

## **SOUTH PORTLAND CITY COUNCIL**

*POSITION PAPER OF THE CITY CLERK*

***SUBJECT:***

**ORDINANCE #17-13/14** – Amending Chapter 27, “Zoning,” regarding district representation for Board of Appeals members. Passed first reading 05/05/14. ROLL CALL VOTE. Passage of ordinance requires five (5) affirmative votes.

***POSITION:***

On June 9<sup>th</sup> an ordinance amendment went into effect removing the district requirement for appointed board and committee members. The ordinance updated Chapters 2 and 13 and the following boards no longer require voting district residency;

- Conservation Commission
- Community Development Advisory Committee
- Planning Board
- Economic Development Committee
- Energy & Recycling Committee
- Library Advisory Board

There is a restriction that no more than three board members can be appointed from any one voting district.

The amendment to Chapter 27 for the Board of Appeals was separated out because it needed Planning Board review and recommendation prior to adoption. The Planning Board reviewed the amendment on June 12<sup>th</sup> and voted to not support the proposed changes. Their report is attached.

***REQUESTED ACTION:***

Passage of Ordinance #17-13/14

  
CITY CLERK



CITY OF SOUTH PORTLAND

GERARD A. JALBERT  
Mayor

JAMES H. GAILEY  
City Manager

SUSAN M. MOONEY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

District One  
MICHAEL R. POCK

District Two  
PATRICIA A. SMITH

District Three  
MELISSA E. LINS COTT

District Four  
LINDA C. COHEN

District Five  
GERARD A. JALBERT

At Large  
MAXINE R. BEECHER

At Large  
THOMAS E. BLAKE

IN CITY COUNCIL

ORDINANCE #17-13/14

THE COUNCIL of the City of South Portland hereby ordains that Chapter 27, "Zoning," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (additions are underlined; deletions are ~~struck out~~):

Chapter 27

ZONING

ARTICLE I. Administrative Provisions

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BOARD OF APPEALS

Sec. 27-151. Appointment and composition.

There shall be a Board of Appeals of **seven** (7) members, all of whom shall be residents of the City of South Portland. The members of the board shall be appointed by the City Council of the City of South Portland, ~~who shall appoint one member from each of the five (5) voting districts of the city and two (2) members at large. There shall be no more than three (3) members from any one voting district.~~

Terms of members shall be for three (3) years, except that initial appointments after the date of this amendment shall be such that the terms of office of no more than three (3) members shall expire in any single year. Vacancies shall be governed by Sec. 2-121 of the Code of Ordinances (hereinafter "the Code"). The members of the Board shall annually elect one of its members Chairman to preside at all meetings of the Board. The members of the Board shall annually appoint a secretary who shall provide for the keeping of the minutes of the proceedings of the Board of Appeals. All minutes of the Board shall be public records. A quorum shall consist of four

(4) members. Municipal Officers and their spouses are hereby disqualified from and shall not be appointed to membership on the Board of Appeals. A member of the Board may be dismissed for cause by the Municipal Officers before the expiration of his term. In addition to zoning matters under this Chapter, the Board of Appeals shall have the authority to hear such other cases as provided for under Sec. 2-96 of Chapter 2.

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Fiscal Note: Less than \$1,000

Dated: May 5, 2014

## MEMORANDUM

**To:** City Council

**From:** Planning Board

**Date:** June 12, 2014

**Subject:** Zone Text Amendment – Amendment Relating to Board of Appeals - City South Portland – Meeting of June 10, 2014

### **INTRODUCTION**

The City of South Portland had requested the Planning Board to consider a proposed amendment to the Zoning Ordinance relating to the Board of Appeals. The City is proposing an amendment to eliminate the “Voting District Residency” requirements for the Board Appeals appointments, per Section 27-151 Appointment and composition (see Attachment #1 the City Clerk’s Position Paper dated May 5, 2014). Per Ordinance Section 27-115(g), the Planning Board will, after the close of the public hearing, make a recommendation to the City Council regarding the proposed amendment.

Legal advertisements regarding this request appeared in the Portland Press Herald on May 27<sup>th</sup> and June 2<sup>nd</sup>, 2014. A Public notice regarding the proposed zone text amendment was posted at the City Hall May 23<sup>rd</sup>, 2014.

The submission was reviewed under Chapter 27 Article II Zoning and the Comprehensive Plan.

### **ZONING RECOMMENDATION FROM THE PLANNING BOARD**

By a vote of 5–0 (District-One Vacant; Hagan Absent), the Planning Board recommends not to support the amendments to Chapter 27 relating to the Board of Appeals Section 27-151 Appointment and composition.

### **STAFF COMMENTS**

No staff comments were received prior to the hearing.

### **PUBLIC COMMENTS**

At the time of writing this memo, no public comment was received.

### **Planning Board Meeting June 10, 2014**

Agenda Item #6 Zone Text Amendment – Amendment Relating to Board of Appeals – City of South Portland.

#### **PUBLIC HEARING**

The City of South Portland had requested the Planning Board to consider a proposed amendment to the Zoning Ordinance relating to the Board of Appeals. The proposal is to eliminate the “Voting District Residency” requirements for the Board Appeals appointments, per Section 27-151 Appointment and composition. The Planning Board will make a recommendation to the City Council regarding the proposed amendment.

**T. Haeuser** read proposal –Instead of requiring the appointment of each of the five voting districts and two (2) members at large the proposal is that there should be no more than three (3) members of any one voting district.

**PUBLIC SESSION OPENED**

**C. Hendry** Thinks it works fine having two (2) at large and each district- does not agree-

**W. Laidley** Agrees with Ms. Hendry – you have to get in touch with people with district

**S. Veneziano** Agrees with W. Laidley and C. Hendry

**K. Phillips** Does not agree and does not think it should be changed

**PUBLIC SESSION CLOSED**

**C. Hendry** motioned for the City Council not support the proposed amendments to Chapter 27 relating to the Board of Appeals Section 27-151 Appointment and composition, S. Veneziano second; 5-0 (Hagan absent, District-one vacant).

**RECOMMENDATION**

The Planning Board voted 5-0 (District-One Vacant; Hagan Absent) recommends to the City Council not support the proposed amendments to Chapter 27 relating to the Board of Appeals Section 27-151 Appointment and composition.

**Attachments:**

1. Position Paper of the City Clerk dated May 5, 2014