’s website and review the COVID-19 information posted. This information is easily accessed by clicking on the links located in the banner at the top of the website. I again want to say thank you to all our residents, businesses, and community partners. I know the current measures we live under are having a significant impact on our quality of life. Some specific guidance and requirements I’d like to emphasize: Cloth face masks are mandatory in all indoor or outdoor public places; Social distancing requirements remain in place; Non-critical retail establishments can now re-open with new guidelines; Dining in at restaurants is still prohibited; State parks have begun to reopen; Re-opening of state beaches is anticipated in the second phase of the reopening; Portsmouth parks and beaches are currently open as long as patrons adhere to current executive orders and guidelines, however, Portsmouth playgrounds and the Dog Park remain closed. Another program I’d like to emphasize in this report is the Microenterprise Stabilization (MicroE) Program. The RI Office of Housing and Community Development (OHCD) and the U.S. Department of Housing and Urban Development (HUD), is offering working capital grants under the Community Development Block Grant (CDBG) Program to qualifying small business “microenterprises” adversely impacted by COVID-19. A “microenterprise” is defined as a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise. Grants will be made for up to \$5000 that can be used for working capital to cover business costs, such as rent, staffing, and utilities. Specific information, including restrictions and criteria, can be found at our website or by contacting the Town’s Director for Business Development, Rich Talipsky. All this information is available in the Portsmouth-Specific Coronavirus Information section of our website. Again, thank you for your support and cooperation during this unprecedented time.

Additionally:

Request for Portsmouth Award nominations – I’d just like to remind everyone again that throughout this month, the Town will be seeking nominations for the annual “Portsmouth Award.” More information is available under the News and Announcements section of the front page of our website – and nominations will be accepted through May 29th.

Aquidneck Island Economic Recovery Partnership – Together with the Administrators in Middletown and Newport, we are forming a municipal response team with the staff of Connect Greater Newport and a broader group of regional stakeholders that will allow us to provide different levels of response to area businesses as needed to address the negative impacts of the COVID-19 crisis on businesses in our community. Beginning next week, CGN is preparing to distribute an initial survey that will allow us to better understand how our businesses are responding to this crisis. Follow-up surveys will be sent out on a regular, periodic basis, so we will be able to gauge how businesses are doing in their recovery as we move through this pandemic. More information is available at the COVID Information page of our website.

REMOVALS, RESIGNATIONS AND APPOINTMENTS

1. Removal:

a. Prudence Island Planning Commission – M. Sheehan – Motion to table both the removal from the Prudence Island Planning Commission and the appointment to the Prudence Island Planning Commission made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

2. Appointments:

a. Housing Authority – Motion to table for further review made by Mr. Hamilton, seconded by Ms. Ujifusa. Motion passed 7-0.

b. Melville Park Committee – Motion to appoint Stephen Luce made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

c. Prudence Island Planning Commission - Tabled, above.

d. Solid Waste and Recycling Committee – Motion to appoint Jason Spitalnik made by Ms. Ujifusa, seconded by Mr. Hamilton. Motion passed 7-0.

OLD BUSINESS (Discussion/Action)

1. Receive, discuss and determine next steps for the working draft of a Complete Streets ordinance. – Motion to schedule a virtual public workshop made by Ms. Abbott, seconded by Mr. Katzman. Motion passed 7-0.

2. Proposed changes and revised provisional budget approval of the Town Administrator’s Budget. / R. Rainer (15)

(Proposed Budget is Available on the Town’s Website, [FY 21 Town Administrators Budget](#))

a. Motion for new provisional approval of \$371,534 for Rental, Investment and Other Revenue, made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

b. Motion for new provisional approval of \$66,607,971 in projected Revenue, made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

c. Motion for new provisional approval of \$808,989 for Finance Expenditures, made by Mr. Katzman, seconded by Dr. Ryan. Motion passed 7-0.

d. Motion for new provisional approval of \$2,137,231 for Human Resources Expenditures, made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

e. Motion for new provisional approval of \$6,923,081 for Fire Expenditures, made by Dr. Ryan, seconded by Mr. Hamilton. Motion passed 7-0.

