

AMENDED VENDOR'S COMMITTEE MEETING

Tuesday, January 6, 2009 – 10:00 a.m.

Conference Room A

I. Call to Order

Assistant Mayor Blalock called the meeting to order at 10:00 a.m.

II. Attendance and Introductions

Committee Members: Assistant Mayor Blalock, Michael Magnant, Police Chief; Steve Griswold, Deputy Fire Chief; Kim McNamara, Health Inspector; Jason Page, Code Enforcement Officer; Robert Sullivan, City Attorney; Suzanne Woodland, Assistant City Attorney, Dianne M. Kirby, Deputy City Clerk

Others Present: Peter Tiews, Department of Revenue, Barbara Massar, Pro Portsmouth, Pat Remick, Parade Coordinator

III. Review of Current Ordinances

City Attorney Sullivan reviewed the present ordinances and stated that some problems have been identified by city staff with regard to vendors having too many different ordinances with vendor instructions. Kim McNamara, Health Inspector stated that an ordinance should be developed with all aspects of vendor rules in one place.

IV. Issues

A. Size and type of carts

Kim McNamara, Health Inspector stated that there are many types of carts out there such as:

- Mobile Vendors
- Hawkers & Peddlers with Food
- Hawkers & Peddlers without Food
- Home Built Carts

B. Locations/restrictions

Kim McNamara, Health Inspector stated that with the variety in types and sizes of carts out in the community and the width of some of our sidewalks, she stated that this committee might want to question if we should standardize the size of the carts. She further stated that home built carts can promote safety problems. She further discussed that a site review is needed if vendors set up in parking lots. Attorney Sullivan stated that there are three different types of property that need Hawkers & Peddlers Licenses:

- Deeded City Property
- Private Property with City Control (i.e. parking lots that would require site reviews)
- Property City Regulated by Ordinance through Police powers (i.e. sidewalks etc.)

Jason Page, Code Enforcement Officer, provided photos depicting various vending restrictions within the City and stated that a list of all prohibited vending areas and restrictions is needed. He stated that prohibited spaces are:

- The North Church block
- The area surrounding the flower bed on Market Street
- 620 feet from State Street to Unnamed Street

Mr. Page further stated that one ordinance states that a vendor must leave 3 feet for pedestrian travel. He said that not all memorandums have been put into ordinances which complicate things.

Assistant Mayor Blalock asked if we should have restricted or prohibited spaces. Kim McNamara, Health Inspector stated that with local businesses being able to have outside tables and chairs vendor space is being limited. Assistant Mayor Blalock asked if when the vendor gets their license, is a specific spot assigned for them to vend at? Kim McNamara, stated that it is not.

Jason Page, Code Enforcement Officer stated that some vendors vend from shopping carts. He said these vendors sometimes have numerous carts. He further stated that as a general rule, vendors want to be close to the park. Assistant Mayor Blalock stated that size restriction is important and needs to be addressed. Deputy Fire Chief Griswold asked if the present carts would be grandfathered as some of these vendors have put a lot of money into these carts. Kim McNamara, Health Inspector stated that she agrees. Assistant Mayor Blalock asked if we should discuss more place restrictions. Kim McNamara stated that she has never relied on any memorandums and she does not have any restrictions with the exception to food handling. Jason Page stated that in the past the City has received letters of complaint about vendors. Kim McNamara stated that the only complaints she has received are about vendors vending after 12:00 a.m. She further stated that the complaint is usually not about the vendor, but the people buying from the vendors upon leaving the downtown clubs. Assistant Mayor Blalock stated that there are benefits to feeding people leaving the clubs.

Barbara Massar, Pro Portsmouth, stated that on Market Square Day vendors are given a spot with a set size and space. She stated now they are allowing vendors to sell items that add various extra equipment and space. Kim McNamara, Health Inspector stated that with the City's push for sustainability we need to encourage our vendors to go green. She further stated that more enforcement is needed with our vendors. She stated that the department that issues the permit should be at the events to monitor these vendors. Attorney Sullivan stated that the Hawkers & Peddlers licenses are issued by the City Clerk's office and they are not staffed to go out daily to ensure all vendors are within ordinance. Jason Page, Code Enforcement Officer stated that the first line should be the Police Department. Pat Remick, Parade Coordinator stated that at the Holiday Parade our non-profit groups were told they had to pay \$250.00 to set up booths for this one event. She stated that as non-profits, they do not have this kind of money for one event and so were not there. She further stated that vendors from out of town are coming to these events and selling their items, most without permits. She stated that these large events make it very difficult for the Police Department to patrol. She stated that she would like to see some temporary permits for our local businesses/non-profits to be able to vend. Pat Remick stated that the City is denying our locals and allowing outsiders to come in. Kim McNamara asked Barbara Massar, Pro Portsmouth if they patrol their own vendors. Ms. Massar stated that they did and if there are any problems they notify the police.

