

City Council Workshop
April 14, 2014
6:30 P.M.
South Portland City Hall Council Chambers

Councilors Present

Gerard Jalbert, Mayor
Linda Cohen
Thomas Blake
Patricia Smith
Michael Pock
Maxine Beecher
Melissa Linscott

Staff Present

Jim Gailey, City Manager

MINUTES

Mayor Jalbert opened the meeting and welcomed all in attendance. He reminded folks that members of the public are invited to comment on each item as it comes before the Council for a period of no more than two (2) minutes. All questions or concerns would be made through the Chair and if they wished to address the City Council they would be asked to please raise their hand and upon being recognized would state their name and address for the records.

- 1. Use of City Sidewalks – (signs, displays, tables, bench)**
- 2. Review of City’s Tax Assistance Program**
- 3. Council Standing Rules**
- 4. Review of Upcoming Workshops**
- 5. Executive Session**

A motion may be made to go into executive session pursuant to 1 M.R.S.A. 7405 (6)(e), discussion with Corporation Counsel regarding city-owned property.

1.Use of City Sidewalks – (signs, displays, tables, bench): Jim Gailey, City Manager explained that in May of 2013, the City Council entered into a License Agreement with Cia´, a coffee/ice cream/art establishment on Ocean Street in Knightville, allowing it to place tables and chairs on the sidewalk in front of its establishment. The typical sidewalk width in South Portland is between 4 to 5 feet wide; however, Knightville and areas of Willard Square now have sidewalks up to 8-feet in width. The redesign of Main Street is proposed to have up to 8-foot wide sidewalks. This type of width could allow this activity to occur, while leaving ample enough room for pedestrians. Ordinance Section 23-4 and 23-11, though may not necessary “prohibit” the specific activity from happening, it does not say it can happen either. He added that there would be few businesses that would qualify due to the need of having wide sidewalks on their storefront.

Sec. 23-4. Altering sidewalks.

No person shall make any alteration in any sidewalk in the city without first obtaining the consent of the council or the consent of some person authorized by the council. (Code 1966, § 6-6-1.10)

Sec. 23-11. Obstructing streets, sidewalks with material, appliances, etc.: Permit required; space permitted to be obstructed; occupant's duty.

(a) No person shall place or cause to be placed upon a public street, gutter, public sidewalk, or parts thereof, any materials, appliances or other devices used in connection with the construction, repair or alteration of any building without first obtaining a permit from the director of public works.

(b) Such obstructions shall not occupy more than one-third (1/3) the width of any street, nor more than one-half (1/2) the width of any sidewalk.

(c) The temporary occupant shall give acceptable assurance sufficient to the director that the obstructions shall be confined to the area for which the permit was issued. SOUTH PORTLAND CODE (Code 1966, § 7-3-4)

The Council issued this license agreement with the intent of reviewing this activity for one-year. This allowed time for staff to monitor the activity and register any complaints prior to making changes to the ordinance. If a change in Ordinance was to occur, Corporation Counsel recommended the change take place in Chapter 14. This item was brought forward to discuss the use of tables and chairs on City sidewalks as well as signs, displays, etc.

Public Comment Opened:

Russell Lunt Brigham Street felt that this was a great idea and would be very nice to have in South Portland.

Bill Donigan CIA Café added that the outside seating had been very successful last year and he thanked the City for allowing this during the trial period. He added that finding 48 inch umbrellas is not possible, he has looked everywhere for this size. He liked the proposed change in hours and would like to see a change in the umbrella size as well.

Public Comment Closed:

Mayor Jalbert asked why they need to carry \$400,000 for insurance to have the outside seating. (Maine Tort Law threshold, not uncommon)

Councilor Cohen was happy to see this proposal and happy that the trial worked out and people did like it. Asked about administrative fees for the permits and work that needed to be done.

Councilor Pock asked about the 48 inch umbrella and where that size limit came from?

Jim Gailey explained that this size would be higher and people can walk under as well as the need for room on the street to walk by.

Councilor Blake was in support of this proposal and felt that going from 48 to 60 inches for the umbrella would be ok. He felt that this is nice for the community and pointed out a few typos in the material and also asked about extending the timeline from March 15 to November 15 as we can get some nice weather late in the season. He asked about fees and staffs input on this and asked about adding the Recreation Department into section (d).