f. Motion for new provisional approval of \$34,570,876 for Local Appropriation to the School Department, made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

g. Motion for new provisional approval of \$421,875 for School Capital, made by Dr. Ryan, seconded by Mr. Hamilton. Motion passed 7-0.

h. Motion for new provisional approval of \$34,992,751 for Total Town Appropriation to the School Department, made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

i. Motion for new provisional approval of \$40,961,674 for Total Town, Federal and State Funding, made by Dr. Ryan, seconded by Mr. Hamilton. Motion passed 7-0.

j. Motion to acknowledge and provisionally approve the School Department’s anticipated receipt of \$1,107,000 in Restricted Federal Grants made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

k. Motion for new provisional approval of \$360,000 for Glen Manor House Revenue, made by Mr. Katzman, seconded by Dr. Ryan. Motion passed 7-0.

l. Motion for new provisional approval of \$216,675 for Total Glen Manor Expenses, made by Mr. Katzman, seconded by Mr. Hamilton. Motion passed 7-0.

m. Motion for new provisional approval of \$107,494, in allocation to the General Fund, made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

- n. Motion for new provisional approval of \$34,051 for the Contingency Fund and \$10,000 for the Open Space Reserve Fund, made by Dr. Ryan, seconded by Mr. Katzman. Motion passed 7-0.
- o. Motion for new provisional approval of \$66,607,971 in total Expenditures, made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.
- p. Motion to adopt the Provisional Budget made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

NEW BUSINESS (Discussion/Action)

- 1. PUBLIC HEARING: To consider the proposed amendment to Chapter 405 of the Zoning Ordinance to include a Solar Ordinance
 - a. Planning Board Advisory Opinion

Mr. Chappell requests Town Council approval of the proposed amendment to Chapter 405 of the Zoning Ordinance to include a Solar Ordinance. The Planning Board approved the proposed solar energy amendment when presented for an advisory opinion.

Mr. Hamilton has concerns about R40 being permitted by right instead of a Special Use Permit and would like to see it changed.

Ms. Abbott also would like to see the R40 changed to a special use permit.

Mr. Crosby and Mr. Asciola echo the Planning Board's advisory opinion and approve of the proposed Solar Ordinance presented by Mr. Chappell.

Tom Grieb, 110 Thayer Drive, says that there has been a lot of good work done on the ordinance but he does have some issues with the solar matrix. He believes that the R40, R60, C-1 and the WD should all be Special Use Permits, so that it gives abutters and neighbors an opportunity to be heard. He also believes that there should be penalties if the petitioner does not notify abutters. Mr. Grieb also agrees with a decision made by the Zoning Board at the October 18, 2018 meeting where there was a motion that carried 5-0 concerning calculating the array field. The entire array field should be included in the lot coverage calculations.

Mr. Aguiar also believes that the R40 and R60 should be changed to a special use permit so that there would be consistency among all of the residential sectors.

Motion to close the Public Hearing made by Mr. Kelly, seconded by Mr. Hamilton. Motion passed 7-0.

Motion to change R40 and R60 under Small Solar Energy System to a Special Use Permit S instead of P, made by Mr. Hamilton, seconded by Ms. Abbott. Motion passed 6-1. Mr. Kelly in dissent. Motion to approve as amended made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 7-0.

TOWN OF PORTSMOUTH, RI
Ordinance # 2020-05-11B

Be it ORDAINED by the Town Council of the Town of Portsmouth, that Chapter 405, Zoning, of the Portsmouth Code of Ordinances is hereby amended as follows:

That ARTICLE V. be added:

Article V. Use Regulations

6. If designated in the Tables by the letter "M", the use is permitted with the approval of the Major Land Development Review by the Planning Board subject to such restrictions as set forth elsewhere in this Ordinance and such further restrictions as said Board may establish.

