

**City Council Workshop
June 8, 2015
6:30 P.M.
City Council Chambers**

Councilors Present

Linda Cohen, Mayor
Brad Fox
Thomas Blake
Patricia Smith
Maxine Beecher
Melissa Linscott
Claude Morgan

Staff Present

Jim Gailey, City Manager

MINUTES

Mayor Cohen opened the meeting and welcomed all in attendance. She 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. Amending Chapter 27, “Zoning,” Regarding a Zone Map Change from Residential A to Residential G and Residential A to Limited Business LB – 675 Main Street**
- 2. Pesticides/Herbicides Presentation**
- 3. 2016 Municipal Budget Discussion**
- 4. Review of Upcoming Workshops**

1. Amending Chapter 27, “Zoning,” Regarding a Zone Map Change from Residential A to Residential G and Residential A to Limited Business LB – 675 Main Street:

Jim Gailey, City Manager explained that This item is brought forward in response to a request from New Gen Group, LLC. New Gen Group owns the property at 675 Main Street. The parcel is a hotel/motel business, and consists of approximately 278,348 square feet, or 6.39 acres. It is shown as Map 63, Lot 121 on the City’s tax maps. New Gen Group would like to rezone two areas of its property. One area is located directly behind the hotel and adjacent to the Maine Turnpike Approach. It currently zoned Residential A and consists of 1.55 acres. The parcel would be changed to Limited Business LB to allow the installation of solar panels on the property. The panels will be located in area of parcel which runs parallel to the highway spur. The second area is located between Landry Village and the residents fronting the Westbrook Street Extension. This parcel consists of .46 acres. It would be rezoned from Residential A to Residential G. The applicant

stated that there are no immediate plans to develop this area. 1.55 Acres – placement of solar panels
.46 Acres

Tex Haeuser, Planning Director further explained that the **purpose of the Limited Business LB zone** is “...To provide local retail convenience outlets within the City of South Portland to serve the daily needs of the residents of the immediate neighborhood. The following are permitted and special exception uses allowed in the Limited Business LB zone:

Sec. 27-702. Permitted uses (LB).

(a) Local retail stores, not including gasoline filling stations and outdoor sales, and service; provided, however, such facilities may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m. (b) Personal services. (c) Branch business offices. (d) Any use permitted in a G Residential District.

(e) Restaurants and other places for the serving of food or beverages, provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(f) Hotels, motor hotels, motels, tourist lodging, not including trailers or mobile homes; but including, a maximum of two (2) dwelling units for resident operators of tourist accommodations.

(g) Accessory uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(h) Child, adult or combined day care centers.

(i) Multiple/Mixed uses.

Sec. 27-703. Special exceptions (LB).

(a) Public utility buildings including substations, pumping stations and sewage treatment facilities.

(b) Municipal buildings and municipal uses other than those permitted in G Residential Districts (Sec. 27-702(d) above).

(c) Outdoor sales, display and services, other than accessory uses as defined in Sec. 27- 201, subject, in addition to other ordinance requirements, to the following terms and conditions:

(1) The Planning Board may limit the percentage of area coverage;

(2) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;

(3) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(d) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(e) Charitable and philanthropic organizations.

(f) Motor vehicle repair shops provided that no unlicensed vehicles or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.

(g) Local retail stores, not including gasoline filling stations, open twenty-four (24) hours a day.

(h) Restaurants and other places for the serving of food or beverages, open twenty-four (24) hours a day.

(i) Monopole or lattice telecommunication towers, allowed only on or within existing high voltage electrical transmission towers, and extending no more than 35’ above the top of the electrical transmission tower.

(j) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(k) Farmers’ market subject to the provisions of Sec. 27-1580 et seq.

The **purpose of the Residential District G zone** is "...To provide residential areas within the City of South Portland of high density in a manner which will promote a wholesome living environment. The following are permitted and special exception uses allowed in the Residential District G zone:

Sec. 27-552. Permitted uses (G).