C. Accessory Equipment

Kim McNamara, Health Inspector stated that the policy is that a vendor can have one cooler. She further stated that this is not in any ordinance. Assistant Mayor Blalock stated that we need to be specific. Jason Page, Code Enforcement Officer stated that Section 8.120 states that "No person shall sell, or expose for sale or place or cause to be placed in or over a space exceeding 24" (twenty-four inches) nearest the premises occupied by such person, on any sidewalk of any street, lane, or public place in this City, any article of any kind." City Attorney Sullivan stated that this needs to be addressed. Assistant Mayor Blalock asked if we should maybe go to the footprint idea. Kim McNamara stated that if you go with smaller spaces, people will do weird things with food.

D. Special Events

Kim McNamara, Health Inspector stated that there needs to be more event coordination for events such as the 4th of July, First Night, etc. She stated that we do not give out temporary permits and therefore, vendors just show up without permits. Assistant Mayor Blalock asked if we issue temporary permits. Deputy City Clerk Kirby stated that we do not. Assistant City Attorney Woodland stated that we need to check with other municipalities to see how they do their cities and maybe mimic their procedures. Jason Page, Code Enforcement Officer stated that Rye and Hampton do not allow vendors at all. Peter Tiews, Department of Revenue stated that Dover, Somersworth and Rochester do not authorize vendors. He stated that Dover use to have hot dog carts but they have not had any in the last few years. He stated that vendors want to be in Portsmouth.

E. Enforcement

Jason Page, Code Enforcement Officer stated that procedures for removal when food is involved are pretty much addressed. He stated the problem arises when it is a big event or the vendor is vending non-food items. Kim McNamara, Health Inspector stated that when they find someone not in compliance, we need to know how to deal with the issue according to the ordinance.

Assistant Mayor Blalock asked about fines. Kim McNamara, Health Inspector stated that she would like to set a \$100.00 per day fine. She would also like to see it state that if a vendor fails an inspection once, they are allowed to fix the discrepancy and resume business, if they fail twice, the vendor be suspended from vending within the City for three years. She further stated that this item needs to become a part of the Hawkers and Peddlers Ordinance given to the vendors by the City Clerk's office.

F. Rules of Permits

Jason Page, Code Enforcement Officer stated that the permit must be on the person or at least posted with the cart. He stated the problem arises when you have a vendor that gets a permit and then has 6-8 kids with shopping carts wandering the crowd selling trinkets. He stated that each shopping cart needs to have a permit posted on the cart and not just the main cart.

G. Conflicts

Kim McNamara, Health Inspector stated that some disputes are due to no policy in place. She stated that most conflicts are vendors arguing over spots and other vendors vending too close to their spot. Police Chief Magnant, stated that most of their complaints are from people living in the downtown area complaining about the noise from vendors/patrons during the late hours. He said that there is less and less space for the vendors to vend and the procedures and restrictions we have are old.

Assistant Mayor Blalock stated that the tables and chairs in the square are supposed to be kept in small special sections. He asked if this was causing any problems. Jason Page, Code Enforcement Officer stated that the downtown businesses have a small area they are approved to set up their tables and chairs in. He stated that these tables and chairs, when on a public sidewalk, are considered there for anyone and problems arise when the owner complains that these are being utilized by people buying from vendors. Kim McNamara, Health Inspector stated that someone needs to go down and survey the area. Assistant Mayor Blalock stated that this would be very helpful. Jason Page stated that vendors have cut back in the downtown area. He stated that the sidewalks have gotten wider, but in some cases the restaurants owners have monopolized them.