Sally Daggett explained that there would not be a need to add the Recreation Department onto (d) and further discussed insurance question and how this amount was not really a lot to carry and wanted to be certain that there would not be a recommendation to lower this at all.

Further discussion on the permit fees and possibly lower the amount.

Councilor Smith was in support of the sidewalk seating, felt that it promotes growth in the business and added that the permit fees are \$80.00 in Portland which covers the administration work. She asked about the measurements, enforcement.

Jim Gailey discussed the slope in the sidewalk and keeping to 36 ft, he added that it is Code Enforcement that follows through with checking and he was ok with making the umbrella size larger.

Mayor Jalbert explained that he had noticed a late arrival from a public member who thought that the meeting started later than the 6:30 starting time and she wanted to speak on this item.

Councilor Beecher was in support of this idea as well and wanted to hear from the public. She added that for a Bee Keeping license it is \$25.00 and urged that the permit fee be kept low.

Councilor Linscott asked about the insurance cost, and wondered if this would be a regular cost or additional to the owner? She would not want this to be a burden to the owner as well as the fees and would like to see them kept low. She was ok with the larger umbrella but wanted to see it kept higher. She liked the idea of expanding the time to March – November and asked why they would expand the times? She asked if the chairs would go in and out and was encouraged by this idea; felt that it brings people to the neighborhood.

Mayor Jalbert asked about awning and a 60 inch umbrella and looking into this, he was also in favor of the 7:00 a.m. start and not past 9:00 p.m.

Jim Gailey had concern as well with awnings and the sidewalk snow removal.

Margaret Steinberg Ocean Street (late Public Comment) asked about enforcement of this proposal and had concern with the noise, she felt two people at a table is fine, but when you have a third one the noise level increases. She asked about smoking outside and the rules near a building with that. She had concerns regarding the umbrellas on the street as well.

Jim Gailey explained that the boundary issue being for Code Enforcement and added that smoking needs to be 25 feet from the building. He added that the enforcement would be the City Clerk and Police.

Councilor Smith asked about window clings that say smoking 25ft. away from building. She was ok with the 9:00 p.m. but felt that 7:00 a.m. was too early.

Councilor Cohen discussed the umbrellas being a minimum of 7 ft tall and asked about \$25.00 fro fees, she felt keeping it simple is best and noticed typos as well. She was ok with the time of 7:00 a.m. to 9:00 p.m.

Mayor Jalbert was not sure how late people would need to stay open if it's not a dinner place with alcohol served.

Councilor Linscott suggested possible different times for different businesses depending upon the type of what they sell. She added putting the maximum range for times and having the ability to change from business to business.

Councilor Cohen discussed being 50 to 100 feet and brining back if there are problems, also discussed time zones for different businesses.

Councilor Smith added that this could be put on as a question with the business license application, further discussed signs and if they were allowed or not based on complaints?

Councilor Pock discussed the Comprehensive Plan and felt that many businesses may ask for this, he also discussed zones.

Councilor Blake felt the need to set a certain time and stick to this, confusing to change, he was ok with 7:00 a.m.–9:00 p.m. and felt that if there were issues then they would look at the time issue again.

Councilor Linscott asked about businesses using this space for something else like signs, etc. and not just for tables.

Jim Gailey explained that this could be distracting for drivers and there would be caution here for that use. He added that they would have to go through the application process, look the sign ordinances, etc. as well as fees plus postage for notifications of folks within a certain area.

Councilor Smith asked if \$40.00 might be reasonable for all of this and further discussed sending out of notices to residents who buffer the business.

Councilor Blake would like more information on the notification process and asked if they were non residents as well.

Councilor Linscott was ok with the \$40.00 but would like more information on this process as well.

Councilor Pock agreed with Councilor Linscott.

Councilor Beecher liked \$25.00 rather than \$40.00 and leave the hours open for further discussion.

Mayor Jalbert was ok with \$40.00 and would like to see if they need more information.

Jim Gailey discussed the process to follow, looking at 60 inch 7 ft. umbrella, looking at March 15 – November 15 dates, 7:00 a.m. – 9:00 for allowed times and need to look at application and process fees.