	R10	R20	R30	R40	R60	C-1	I-L	I-H	WD	TC
<u>J. Solar Energy Systems (Article XX)</u>										
<u>1. Large Solar Energy System</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>N</u>
<u>2. Medium Solar Energy System</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>N</u>
<u>3. Small Solar Energy System</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>
<u>4. Accessory Roof Mounted Solar Energy System</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

That ARTICLE VII. be amended to read:

Article VII. Special Use Permits

Section A. General.

1. A Special Use Permit is required for the following uses:
m) Solar Energy Systems, as specified in Article V. Section J.

Section B. Procedures.

2. The Zoning Enforcement Officer shall immediately transmit said completed application to the Zoning Board of Review and, if required by the provisions of this Article, shall transmit a copy of each application to the Planning Board and the Design Review Board. Planning Board and Design Review Board review and procedures for this purpose are further defined in Article XI. Development Plan Review.
 - a) This provision shall apply to all non-residential developments and multi-family developments designated with an "S" (Special Use Permit) ~~in the C-1, TC-C and I-L Zones~~ in Article V herein.

That ARTICLE XX. be added:

Article XX Solar Energy Systems (SES)

Section A. Purpose and Intent

The Town Council finds that it is in the public interest and will ensure the health, safety, and welfare of the community through the safe, effective and efficient use of Solar Energy Systems (SES) that minimize impacts on scenic, natural, cultural resources, increase resiliency, reduce the use of and reliance on fossil fuels for power production, reduce carbon

and other greenhouse gas emissions of utility-supplied electric energy, and provide clean, domestically-sourced alternatives to our existing energy supply.

The purpose of this section is to permit and facilitate appropriately -scaled solar energy systems and to establish criteria and development standards that maximize their effectiveness and efficiency while addressing potential negative impacts in various zones throughout Town. A Solar Energy System is a method of generating electrical power by converting solar radiation into direct current electricity using semiconductors that exhibit the photovoltaic effect. Photovoltaic power generation employs solar panels composed of a number of solar cells containing a photovoltaic material.

Section B. Permits Required

All solar energy systems shall require reviews, and approvals as outlined in this Ordinance. Solar energy systems must be consistent with all applicable State and Federal fire and electrical safety codes and shall obtain all necessary statewide solar, building, and electrical permits from the Building Official prior to commencement of construction.

Section C. SES Classifications

There are (4) categories of Solar Energy Systems contemplated by this zoning ordinance, and they are as follows:

1. Roof-Mounted System: a solar energy system that is accessory to a primary structure. An accessory roof-mounted system shall be installed only on the roof of a structure.
2. Small SES: a ground mounted solar energy system that is an accessory use to the primary structure use. A small system shall consist of no more than 1,600 square feet of solar panel surface area.
3. Medium SES: a ground mounted solar energy system that is the primary use or an accessory use of a lot or lots which may be designed to produce more energy than consumed by the primary use of the property as a secondary use. A medium system shall consist of more than 1,600 square feet of solar panel surface area, but equal to or less than 40,000 square feet of solar panel surface area.
4. Large SES: a ground mounted solar energy system that is the primary use or an accessory use of a lot or lots which may be designed to produce more energy than consumed by the primary use of a lot or lots as a secondary use. A large system shall consist of more than 40,000 square feet of solar panel surface area.

Section D. District Use Regulations

See Article V. Section J.

Section E. SES Dimensional Requirements

1. Height Requirement:
 - a. Ground Mounted SES - The maximum height must not exceed twelve (12) feet from existing grade.
 - b. Building Mounted SES - The total height of the building and photovoltaic panel must not exceed the maximum building height regulation for the zoning district per Article IV Section B.
2. Yard Setbacks and Vegetative Buffer Area Requirements:
 - a. Small SES: Yard setback areas are as required by Article IV, Section B Land Use Requirement Table.
 - b. Medium and Large SES:
 - i. Yard setback areas must maintain fifty (50') foot minimum setbacks on all sides. Where this standard conflicts with the requirements of yard setbacks in Article IV section B, this standard is to supersede.

- ii. Vegetated buffer areas must be a minimum of thirty (30') feet within the yard setback where abutting residential and Town Center (C-TC) zones and a minimum of twenty (20') feet within the yard setback where abutting all other zones.

