

MINUTES
CITY COUNCIL LEGISLATIVE SUBCOMMITTEE MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS, CITY HALL, PORTSMOUTH
MONDAY, FEBRUARY 29, 2016
8:30 A.M.

I. Call to Order

Mayor Blalock opened the meeting at 8:35 a.m. and noted that it was being televised and recorded. He asked everyone to introduce themselves for the public.

Present: Mayor Jack Blalock, Assistant Mayor Jim Splaine, Councilor Chris Dwyer, State Senator Martha Fuller Clark, State Representatives Gerald Ward, Pamela Gordon and Rebecca McBeath. Staff Present: Deputy City Manager Dave Allen, Assistant City Attorney Jane Ferrini and Recording Secretary Valerie French.

II. Distribution of draft Minutes from February 10, 2016 meeting.

Assistant City Attorney Ferrini distributed the minutes for the committee to review. No action taken at this time.

III. Discussion.

- A. Status update and discussion of Short Term Rental bills, SAG funding bill, Plastic bag bill, Meals and Rooms bills, Uber bill, bill relative to Site Plans and final confirmation that amendment to HB 1611 regarding right-to-know will not go forward.

Assistant City Attorney Ferrini stated at this time there has been no change to the Short Term Rental bills.

Next, regarding SAG funding bill, she stated there have been amendments introduced. Councilor Dwyer gave a brief description of the legislation stating that this is regarding money owed retrospectively to Portsmouth and other municipalities for projects that have been completed and the State was supposed to reimburse a percentage but had never done so. Senator Clark stated that there is agreement that this money is owed but the challenge is how to fund it. She stated that 2 City of Portsmouth projects are covered in the amendment totaling ¼ of a million dollars. She further stated that there is a hierarchy of funding for those projects that were approved and have been completed and those that were approved but not yet done. Councilor Dwyer stated that the Bartlett Area Sewer Project and Lincoln Street Sewer Separation Projects are the projects covered. Assistant City Attorney Ferrini stated there will be a work session on HB1428 on 03/02/2016 at 1:00 p.m. Consensus of the committee was that City staff should be present at the session.

Assistant City Attorney Ferrini discussed SB410 regarding Plastic Bags stating the vote was 3-1 Inexpedient to Legislate. She stated that Councilor Josh Denton spoke on the bill. Senator Clark stated that there were numerous special interest groups that spoke opposed at the public hearing even though it was enabling legislation. She stated she will speak against the

recommendation to defeat but doesn't feel hopeful. Assistant Mayor Splaine thanked Senator Clark for being courageous in bringing the bill forward and asked if she could request a roll call for the vote so that we know who are allies are on this issue. He stated the City Council has voted unanimously in favor of this legislation.

Assistant City Attorney Ferrini referred back to the Short-term Rental issue stating that a recent article in NH Business Review gave statistics of New Hampshire cities and towns dealing with the issue and shows that although this was once perceived as a Portsmouth issue, it is state-wide. She stated we can hopefully reach out to other communities in dealing with it going forward. Senator Clark discussed several bills still pending on the issue stating that the NH Realtors are opposed to any legislation and feels they will not go through, except for HB1590 which was modified to grant licensing with only life safety codes and not building and health code requirements. She stated that if there are issues with accommodations, people will address those through on-line reviews etc. She stated that her colleagues feel it is intrusive on property rights and that the City has not standing to issue cease and desist orders.

Assistant Mayor Splaine asked if this could be addressed by the Attorney General or State Supreme Court. Senator Clark stated that it would have to be brought to them by someone who had the cease and desist order imposed. She continued that we are not alone in losing this issue as it is all over the country. She stated she wonders if it can be dealt with through zoning. Deputy City Manager Allen stated we have zoning proposals currently pending and that zoning stays with the property.

Next, Assistant City Attorney Ferrini discussed the Uber issue stating there are pending amendments which she has just been made aware of but has not yet reviewed. Representative McBeath stated they are mostly technical amendments clarifying that the State Dept. of Safety will issue licenses, impose fines etc. and the regulation on insurance. Assistant Mayor Splaine asked if any of the amendments allow for local control i.e., police Department involvement in background checks. Assistant City Attorney Ferrini stated she had previously sent the information to the Police Department for review and input and only received "No comment at this time" as a response. She stated she will forward the latest amendments as well. Assistant Mayor Splaine stated it sounds like we will be yielding all of the regulatory control to the State Dept. of Safety and feels this will be unfair to Taxis and we may have to deregulate at the local level.

Next, Assistant City Attorney Ferrini stated that HB1611 regarding Right to Know has been killed as well as the amendment.

- B. Discussion of municipal liability bills, including SB 421, HB 1687, HB 1688, SB 455 and CACR 5 and discussion of information regarding municipal liability provided by PRIMEX at hearing on HB 1687 and 1688

Assistant City Attorney Ferrini stated she attended the hearings on HB 1687 and 1688 where the attorney for Primex presented very detailed testimony. She briefly explained the various levels of liability regarding playground structures that these bills address in terms of municipalities, schools and private corporations. She stated that this is a complicated issue as

there are statutes scattered throughout that are not addressed with these bills and it is unclear whether these two bills would apply to these other statutes.

- C. Discussion of upcoming hearings and bills referenced in the Senate and House Calendars published on February 18, 19, 25 and 26, 2016.

Assistant City Attorney Ferrini gave a brief update as follows: Hearing on SAG Funding as been addressed previously. We are following an education bill. A hearing is scheduled for March 2, 2016 regarding SB410 regarding municipal liabilities which was a result of study committees and separated from the previously discussed HB 1687 and 1688. SB455 re: firearm immunity was voted out to pass 3-0.

The Meals and Rooms formula bill was referred to interim study by the Senate as to whether anything over 5 million would be distributed back based on percentage of contribution was voted 13 yes – 10 no. Senator Clark stated that the interim study was a courtesy to Senator Stiles but we already have a study and the feeling is that Portsmouth and Hampton as example, have the businesses and should be able to pay for the necessary municipals services, but a town like Lincoln with a small population has an enormous burden with the Mt. Washington Hotel. Mayor Blalock stated it makes it difficult for us as a community to be welcoming city but can't collect our fair share of revenue. Senator Clark stated that the Prosperity Group came in and said that this was a backdoor way to collect more taxes as the property owners would ultimately end up paying for this.

- D. Comments from Delegates regarding bills of interest, the legislative process and bills voted Inexpedient to Legislate.

Mayor Blalock asked if there were any other issues:

Representative McBeath discussed a pending bill regarding requiring liquor licensing for hair salons/barber shops that serve complimentary alcohol and is concerned because it is addressing a problem that doesn't exist and should be inclusive of all businesses if it is going to do it at all. She stated that the Liquor Commission already has a problem with keeping up with licensing as it is.

Assistant Mayor Splaine asked about the balance of the schedule.

Discussion ensued regarding upcoming issues including the Medicaid bill with Representative Gordon stating she did not have the information at this time. She stated there are amendments that they didn't want, but had to do what they need to get it passed. Representative McBeath stated it is a complicated bill and they are looking to the Senate to clean it up. She stated there are a lot of things going on and they will be under a lot of pressure in the next few weeks.

III. Miscellaneous/Unfinished Business.

The next meeting of the full committee will be held on March 28th at 8:30 a.m. with the sub-committee meeting March 21st prior to the City Council meeting.

IV. Adjournment.

Meeting adjourned at 9:25 a.m.

Respectfully submitted:

Valerie A. French
Recording Secretary