Councilor Cohen felt that the fee should start at \$25.00 and go from there; she added that they should not wait on this as the weather is getting nicer and businesses will want to move along with this seating. She added that the issue of notification should be on hold now for further discussion.

2. City Review of City's Tax Assistance Program: Jim Gailey, City Manager explained that staff would like an opportunity to update the City Council on the Local Tax Assistance Program. As of April 10, 2014, the City has received 130 applications qualifying for \$47,460.00 in assistance. The City currently has \$32,735.00 budgeted for the program.

Sec. 10-1205. Determination of Eligibility and Amount of Eligibility

If the Finance Director determines that the applicant is eligible to participate in the Program, he/she shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

- a. The amount of credit qualified for under the Property Tax Fairness Credit program; or
- b. A pro rata share of available monies in the Program Fund based on the amount of one's State Property Tax Fairness Credit; or
- c. \$400.00.

The Finance Director shall report to the City Council in May of each year the projected payments and number of eligible applicants requesting assistance from the Program Fund.

Ordinance Section 10-1205(b) states that a pro rata share of the available monies will be the basis of the amount the applicants receive for assistance. The current program balance is \$32,735.00.

Councilors have expressed the desire to review the budgeted amount versus requested amount prior to city staff distributing the funding on a pro rata basis. The City Council has two options in addressing the overage in the budget:

1. The Council can proceed with the pro rata share as required by Ordinance; or
2. The Council can vote on 4/23/14 to transfer \$15,000 from the Contingency Abatement Reserve to provide additional funding to the program.

Of the 130 applicants, 105 applicants qualify for the maximum refund amount of \$400.00. By transferring the \$15,000 this will bring the budget closer to the qualified amount. The pro rata share would be a smaller dollar amount compared to if the existing budget remained.

Jim added that currently there are 140 applications and this increase in the amount would allow them to offer this to all applicants.

Public Comment Opened: No comments

Councilor Blake asked about the balance in the abatement account (\$64,000) reserves and growing and he also like the \$15,000 increase idea.

Councilor Smith was happy to see this here and was ok with the \$15,000 additional funds.

Councilor Beecher felt that they are doing well this year for abatement reserves.

Jim Gailey discussed the income bracket being \$40,000.

Councilor Linscott was happy to see this, 70-80% range, had concern of brining down and was ok with an additional \$15,000 for this year.

Councilor Cohen was in support of this \$15,000 increase and was happy to have this to offer to our residents who qualify and suggested looking ahead to continue to work on this as well.

Mayor Jalbert was in support of this increase and felt that it should go to \$18,000 but was ok with \$15,000. He respected this process and felt that it should be closely monitored.

3. Council Standing Rules: Susan Mooney, City Clerk explained that on March 10th the Council took up the review of Council Standing Rules, a discussion that had been on the back burner since September 24, 2012. The decisions made at the workshop were as follows;

Item #35 – Codify the process for developing the Workshop agenda as the practice has been over the last year. There should be at least two Councilors in support of any item being added to the workshop calendar. As advised by Corporation Counsel, appointed committee member addresses and telephone numbers should be removed from the website. This information is protected under the “Right to know” law. The remaining issues for discussion are;

Standing Rule #14 Order of Business – Whether to allow Citizen Discussion Part One and Part Two to remain open for items on the agenda and the three minute limitation for Council Round Robin. Starting time for Workshops City Councilor interaction with City boards/committees...should there be a Council Rule to prohibit a City Councilor for speaking during public communications on a Board or Committee that they are not a member of. Once these issues have been reviewed then there would be an ordinance amendment to remove all Standing Rule references from the City Ordinances and a proposed Standing Rule Policy to approve and pass by Council Order.

Discussion ensued on what they would need to look at, adding into the Standing rules, update by order making it much easier this way:

- Citizen’s Discussion (Pt. 1 & Pt. 2) Items on or off agenda
- Round Robin (add to this)
- Workshop start times
- Council interaction with Boards & Committees participation
- How many Councilors to add committee/board members or remove

Public Comment Opened: No comments

Mayor Jalbert asked Councilors how they felt about the start time for the Workshops, as they have tried an earlier start at 6:00 p.m. (They all preferred the 6:30p.m. start) And also asked about the Citizens discussion and items talked about being on or off the agenda.