In the Residential District G, the following uses shall be permitted:

- (a) Dwellings, exclusive of mobile homes.
- (b) Reserved.
- (c) Public and private educational facilities including child, adult or combined day care centers.
- (d) Nursing homes, exclusive of mental care.
- (e) Medical and professional offices.
- (f) Funeral homes.
- (g) Churches.
- (h) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers.
- (i) Any use permitted in Residential District A zone.

Sec. 27-553. Special exceptions (G).

In the Residential District G, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

- (a) Business and retail uses intended specifically for the convenience and service of residents of the immediate area and located on sites of at least one acre. Space for such uses may also be provided on the first floor level of high rise residential structures constructed after enactment of this Chapter.
 - (b) Municipal buildings and municipal uses other than those included in Sec. 27-552 above.
 - (c) Public utility facilities including substations, pumping stations and Sewage treatment facilities.
 - (d) Beauty parlors and beauty shops, as follows:
 - (i) If located on Broadway, Evans Street, Sawyer Street, Waterman Drive, Westbrook Street, or Western Avenue, such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.
 - (ii) If located elsewhere in the Residential District G, such activities shall be conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.
 - (e) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.
 - (f) Charitable and philanthropic organizations.
 - (g) Community homes, which shall be permitted unless in the judgment of the Planning Board there is documented evidence that one or more of the conditions listed in Sec. 27-1405 of this Chapter cannot be satisfactorily met.
 - (h) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.
 - (i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.
- The Planning Board held a public hearing on April 14, 2015. By a vote of 4-0 (Hagan and Giles absent, District 3 vacant), recommended approval of the zoning map change for Assessor's Tax Map 63, Lot 121 from Residential District A, to Limited Business LB and Residential District G.

Jim Gailey further discussed 675 Main Street and the electricity usage related to this site for the 2014 year, the proposal to update and the savings involved as well as the two zones and the need for

one to do the updates. He further discussed the proposal, panels and saving time to do this now rather than later on.

Public Comment Opened:

Russ Lunt Brigham Street felt that this was a good idea, a good project and forward thinking.

Public Comment Closed:

Councilor Blake was thrilled with this idea, thanked him for the forward thinking and taking a lead in this project. He further asked about the G Zone and why it would be better than A and also asked about this being two separate issues.

Tex Haeuser discussed G Zone which would help with a possible future Residential Apt Unit.

Councilor Blake suggested keeping A, then developing solar panels then going to G.

Councilor Morgan discussed looking at G in the future as well and not now but moving ahead for the zoning and the panels now.

Councilor Smith asked about the abutters to this property and if they understand this proposed change? She liked this idea, felt that it was great and that he panels would help with costs. She was in support except for the small parcel and would like to keep that residential.

Tex Haeuser explained that all abutters received a notice by mail and that they had not heard any opposition from anyone, he further added that other then the postcards they cannot knock door to door.

Councilor Beecher agreed that this was a great idea and a good statement being made, she had concern on the small section and asked what neighbors might say and would like to make sure that they understand to avoid uproar.

Councilor Fox asked what the panels would cost and agreed that this would save so much on the cost of power.

Councilor Blake suggested that A be kept on the small lot.

Mayor Cohen felt that this provides an opportunity to make a statement here and congratulated everyone on this work. She agreed with leaving the smaller parcel and focusing on the others for now.

2. Pesticides/Herbicides Presentation: Jim Gailey, City Manager explained that Protect South Portland would like an opportunity to make a presentation regarding the use and effects of pesticides and herbicides. Protect South Portland will be joined by Jay Feldman, from Beyond Pesticides in Washington DC; Chip Osborne, of Osborne Organics LLC in Marblehead, MA; and Mary Cerullo, Associate Director, of the Friends of Casco Bay. I have included below a short bio for each speaker.

Andy Jones, Maine Community Organizer for Maine Toxins was the facilitator for the following presentation regarding this item and introduced the following speakers.