3. Lot Coverage:

- a. Small SES: The lot coverage for a small system shall follow the individual zoning district regulations. The lot coverage calculations will be a sum of the area of each individual panel's outer dimensions as if lying flat on the ground plus the footprints of all other countable structures under this ordinance.
- b. Medium and Large SES: Medium and large systems shall meet the setback and screening requirements, and site plan review, otherwise there is no lot coverage limitation. This exemption is not intended to apply to municipal stormwater regulations, as the panels could have the effect of altering volume, velocity, and discharge pattern of stormwater runoff.

Section F. Medium and Large SES Application Requirements

The applicant shall provide the following documents, which are generally those of the Zoning Board of Review petition or the Planning Board's Major Land Development Review checklists, provided however, that the applicable board may, at its discretion, waive any document requirement or ask for more information as it deems appropriate based upon the submission of the applicant.

- 1. **Narrative Report** - The applicant shall provide a summary narrative report containing:
 - a. Name, address and contact information for proposed system installer, system operator, landowner, applicant, and designated agents representing the project.
 - b. A project construction schedule.
 - c. An operation and maintenance plan.
 - d. A rendering or photo simulation showing the proposed completed project with landscaping.
 - e. Evidence of compliance with any applicable state environmental regulations and state permits.
 - f. An emergency response plan for public safety officials.
 - g. A decommissioning / restoration plan and proposed financial security (with supporting calculations).
 - h. A landscape plan showing seeding / vegetation plan for the project and maintenance schedule.
 - i. Evidence that a preliminary interconnection feasibility study is underway and a copy of the application with the electric distribution company.
 - j. An estimation of annual taxation revenue.
 - k. List of abutters: By name, address, map and lot numbers (include all parcels within 200 ft. of the subject property).
 - l. Locus map with aerial imagery showing 1,000 feet surrounding the site.

2. Development Plans - All plans related to design, construction, installation or modification of a SES shall be prepared, signed and stamped by either a Rhode Island professional engineer, a Rhode Island registered land surveyor (for property line information), and/or a Rhode Island registered landscape architect (for landscape information). In addition, to the checklist requirements for the various stages of Development Plan Review and/or Major Land Development Review, site plans shall show the following information:
- a. Class I survey site plan showing: Property lines and all physical features for the project site.
 - b. Proposed changes to the landscape of the site, temporary and permanent limits of disturbance, grading, vegetation clearing and planting, exterior lighting, access points, emergency access provisions, fencing, screening vegetation and/or structures.
 - c. Blueprints or drawings of the entire SES showing the proposed layout of the system.
 - d. One- and or three-line electrical diagrams detailing the SES, associated components and electrical interconnection methods, with all current state electrical code compliant disconnects and over current devices.
 - e. Documentation and or equipment specification sheets of the major system components to be used, including the solar panels, mounting system and inverter.

Section G. Medium and Large SES Siting Requirements

1. Site Design

- a. General Siting: Solar energy systems shall be located, constructed, installed, and operated to minimize potentially adverse impacts to nearby properties, natural resources, and or individuals. Impacts to be minimized include, but are not limited to, those locations and habitats for animals, including birds, and plant species of concern, and habitat/forest fragmentation.
- b. Industry Standards: Solar energy systems shall be manufactured and designed to comply with applicable industry standards, as may amended for time to time, including but not limited to, the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), and other appropriate certifying organizations as may be required by Federal, or State Laws or utility regulations.
- c. Interconnection: Solar energy systems connecting directly to a distribution or a transmission system must submit a copy of the preliminary interconnection study with the electric distribution company. Any off-site impacts or infrastructure upgrades necessary to enable the SES shall be identified, especially any impacts to existing street trees within the connection and/or affected municipal rights-of-way. Where such street trees may be impacted, the Tree Warden or Tree Commission shall submit an advisory opinion on the extent of the off-site impacts and a recommendation for mitigation of the impacts.
- d. Land Clearing: Wherever practical clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the solar energy system or otherwise prescribed by the applicable laws, regulations, and ordinances. The disturbance and removal of topsoil from the site shall be limited to those areas that are required for the installation of the proposed solar energy system. The applicant shall utilize existing cleared land or that which minimizes the impact on forest and habitat.