Councilor Cohen felt that both items could be off the agenda to discuss as sometimes this will give folks two times in speaking on the same item. She was ok with the Round Robin and ok with making it 3 minutes. She further discussed some ways that they have done this in Portland.

Councilor Smith was ok with the Round Robin and ok for workshop discussions and with the citizen's discussion the way that it is currently.

Councilor Beecher was ok with the workshop and speaking to one item on the agenda, but not at citizen's part.

Councilor Blake felt that every year is different and would like to see it kept as it is now, he had no problem with both items on and off agenda to speak on, and he would like to accommodate people as much as we can. He was ok with the Round Robin and was ok with speaking for 3 minutes.

Councilor Linscott was ok with the Round Robin and workshop starting times but was open to extending if possible, and was ok with the Citizen Comments staying the same. She felt the need to have them speak only once on an item and not two times (once on agenda item and citizens discussion time).

Councilor Pock was ok with the way everything was now, but if they did change things he would be for 5 minutes citizens discussion at Workshops and Public Hearings, 3 minutes at Round Robin and speaking once on an agenda item when it comes up. He also asked about people speaking at our meetings that are not from South Portland (yes once its opened up for public comment people can speak and it does not matter where they are from)

Mayor Jalbert asked about speaking at a public hearing.

Sally Daggett explained that they can speak but this was not set-up the same at a workshop as you do allow a lot of time on each item and added that speaking on or off agenda items did not need to be allowed but up to the Council as a whole.

Mayor Jalbert asked about e-mail and on or off agenda items and talking as much as they want through this process. He agreed with the Councilors going beyond the norm with allowing people to speak etc.

Further discussion on being able to speak on pt. 1 & pt. 2 but if it's on the agenda have them speak just once.

Councilor Smith felt that this process may become hard to keep track of and further discussed people being allowed to speak and listening to the public as this is most important. She was ok with the way things are working now and felt that listening to people talk is different than through the e-mail process. She felt that allowing 5 minutes to speak at both Workshops and Council Meetings would be good.

Councilor Blake was ok with how they allow for speaking now and did agree with 5 minutes for both meetings and on 1 or 2 items.

Councilor Cohen she would like to hear about items off agenda preferably but was ok with the other way, just letting them know that they can speak on the item at agenda item time rather than citizen's discussion time.

Sally Daggett discussed Chair overriding on what is being allowed.

Mayor Jalbert further discussed on speaking on citizens pt. 1 or pt. 2 on or off agenda and if you already spoke on agenda item at that agenda time would not be able to at citizens discussion and vs. versa.

Discussion ensued on Interaction with Board/Committee by Councilors at meeting, participation and speaking.

Councilor Cohen discussed attending and speaking at meetings as they have the right to, but felt the need to separate on how they are speaking.

Councilor Linscott asked about certain situations on committees and she felt that she should be able to speak at such meetings and not give up her right to be a Councilor at these.

Councilor Pock agreed about speaking at committee meetings, etc. as Councilors.

Councilor Smith agreed and would not want to give up the right to speak as a Councilor.

Councilor Blake agreed as well, would not want to give up the right but cautioned to be careful and keep this the same.

Councilor Beecher felt that you can't prohibit Councilors to speak but cautioned here on when to go or not, and felt the need to keep the same.

Councilor Linscott asked about a listing for committee members e-mail addresses, she noticed that there is a listing on the Web Site under Planning but felt that they needed on to direct to each committee.

4. Review of Upcoming Workshops: Jim Gailey explained that this item was brought forward to discuss upcoming City Council Workshops and added that these discussion are done on a monthly basis.

The Council discussed the following items, looked at the calendar, worked on changing some dates, etc.

- Standing rules (final phase)
- District Changes –
Board/Committees/Appointments
- MDEP – Air Quality Monitoring Station discussion
- Sale of city Land – Stan Cox request
- Non-union personnel property
- Food trucks
- Public Discussion times at workshops

Councilor Blake asked about bringing items forth to workshop and if they need to have 2 Councilors do so as well as asking if City Manager, City Clerk's can do so. He further discussed staff input, and frequency of the City Attorney attendance at meetings and having Councilors access input from her as well.

The City Council Workshop Adjourned at 9:10 p.m.