Beyond Pesticides

Jay Feldman, Executive Director, is a co-founder of the organization and has served as its director since 1981. Jay dedicated himself to finding solutions to pesticide problems after working with farm workers and small farmers through an EPA grant in 1978 to the national advocacy organization Rural America (1977-1981). Since that time, Jay has helped to build Beyond Pesticides' capacity to

assist local groups and impact national pesticide policy. He has tracked specific chemical effects, regulatory actions, and pesticide law. He is very familiar with local groups working on pesticides and has helped develop successful strategies for reform in local communities. His work with media has helped to bring broader public understanding of the hazards of pesticides. Jay has a Masters in urban and regional planning with a focus on health policy from Virginia Polytechnic Institute and State University (1977), and a B.A. from Grinnell College (1975) in political science. In September 2009, U.S. Department of Agriculture Secretary Tom Vilsack appointed Jay to the National Organic Standards Board (NOSB), where he completed a 5 year term in January 2015.

Osborne Organics, LLC

Charles “Chip” Osborne, Jr., founder and President of Osborne Organics, LLC, has over 10 years experience in creating safe, sustainable and healthy athletic fields and landscapes through natural turf management, and 35 years experience as a professional horticulturist. As a wholesale and retail nurseryman, he has firsthand experience with the pesticides, herbicides, and fungicides routinely used in landscape and horticultural industry. Personal experience led him to believe there must be a safer way to grow plants. His personal investigation, study of conventional and organic soil science practices, and hands-on experimentation led him to become one of the country’s leading experts on growing sustainable, natural turf.

Along the path to greening his own industry practices, Chip became a regular lecturer for the Northeast Organic Farming Association, a board member of Beyond Pesticides, Chairman of the Marblehead, Massachusetts’ Recreation and Parks Department, and speaker nationwide on the topic of turf management for athletic fields and landscapes. He speaks to a wide audience of sports field professionals, state and municipal agencies, and community groups. In 1998 Chip and Pat Beckett, co-founded The Living Lawn Project in Marblehead, MA, one of the country’s first natural lawn demonstration sites. It is a nationally-recognized, living example that beautiful, healthy grass can be grown without the use of pesticides and synthetic fertilizers. He remains a dedicated environmental activist speaker for communities wanting to learn about why and how to change their town policies.

Friends of Casco Bay

Mary Cerullo, Associate Director, is responsible for the Friends publications, public relations, and educational outreach. She works with communities on BayScaping, an education program on environmentally-friendly lawn care. She developed the Casco Bay Curriculum, creating classroom activities that use our water quality monitoring data and

other research efforts. Mary is an award-winning author of 21 non-fiction children’s books on the ocean, as well as a handbook for teachers on using children’s literature in the science classroom. She has more than forty years of experience as a science translator and has developed education materials for NASA, the National Science Foundation, NOAA, the New England Aquarium, and others.

Jay Feldman spoke on pesticides/toxin issues regarding land use. He touched on the following topics:

- What’s in a pesticide?
- Assessing FIFRA risk assessments, solutions needed for improve application of FIFRA
- Complexities not addressed, mixtures, effects, and monitoring of effects
- Lawn pesticides
- Environmental impacts

- Effects of habitat, insects, frogs,
- Indirect effects of pesticides, pesticide induced diseases
- Not protected by Federal law
- Importance of local law
- Incentives – systems approach – organic foods
- Advocacy for pollinators in FIFRA
- Ogunquit, Maine – Pesticide Ordinance
- Camden, Maine / Takoma, Washington Pesticide Management Policy

Chip Osborne explained that he has been in his field for 35 years working in organic growing. He further discussed problems with yards, parks, garden, etc. He further discussed solving problems first before people go to use the lawns, using a systems approach and education involving a basic understanding of soils and biology.

Mary Cerullo discussed the start of the use of pesticides during WW2 and how this use continued after this time. She further discussed conventional/national management organic lawn care programs and soil testing. She further discussed two approaches as well as discussion on other items below.