H. Canteen Trucks – City Parking Spaces

Kim McNamara, Health Inspector stated that they have received complaints from businesses that vendors are pulling up and setting up in parking spaces. The restaurant owners complain that they pay rent, taxes, etc and these trucks park in metered spots and vend for the price of the meter. She stated that we need guidelines in this area. Assistant Mayor Blalock stated that this should be addressed to the Parking Committee. He stated that there is a shortage of parking spaces within the City and the Parking Committee should address this issue.

Barbara Massar, Pro Portsmouth stated that Pro Portsmouth addresses the look, feel and size of vehicles requesting to vend with Pro Portsmouth. Assistant Mayor Blalock stated that size can be regulated. Assistant City Attorney Woodland suggested that this committee frame their issues of concern and send them to the Parking Committee for their input. She stated that the Parking Committee would then voice their position on this issue. Jason Page, Code Enforcement Officer stated that we could prohibit all vendors from parking in designated parking spots. Kim McNamara, Health Inspector stated that we need to allow some flexibility for vendors who pull up to construction sites to vend. Chief Magnant, Police Chief asked if some communities limit the number of permits they issue. Assistant City Attorney Woodland stated that when she suggested that we check what other municipalities are doing, she was not looking at local area municipalities, but more to larger Cities like Portsmouth such as in Vermont, Connecticut etc.

I. General Food – Green Policies

Kim McNamara, Health Inspector stated that she would like to come up with some ways of rewarding vendors for using green products, such as reduced rates, etc. Pat Remick, Parade Coordinator asked if the City requires recycling bins. Kim McNamara stated it is not in the ordinance. Barbara Massar, Pro Portsmouth stated that this past spring there was an event put on by the City, so the City does have the containers available. She stated that when considering the rewards for people who do go green you will have to balance the manpower needed to verify and ensure vendors are complying. Assistant Mayor Blalock stated that he agrees with Ms. McNamara on a reward system to vendors who go green.

J. Noise Control

Jason Page, Code Enforcement Officer stated that we do have some Noise Ordinances. He stated noise issues are listed in several different ordinances and should be put into a vendor ordinance.

Assistant Mayor Blalock asked if generators are allowed. Kim McNamara, Health Inspector stated that they are allowed and some are loud. Assistant City Attorney Woodland stated that the Noise Ordinance is out of date and needs to be updated. Deputy Chief Griswold, Fire Department stated that generators are necessary for vendors with food for the safety of the public. Assistant City Attorney Woodland stated that we need something that is easy to enforce. Police Chief Magnant stated that we are going to have complaints if we allow vendors with generators on their carts at night.

K. Sales to Motor Vehicles

Jason Page, Code Enforcement Officer stated that a sale to someone in a motor vehicle is not allowed.

L. Legal

Kim McNamara, Health Inspector stated that if the State License is denied we can deny a City permit. She stated that she is concerned about vendors with a criminal background around our children. Peter Tiews, Department of Revenue stated that a vendor needs a State Meal Tax License. Deputy City Clerk Kirby asked if this was separate from the State Food License. Peter Tiews stated that it was. He further stated that he would provide the Committee with a list of all required State Licenses.

M. Additional

Deputy Chief Griswold stated that a lot of these issues can be combined. Assistant Mayor Blalock stated that some issues will repair other issues. Jason Page, Code Enforcement Officer said that we need to sort out all the rules and make it one ordinance. Assistant Mayor Blalock stated that he feels that the average person/vendor is willing to work within the rules but wants a complete understanding of what they are. Assistant City Attorney Woodland stated that she would like to see what has worked in other Cities. Jason Page said that the City needs a good rule book for the vendors.

Stephan Mayeux, Café Mirabelle asked if any food vendor needed to have a commissary available. Kim McNamara, Health Inspector stated that food being sold to the public can not be prepared in someone's home, therefore, any food vendor must have an available commissary for food preparation.

V. Next Steps

Assistant Mayor Blalock said that the committee needs to start putting these items together. Chief Griswold, Fire Department stated that he feels we should concentrate on size, accessory equipment, location/area and enforcement. Jason Page, Code Enforcement Officer stated that we should get a list of concerns from the Parking Committee. Assistant Mayor Blalock stated that he feels we should concentrate on the first five issues on the agenda plus licensing. He stated these issues would be:

- Size and Type of Carts
- Locations/Restrictions
- Accessory Equipment
- Special Events
- Enforcement
- Licensing

VI. Adjournment

At 11:50 a.m., Assistant Mayor Blalock closed the meeting.

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk