

Minutes
City Council Legislative Subcommittee and Portsmouth Legislative Delegation Meeting
Conference Room A
4:00 p.m.
Monday, March 26, 2018

I. Greeting: Mayor Blalock

Mayor Blalock called the meeting to order at 4:10 p.m.

Present: Mayor Blalock, Assistant Mayor Lazenby, Councilor Denton (via conference call), City Manager Bohenko, Assistant City Attorney Ferrini, City Attorney Sullivan, City Clerk Barnaby, State Representative Cali-Pitts, State Representative Somssich, and Senator Fuller Clark

Absent: Councilor Dwyer, State Representative Pantelakos, State Representative McBeath, State Representative Gordon, State Representative Le, and State Representative Ward

II. Review of Minutes of January 29, 2018

Representative Cali-Pitts said that the "s" was left off of her last name. City Clerk Barnaby said that would be corrected.

Senator Fuller Clark moved to accept and approve the minutes. Seconded by Representative Cali-Pitts and voted.

III. Discussion of Regional Coakley Meeting scheduled for June 7, 2018:

Assistant Mayor Cliff Lazenby. Purpose of the meeting is to: facilitate public dialogue with representatives of municipalities involved with or near the Coakley Landfill; include local and state leaders from Greenland, Hampton, North Hampton, Newington, Portsmouth, and Rye; openly share scientific information and status of remediation efforts regarding the Coakley Landfill; include representatives from the EPA, NHDES and the Coakley Landfill Group.

Assistant Mayor Lazenby said he is part of a working group of the City Council to set up a meeting on the Coakley Landfill. He said that we will be sharing information and hearing from towns that are impacted from the Coakley Landfill. He stated we will hear about the state of the landfill and provide the most current information. In addition, we will clarify historical information and funds expended. Assistant Mayor Lazenby said that this would be a forum for locals and

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state leaders to speak regarding the Coakley Landfill and indicated that they're working on securing a meeting moderator for the meeting being held on June 7th.

Senator Clark said one of the purposes was to allow enough time for questions and answers by individuals in attendance. She said she doesn't want to see the Presentation taking up too much time and suggested providing information regarding the Presentation ahead of time.

Assistant Mayor Lazenby said this is a goal we have, in general we want the meeting to be open and thorough and we may hold a different meeting with City of Portsmouth residents.

Senator Clark said there needs to be a clear explanation of what the meeting would include such as questions and answers.

Representative Cali-Pitts said the main purpose of the meeting is to put it all on the table so that we are all on the same page. She said we need to hear the same things at the same time. She indicated that there is also a meeting in April with the Department of Environmental Services at the Bethany Church.

Representative Somssich thanked Assistant Mayor Lazenby for organizing the meeting and said many people have many questions that need answers. He stated that there needs to be written materials ahead of time for people to review.

Assistant Mayor Lazenby said maybe some residents of towns could work with their selectmen on a list of questions ahead of time.

Mayor Blalock said he is excited because the meeting will take on a life of its own organically.

City Attorney Sullivan spoke to the number of agencies and individuals that have responded and will be attending the June 7th meeting.

IV. Discussion of Mayor's testimony in opposition to HB 1766, Coakley Remediation bill, before the Senate Energy and Natural Resources Committee: Mayor Blalock, Committee and Delegates, including a discussion with City Attorney Robert P. Sullivan regarding the March 9, 2018 letter from Thomas J. Donovan, Director of Charitable Trusts, Office of the Attorney General and the issue of separation of powers.

Mayor Blalock said the City Council has asked him to testify in front of the Committee to the legal aspects of the impact of the bill. He said he is testifying to the consent decrees.

City Attorney Sullivan explained in detail the consent decrees and what was directed to be done and it is a plan that is followed today. He said the bill would violate the parties from following the consent decrees and the Legislature would overrule the Department of Environmental Services and the Department of Environmental Protection Agency. He said if the Legislature

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orders something that costs money, in accordance with the Constitution, it is to provide the money.

Representative Somssich said the Attorney General's office does not feel they will have jurisdiction. He asked what the legal status of the Coakley Landfill Group is.

City Attorney Sullivan said it is a voluntary association with everyone that had to remediate the landfill and the group is not a company or a corporation. He said it was formed based on the guidance from the Environmental Protection Agency back in the 1990's.

Senator Clark asked City Attorney Sullivan if he could share the directives from the Environmental Protection Agency to the Coakley Landfill Group and the role of representing the municipality and the charge from the Environmental Protection Agency.