1. Management using allowed pesticides organic IPM
2. Management without pesticides – US EPA 25b, exempts materials

- Manage, communicate experience/expectations
- Too much grass everywhere!
- No poisons for grass, kids around and not a good mix
- Feed soil, soil testing
- Follow soluble nitrogen to turf
- Natural organic
- Cultural
- Green Leaf Park
- No use of pesticides
- What fields will look like with non use
- Science based organization
- Family use
- Chemicals hurt sea life as well (getting into Casco Bay)
- Nitrogen Levels, concern on levels dissolving
- Water use
- Ocean percentage
- Two sources of ocean acidification, too much algae
- Concerns: Water Ph in Casco Bay, Nitrogen pollutions
- Weed/feeds get rid of these
- How do we go back and start with
- Death by dissolution
- Clam Flat pollutants/managers
- Best Lawn Care Practice: A need to change ASAP
- Look at other communities to see what they are doing

- Does outreach have an impact?
- Ogunquit is the second town to make this whole change over

Public Comment Opened: The following members of the public spoke in favor of Agenda Item #2

1. Robert Goldman – 283 Preble Street
2. Mary Jane Farrah – 83 School Street
3. Ted River – 25 Ballard Street
4. Rachel Berger – 17 Churchill Road
5. Lee Smalvich – South Portland
6. William Lee – Ogunquit Conservation Commission
7. Helen Slokum – Smith Street
8. Ann Morrill – 150 Fickett Street
9. Bob Klots – South Portland, “Protect South Portland”, “Conservation Commission”
10. Pricilla Scary – Naturopath Doctor in South Portland
11. Charlie Higgins – 12 Ledge Circle
12. Irv Williams – Bay view Ave.
13. Akeep Sellars – Peaks Island
14. Dave Domingo’s – Elderberry Drive
15. Russ Lunt – Brigham Street
16. Leslie Hoy – 16 Thompson Street
17. Terry Eddy – 7 Higgins Creek Scarborough, Maine
18. Bob White – 7 Orchard Street
19. Tony Owens – Cape Elizabeth
20. Andy Jones – 96 Ledgewood Drive
21. Jim Mellow – Sprauge Street
22. Marlow Sanders – Scarborough
23. Jodi Spear – Harborside
24. Donna Herseck – Portland
25. Paul Rinann – Portland
26. Meg Braley – 33 Beach Street
27. Shelia Hanlon – 3 Channel Road
28. Brian Leonard – Broadway
29. Rosemarie DeAngelis – Buttonwood Road

Public Comment Closed:

Rick Towle Parks & Recreation Director discussed complying with all standards and non use of IPM process. He further discussed discloser and record of what they use on their green space, parks and fields as well as non use of some things at passive parks, athletic fields and added that they have come up with better ways of using pesticides (not spreading out too far with the machine, tec.) He emphasized community education, outreach and application.

Councilor Morgan explained that he was ready to see how this is done, and added that it is a simple way to get this done and being ahead of Portland in the process. He asked about the

language and wondered if there was any out there, he agreed with moving forward and was in support.

Councilor Linscott added that she grew-up at a garden center that had flowers and chemicals in use, she now realizes what health concerns are related to this. She felt the need for education on this topic and wondered if we can do what we do without the chemicals. She agreed and was in support of moving forward and educating people on this issue.

Councilor Beecher agreed with her fellow Councilors, and added that as a bee keeper she is very focused on this issue and felt that the pesticides are killing the pollinators. She agreed that the education is a huge piece and was in support of moving ahead and setting the example.

Councilor Blake thanked all who were present; he felt that they are at the center of major issues with the uses of toxins and appreciated the speakers who presented. He discussed this being an issue with people and the environment and the need to fix this, he knew that it would take patience and education for the community to move ahead with this. He added that Casco Bay has many problems because of this issue and that it was dying, he felt that there is a great need to move ahead to change this. He added that elected officials need to be responsible to do so with City staff reaching out and all leading by example.

Councilor Smith was thankful for all of the information that was presented and added that she too is an organic gardener and believed that we could have a healthier community here. She felt the need to do the right thing starting here and having Portland follow on this. She agreed with the need to move ahead and wanted to further discuss the issue of pesticide disposal and how that would be done safely.

Councilor Fox added that he did not have a lot of knowledge on grubs but felt the need to pass a policy on pesticides and agreed to move ahead with this soon.

Mayor Cohen added that she is not a big fan of grass but does hate bugs and when the neighbors use these products it does bother her. She did agree that they need to come up with a plan to move ahead with working out the language to pass this ordinance on pesticides.