- e. Security Fencing: Medium and Large solar energy systems shall surround the perimeter of the installation with no less than six (6') feet in height of fencing. Where fencing is used, consideration for small and large terrestrial wildlife shall be incorporated into the fencing design. Fences shall be elevated above grade by a minimum of five inches to allow for passage of small terrestrial animals. Barbed wire fences shall not be permitted.
- f. Buffer Areas and Screening - Natural vegetation or additional landscape screening shall be provided as determined by the Zoning Board of Review or Planning Board depending upon the existing land use on the site and the adequacy of the site's natural vegetation or lack thereof to mitigate impacts to public views, scenic roads, and abutters. The Zoning Board of Review or Planning Board shall have the authority to set site specific width of buffers, height of plants at planting, and to require an opaque screen to adjacent properties and/or public roads. If required by the Zoning Board of Review or Planning Board the landscape plan shall be prepared by a registered landscape architect.
- g. Groundcover and Plant Species Selection: Pollinator friendly seed mixtures shall be used along with native plants to the maximum extent possible. All plants and seeds should be native to the greatest extent practicable, and no plants known or suspected (e.g. aggressive spreading non-natives) to be invasive shall be used.
- h. Agricultural Accessory Use: For installations on agricultural lands, the entire lot should be examined by the Zoning Board of Review or Planning Board and farm owner with areas designated within the total acreage for farming use, buffers, and SES shall be located as to minimize impact to prime agricultural soils or soils of statewide importance wherever possible. No topsoil or prime agricultural soil shall be removed from the site for installation of the facility. All soils retained shall be reused in the landscaping/ vegetative plan for the site.
- i. Lighting: Exterior lighting within the SES shall be the minimum necessary. All fixtures must be full-cut off fixtures approved by the International Dark Sky Association and correlated color temperatures $\leq 3000\text{K}$ for bulbs.
- j. Signage: Signs shall comply with the Portsmouth Sign Ordinance. Ground mounted systems shall identify the owner and provide a twenty-four (24) hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for the identification of the manufacturer or operator of the solar energy system.
- k. Power Lines: Power and communication lines running between banks of solar panels and to the off-site electric distribution system or interconnections with buildings onsite excepting, the poles owned by the electric distribution company which are typically required to be above ground, shall be buried underground. Exemptions may be granted by the Zoning Board of Review or Planning Board in instances where written documentation for shallow bedrock, a high groundwater table, prior environmental contamination or other elements of the natural landscape interfere with the ability to bury lines.

2. Operating Standards

- a. Site control: The applicant shall submit documentation for access and control of the project site sufficient to allow for the construction and operation of the proposed energy system.
- b. Stormwater and Erosion Control: All SES are subject to the soil erosion and sediment control ordinance as well as the storm water control provisions of the Subdivision and Land Development Regulations.

- c. Pesticide and Herbicide Usage: Solar energy systems shall be designed, constructed and maintained in a way that minimizes the use of herbicides and pesticides.
- d. Modifications: Material (equipment) or site design modifications to a solar energy system made after issuance of the required building permit shall require approval by the Applicable Board.
- e. Recording: Maintenance Agreements, a Final As-Built including any modifications approved by the Applicable Board shall be recorded in Land Evidence Records for all ground array systems.
- f. Abandonment: With the exception of roof-mounted structures, absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy system shall be considered abandoned if it fails to operate for more than one (1) year without the written consent of the Zoning Board of Review or Planning Board as it relates to the land development project approval.
- g. Surety: Prior to final approval and recording of a medium or large ground array, the owner/operator shall provide an appropriate surety approved by the Zoning Board of Review or Planning Board equal to 110% of the current cost of removal and re-vegetation of the site, as recommended by the applicable board. Surety shall be held by the Town until such time the applicable board votes to release the funds finding compliance with all obligations and no need to secure future compliance. Surety will not be required for a Municipal or State-owned facility.
- h. Municipal Exemption: Nothing herein shall preclude the Town of Portsmouth from installing SES on any town-owned or controlled property regardless of the zoning district.

