

**MINUTES**  
**City Council Legislative Subcommittee Meeting**  
**Fourth Floor Conference Room**  
**Monday, March 19, 2018 at 8:30 a.m.**  
**(Rescheduled from cancelled March 13, 2018 meeting)**

I. Greeting: Mayor Blalock. Meeting began at 8:32 am.

Present: Mayor Blalock, Assistant Mayor Cliff Lazenby, Councilor Chris Dwyer, Councilor Josh Denton via conference call, City Manager John Bohenko, Deputy City Manager Nancy Colbert Puff, City Attorney Robert P. Sullivan, Assistant City Attorney Jane Ferrini.

II. Review of Minutes of January 24, 2018. Councilor Dwyer moved to approve the January 24, 2018 minutes. Motion seconded by Councilor Denton. Motion passed unanimously.

III. General discussion regarding topics for consideration as additional City Council Principles for Legislative Positions. The Committee and staff discussed drafting new legislative principles. Assistant Attorney Ferrini stated that City staff from Public Works and Legal had met per the Acting City Manager's request to provide draft legislative principles on science and technology for the Committee to consider. The Committee and staff discussed organizations that the City is a member as a municipality, such as Great Bay Coalition and New Hampshire Water Works the Coalition Communities/former donor towns and the NHMA. The Committee discussed these organizations lobbying efforts. Assistant Mayor Lazenby suggested a policy that would require the City Council to approval the hiring of an outside lobbyist. Councilor Dwyer mentioned the City does not always agree with NHMA policies so a policy that supports all organizations to which the City belongs and their lobbying efforts may not be appropriate. The City Manager mentioned that some of these organizations have separate lobbyists and other associations, like the Clerks, Tax Collectors and Assessors' Associations also have lobbyists but it is staff as individuals, not the City, that are members of those organizations.

Assistant Mayor Lazenby moved, and Councilor Dwyer seconded, a motion for the Legislative Subcommittee to approve the following new Legislative Principle and bring it before the City Council for approval. The Motion passed unanimously:

**Support lobbying efforts of organizations and associations to which the City belongs and supports as a municipality unless contrary to other city policies.**

The Committee discussed and considered an additional policy regarding sustainability practices but it was determined by the Committee and noted by the Mayor that the current Legislative Principles already addressed sustainability and Councilor Denton

confirmed he had proposed an amendment to that Legislative Principle and the Mayor confirmed the City Council had adopted that amendment last month.

The Committee and staff discussed the challenges in evaluating and supporting legislation that is based on scientific standards. Assistant Attorney Ferrini mentioned the Daubert standard for expert witnesses in Federal Court. There was a general discussion of the complexity of scientific and technical data and lack of uniformity in these standards from one state to the next. The Committee discussed creating a Legislative Principle that would give guidance for supporting or opposing testimony that uses scientific or technical data. Councilor Dwyer discussed the role and importance for regulators, not legislators, to set standards that rely on sound scientific standards.

Assistant Mayor Lazenby moved, and Councilor Dwyer seconded, a motion for the Legislative Subcommittee to approve the following new Legislative Principle and bring it before the City Council for approval. The motion passed unanimously:

**Oppose legislation that does not apply scientific and technical standards that are broadly accepted by peer reviewed scientific study and can reasonably be achieved by sustainable best management practices and technology.**

- IV. Update on bills of interest to the City. City Attorney Robert P. Sullivan discussed HB 1766 (Coakley remediation bill) which passed the House and is headed to the Senate. He believed a hearing would be in early April. He discussed that he watched the debate on the House Floor and observed that emotion, not science, seemed to be the reasons for House to overturn the Committee's recommendation for interim study. He explained that the EPA will engage at the Senate level and that the bill, if adopted by the Senate, would require the state to breach its agreement with the EPA and may interfere with the EPA's ability to regulate landfill sites. The Coakley Landfill Group's lobbyist and Mobile Oil Corp will be involved in the lobbying effort in the Senate. The City Manager noted, and the City Attorney confirmed that House legal Council had advised House Committee members that the bill was unconstitutional. The Committee discussed contacting Senator Clark, one of the bill's sponsors, to discuss its concerns about the bill

The City Manager reported that Deputy City Manager Nancy Colbert Puff will be sitting in on all Coakley discussions and will be creating a Coakley website. The City Attorney reported that originally the representative from the City for Coakley was former City Manager Ken Mahoney and after he left, the City Attorney replaces him as the City's representative. He further reported that because Portsmouth has the majority interest in the CLG, it was logical for him to Chair the CLG's Executive Committee. The Mayor asked the City Attorney if he felt it was a conflict to be both City Attorney and Chair of the CLG Executive Committee and the City Attorney Sullivan replied no, that he is acting only as the City Attorney in his capacity as City's representative because he has been assigned to do that job and he casts his votes on behalf of the City and the City alone.

The Committee discussed the upcoming testimony at the Senate hearing on HB 1766. The Committee discussed who would testify at the hearing and whether other community representatives would testify. City Attorney Robert Sullivan said he recently met with representatives with the town of Newington regarding Coakley and the meeting was positive. The Committee discussed having our delegates from the Science and Technology committee reach out to Senator Clark. The Committee discussed possibly reaching out to the Governor about the bill. City Manager said he has directed City Staff Attorney Robert Sullivan and Deputy City Manager Nancy Colbert Puff to continue to be involved in the Coakley matter. Councilor Dwyer thought further testimony should not come from staff but come from an elected official. The Mayor agreed to provide testimony and to bring this before the City Council. Councilor Dwyer noted that the AG's letter on Coakley not being a charitable trust is on the Agenda along with Assistant Mayor Lazenby's draft letter in response to Hampton and that the City Council could discuss the Mayor's testimony within the framework of its discussions on Coakley tonight.

- V. General discussion on issues of municipal interest for the City to propose as legislative policies to NHMA for 2019-2020 biennium. Councilor Dwyer said she will be co-chairing the infrastructure subcommittee for NHMA. The Committee discussed policies submitted in 2016 and the City Manager requested the renewal of those policies be presented to NHMA after approval by the City Council in April, preferably the April 2, 2018 meeting to give the Council a second meeting in April to discuss NHMA policies.
- VI. Bills of interest. The Committee did not get to address bills due to time constraints except Councilor Dwyer noted to watch amended Senate bill on the transportation fee from \$5 to \$10 dollars and Assistant Attorney Ferrini noted the House vote on the donor town bill, HB 1802, would be on Wednesday, March 21, 2018.
- VII. Review of Agenda items for meeting with Delegates scheduled for March 26, 2018. The Committee wanted to discuss the letter from the Attorney General's office on Coakley that has been sent to the delegates at the next meeting, along with a discussion about separation of powers that the City Attorney summarized in an email to the Council at the Manager's request along with bills of interest.
- VIII. Adjournment. The Committee adjourned at 10:04am.