Jim Gailey discussed drafting language to begin to work on and bring this back to the Council for the July 13 meeting.

3.2016 Municipal Budget Discussion: Jim Gailey, City Manager explained that this item is brought forward for the City Council to discuss and wrap up the proposed 2016 Municipal Budget. He further updated and discussed a few other items, made some changes and put some items in the “parking lot” for adjustments.

Public Comment Opened:

Russell Lunt Brigham Street thanked the City Manager for his work as well as the Council.

Public Comment Closed:

Councilor Morgan thanked the City Manager and staff for the great work that has been done and was ok with the Parks & Recreation updates, valuation and asked about projections.

Greg L’Heureux discussed valuation issues and the acceptance of donations. He added that there would be no adjustments unless there was a reason for one or if a significant change in property has occurred.

Councilor Linscott asked what part would be personal property, commercial or residential. She further discussed excise tax, new cars and fleets coming in for revenue as well. She felt that this was the best valuation here in South Portland in comparison to other communities.

Councilor Blake felt that more people are buying trucks and added that this was a great job, well prepared information. He asked about the legal fund and if it was \$250,000 or not at that number. He felt that if we did not have any amount in there that we would need to move some over from the fund balance. He further discussed options and amounts.

Mayor Cohen discussed being in the negative and the need to fund this legal account now, to replenish this. She asked if they do not use the full amount of a fund can it be rolled over into the legal fund. (yes) She agreed that this was great work and was pleased with the presentation.

Councilor Smith was ok with this as well and thanked the Manager and staff for all of the work and efforts that go into creating a budget. She added that this is very appreciated, and felt that this was a move in the right direction.

Councilor Beecher was ok with this presentation as well and agreed that this is great work. She felt that \$200,000 would be a good number to work with for the legal account.

Councilor Fox thanked the City Manager and staff for all of the hard work that goes into the budget from start to end.

4.Review of Upcoming Workshops: Jim Gailey, City Manager explained that this item was brought forward to discuss upcoming City Council Workshops and that this discussion is done on a monthly basis. He further discussed bringing back the Waterfront Ad-Hoc Committee discussions, and would look for feedback on this regarding the protection of open space, locating all sites, as well as legal protection of such spaces, etc.

Public Comment Opened: No comments

Councilor Blake discussed the Sawyer School site and issues regarding this as well as some concerns on what would be next for this site and whether this would be saved permanently or separate.

Councilor Linscott discussed this being all part of open space, part of the big picture but if time was an issue here then she agreed to have the discussions separately. She asked about the corner of Main and Westbrook St. parcel as well.

Councilor Smith asked about legal protection and how this would fit in and if it should be discussed at a workshop?

Jim Gailey added that the legal issues would come into play in regards to what can be done on the property.

Mayor Cohen wondered if the Waterfront Ad-Hoc Committee talks are too soon.

Councilor Morgan felt that they may be ahead on this as well and felt the need to have an Open Space/Philosophy discussion on that day instead.

Councilor Linscott suggested a discussion on Westbrook & Main Street as well as Open Space/Philosophy as a whole on July 13.

Councilor Blake added that Old Joe's Pond acquisition, which is privately owned should be added on the list here as well for discussion.

Mayor Cohen discussed the issues that current boards and committees are currently in need of volunteers and need to look at the future as well.

Councilor Linscott discussed a goal-setting workshop and to possibly have one again, she also worked on the boards & committees communication needs and felt that there could be more on this as well.

Councilor Morgan discussed the digital freedom of information issues and having this discussion with the City Council and possibly a facilitator to assist with this.

City Council Workshop Agenda Items

June 22, 2015 -

- * Millcreek Zoning
- Old Joes Pond

July 13, 2015-

- * Open Space Philosophy and Discussion
- Main & Westbrook Street
- Pesticides/Herbicides Language
- Review of Upcoming Workshops

July 27, 2015-

- * Review of City Ordinance on Disposition of City Property and Legal Protection of Open Space for City Land
- Standing Rules

The City Council Workshop Adjourned at 10:45 p.m.