Section H. Small SES Application Requirements

The application requirements for all Small SES proposals shall follow the application requirements of Article VII Section B. Procedures.

Section I. Violations

It shall be unlawful for any person or entity to construct, install, operate, or substantially modify a SES that is not in compliance with the provisions of this ordinance or with any condition contained in a permit issued pursuant to this ordinance. All violations shall be enforced under Article XVI of this ordinance.

ADOPTED BY TOWN COUNCIL
ACTION ON: May 11, 2020

Kevin Aguiar, Town Council President

Jennifer M. West, Town Clerk

2. Request Town Council support for proportional State reimbursement of municipal COVID expenses. – Motion to table until May 26, and have the staff bring a draft letter, made by Ms. Ujifusa, seconded by Mr. Katzman. Motion passed 7-0.
3. Discuss and determine whether to restrict access to Sandy Point Beach this summer. – No votes taken.
4. 2012 Bond Shortfall Pay Back – Proposition to utilize 50% of all future Town Audited Surpluses to pay down the \$1,792,252 internal accounting balance left on the fund. – Motion to approve made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

5. Request Council approval of auditor selection for follow-on submission to the Auditor General for State approval to contract with selected auditing firm. – Motion to approve made by Dr. Ryan, seconded by Mr. Katzman. Motion passed 7-0.
6. Request to Amend Ordinance 99-6-28 -AN ORDINANCE RELATING TO ADJUSTMENT OF TAX EXEMPTIONS IN YEARS OF TOWN WIDE REAL PROPERTY REEVALUATION. – Motion to approve the amendment made by Mr. Katzman, seconded by Mr. Hamilton. Motion passed 7-0.

CORRESPONDENCE – Motion to move items 2,3,4 and 5 to the May 26, 2020 meeting and receive and place on file items 1,6,7 and 8 made by Dr. Ryan, seconded by Mr. Hamilton. Motion passed 7-0.

1. Report and update on AIPC activities and finances. / S. Churgin, AIPC Board Chair
2. Resolution in support for funding of the categorical fund for high cost special education. / North Smithfield School Committee
3. Resolution in support for funding of RIDE transportation offset ESSA. / North Smithfield School Committee
4. Resolution urging the continued appropriation of state and local revenues to support public education. / North Smithfield School Committee
5. Resolution urging the continued appropriation of state and local revenues to support public education. / Smithfield School Department
6. Letter regarding plastic bag ban. / J. Freeman, Kindergartener at Hathaway School
7. Monthly RIRRC Report. / R. Antaya
8. Clean Ocean Access 2019 Annual Report. / D. McLaughlin, Executive Director

FUTURE MEETINGS

- May 26 7:00 PM - Town Council Meeting (Tuesday)
June 8 7:00 PM - Town Council Meeting
June 10 7:00 PM - Public Budget Hearing (Wednesday)
June 24 7:00 PM - Town Council Meeting & Adoption of FY 2020-21 Budget

Future meeting Wednesday, May 20th at 7:00 PM if needed

Time: 10:20 PM

EXECUTIVE SESSION – Motion to return to Executive Session under RIGL §42-46-5(a)(2) pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 7-0.

MEMBERS PRESENT: Kevin M. Aguiar in Town Council Chambers

MEMBERS PRESENT BY ZOOM: Linda L. Ujifusa, J. Mark Ryan, Keith E. Hamilton, Leonard B. Katzman, Andrew V. Kelly and Daniela Abbott

STAFF PRESENT: Richard Rainer and Jennifer West in Town Council Chambers

STAFF PRESENT BY ZOOM: Lisa Puglia

ADJOURN – Motion to seal the minutes and return to Open Session made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 7-0.

Time: 10:27 PM

RETURN TO OPEN SESSION

OPEN SESSION – An Executive Session was held. One vote was taken regarding collective bargaining litigation.

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

Time: 10:32 PM

Jennifer M. West, Town Clerk

DRAFT