Representative Cali-Pitts said there was a directive made on how to treat the water and that has not been done.

City Attorney Sullivan said in the 1990's at that time it was on a super fund list and no one knew exactly what would happen and resulted in the bringing together of towns and cities to build a pump and treat system. He explained that the benzene numbers went down and the Environmental Protection Agency issued an explanation that they changed the remedy that they would no longer need to build a pump and treat system.

Representative Cali-Pitts stated that could be amended.

City Manager Bohenko said HB 1766 hearing by the Senate will be held on April 3rd. He said all 22 super fund sites should be looked at.

Senator Clark said the Environmental Protection Agency will offer whether this has happened at any other super fund site.

City Manager Bohenko said Mayor Blalock will speak to the legal matters and he would like to have the Senate Counsel present at the hearing. Senator Clark said she would ask for that. She stated that the Coakley Landfill site will be monitored going forward.

City Manager Bohenko spoke regarding the bedrock testing that we will be doing at the landfill. Senator Clark said that they will be looking at wells North, South and East of the site. City Manager Bohenko recommended that they look at the interim study.

Mayor Blalock said the City Council asked him to testify to the legal aspects of the Coakley Landfill. He said if we knew that there is something that can be done to clean the water, he would always be in favor of that.

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Senator Clark said the science around the contaminants are arising and it is not even clear if the pump and treat system could treat the water.

- V. Update on bills of interest to the City: General Discussion with the Committee and Delegates. This Agenda is published before the conclusion of the current House and Senate Sessions and publication of the Senate and House Calendars. An updated bill list will be provided at the meeting.

For updated status of bills and the Senate and House Calendars, see: <http://www.gencourt.state.nh.us>. For information regarding the New Hampshire Municipal Association's Bulletin, see: <http://www.nhmunicipal.org/LegislativeBulletins>.

City Manager Bohenko indicated that HB 1609 – Hotel Occupancy Surcharge, died. He said that this would be a good tax to help communities.

Senator Clark said the Legislature does not want to give any authority to local communities. She said anything that helps businesses with taxes the Legislature would support. She said you need to look at how you can determine the make-up of the bill. She said the City should weigh in on the Medicare expansion.

Representative Somssich said the House just passed the Family Medical Leave Act amendment. He said that this will create a hole in the next years budgets that they will need to make up.

Councilor Denton asked about what the difference in the votes for HB 1609. Representative Cali-Pitts said 30 votes. She recommended bringing that bill forward next year for consideration.

Assistant City Attorney Ferrini reported that HB 1802 was defeated regarding Donor towns send excess SWEPT to general fund. She spoke to the Right-to-Know bills and said those are something that is always tracked. She spoke to the HB 1673 regarding lower interest rate on tax delinquencies and that Tax Collector Benvenuti and Finance Director Belanger testified and written testimony was submitted on behalf of the NH Tax Collector's Association and City respectively. City Manager Bohenko spoke against the bill stating it would drop the rate to 6%. Assistant City Attorney Ferrini reported that HB 579 the Semi-trailer registration was killed today.

Councilor Denton said he supports SB 446 – Net energy metering and would like the City to support it and advised that the NH Municipal Association supports it as well.

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Senator Clark said if we want the bill to move forward we do not want to amend it this year. She said we could amend it next year. She also spoke on SB 447 that would remove the ability for utilities to get a credit and said the utilities were against the bill. She said in tracking the bills it would be helpful to know what the City's position is on them. Assistant City Attorney Ferrini responded that the City's written testimony has been sent to our delegates.

Representative Somssich brought up the bills regarding hybrid vehicles which was brought forward regarding the lowering of the gas tax. He said the bill would tax your vehicle registration for any vehicle that receives more than 20 miles per gallon would have an additional fee of \$110.00 when registering the vehicle.

VI. General discussion on issues of municipal interest for the City to propose as legislative policies to NHMA for 2019-2020 biennium, including but not limited to bringing forward a hotel occupancy surcharge. (House voted HB 1609 Inexpedient to Legislate on March 21, 2018.)

Assistant City Attorney Ferrini spoke to the policies we proposed in 2016. She said that April 20th is the deadline to get the policies in.

Representative Cali-Pitts would like to see the policies and what the city is in favor of.

Senator Clark said she would like the NH Municipal Association to research what has happened with the regulation of short term rentals.

VII. Adjournment

At 5:30 p.m., Mayor Blalock adjourned the meeting.

Respectfully submitted by:

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