

City Council Legislative Subcommittee Meeting

Conference Room A

5:45 p.m.

Wednesday, February 10, 2016

(THIS MEETING WAS RESCHEDULED FROM THE CANCELLED MEETING OF MONDAY,
FEBRUARY 8, 2016)

Present: John P. Bohenko, City Manager; Jane Ferrini, Assistant City Attorney; Mayor Blalock, Councilor Spear, Rick Taintor, Planning Director and Kelli L. Barnaby, City Clerk

Absent: Assistant Mayor Splaine and Councilor Dwyer

I. Call to Order

Mayor Blalock called the meeting to order at 5:45 p.m. and thanked everyone for attending.

II. Approval of Minutes from January 20, 2016 and January 25, 2016 meetings

Councilor Spear moved to approve and accept the minutes of the January 20, 2016 and January 25, 2016 meetings. Seconded by Mayor Blalock and voted.

III. Distribution of draft Minutes from February 1, 2016 meeting

City Manager Bohenko said the draft minutes of February 1, 2016 are in your packet for review and to be voted on at the next meeting.

IV. Discussion

- A. Status update and discussion of Short Term Rental bills, SAG funding bill, Hotel Occupancy and Meals and Rooms bills, Uber bill and Education bills

Planning Director Taintor spoke to the new amendment for Short Term Rentals which changes the definition of short term rental to read as follows: "short term rental business" means any person or entity which offers or advertises the rental of one or more rooms in an owner's primary residential dwelling unit for tourist or transient use for less than 30 consecutive days. He said it would exclude from regulation two things that are prominent to the discussion in Portsmouth. It would preclude someone that has a house that is not their primary residence and exclude someone buying apartments or condominiums for short term rentals. He feels the original bill was more encompassing.

Assistant City Attorney Ferrini said she would get back to Senator Clark on these issues and continue to watch the bill.

City Manager Bohenko said it is important to be able to inspect these units for health and safety matters. He said it is not about collecting a fee it is about making sure people are safe.

Assistant City Attorney Ferrini said Fire Chief Achilles has submitted a letter addressing these life safety issues.

Assistant City Attorney Ferrini spoke on various bills as follows:

HB 1590 was voted Ought to Pass

HB 1689 was still in Ways and Means

SB 482 is what we have been discussing regarding short term rentals

The SAG funding bill there is a hearing next week

HB 1214m the hotel occupancy fee bill was voted Inexpedient to Legislate so the bill has been killed

City Manager Bohenko said we should have enabling legislature for cities and towns to raise revenues because more funding is being downshifted by the State to the communities.

Assistant City Attorney Ferrini said we will continue working with our representatives and see what we come up with for next session.

SB 497 is in Ways and Means the redistribution of meals and rooms based on your contribution not population. She said FY16 city and towns only receive 21.76% of the distribution and falls further behind. She said there may be an amendment to return the revenue distribution to the towns to 40% but she has not seen the amendment.

HB 1697 Uber is recommended to pass with an amendment. The amendment includes the duty to defend and coverage consistent with NH financial responsibility laws. Assistant City Attorney Ferrini said we will continue to monitor that as it moves through the Senate.

Assistant City Attorney Ferrini spoke to the monitoring of several educational bills. There were several bills to revise the cost of an adequate education and the bills brought forward will not affect Portsmouth.

B. Discussion by Committee of right to know bills as Agenda item for City Council meeting, Tuesday, February 16, 2016

Assistant City Attorney Ferrini reported that HB 1611 was killed today and was regarding a request for reasonable fee for the production of documents under the right-to-know law. She said HB 1593 prohibited the collection of a fee was recommended to expedite to legislate but the bill was removed from the consent agenda and she will know more on Tuesday, February 16th whether the bill will be put back on. She reported that HB 1216 which requires the creation of documents under the right-to-know law is something that the City Council wants to discuss. She said the bill remains in the House Judiciary Committee.

Councilor Spear said he would like the City Council to receive a copy of a memorandum put together by the Legal Department on the number of right-to-know requests we receive and he believes the memorandum was helpful and explained the work that is done by the staff based on these requests. He would like this memorandum included on Tuesday, February 16th when discussion comes forward on right-to-know on the agenda.

C. Discussion of upcoming hearings and bills referenced in the Senate and House Calendars published on February 4 and February 5, 2016

Assistant City Attorney Ferrini spoke to upcoming hearings and bills that are in the Senate and House on the calendar recently published. She said we will continue to track the bills on education funding.

Planning Director Taintor spoke relative to HB 1259 liability for third party review of site plans stating the bill excludes any site plan that has one lot and this would severely restrict Portsmouth as we have all one lots. He said this would prevent us from having an applicant pay for independent review of their engineering work. He said we tend to use third party review during the construction phase and feels that this is a bad bill.

D. Discussion of municipal liability bills

Assistant City Attorney Ferrini spoke to HB 1687 and HB 1688 which expand liability for communities regarding playgrounds and personnel injury and allow school departments to be liable. HB 1688 is a bill that any government unit may be held liable for a negligence claim and it is an expansion of municipality liability to employees or officials who may be held liable. She spoke on HB 1392 regarding costs in land use cases where municipality will be liable for attorney fees in land use cases. City Manager Bohenko said the liability items are of concern. He said they are trying to speed up the inspection process but it really is going to slow it down and would create more back log. He also indicated that the bill relative to playgrounds will cause an increase in insurance costs.

V. Miscellaneous/Unfinished Business

City Manager Bohenko said we will meet on Tuesday, February 16, 2016 at 6:00 p.m. with the Sub-committee. In addition, the next meeting with the Legislative Delegation will be on February 29, 2016.

VI. Adjournment

At 6:15 p.m., Mayor Blalock closed the meeting.

Respectfully submitted by:

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk