

## SPECIAL MEETING

## AGENDA

December 1, 2014

### Work Session with Rick Rockwell – Main Street Properties Set Agenda for December 8, 2014 Regular Meeting

The meeting was called to order by the Mayor at 6:30 p.m. with the following members answering the roll call: Mayor Frank Isganitis, Louise MacLellan-Ruf, William Clayton, Larry Pritchett, Valli Geiger, City Manager Luttrell, and City Attorney Beal.

**Pledge of Allegiance to the Flag:** All present joined in the Pledge of Allegiance to the Flag.

**Public Forum:** Prior to the beginning of the public forum, Mayor Isganitis announced that he intended to closely follow the rules of procedures regarding public forums; ie that public forums will be limited to the allotted time (15 minutes for Special Meetings and 30 minutes for Regular Meeting) and that speakers will be limited to no more than 3 minutes each. He said that the purpose of City Council meetings is for the Council to conduct the business of the City, and added that Councilors are available to the public practically 24/7 via phone or email so there is ample opportunity for the public to engage with Council members on any issue with which they are interested.

The public forum was opened with the following persons speaking on the following issues:

- Amy Files, 39 Pleasant Street, spoke concerning the proposed Sewer Lateral Inspection, Maintenance and Repair Ordinance (Ordinance Amendment #24), saying that she was not suggesting that the City do nothing about the aging and decaying infrastructure and agreeing that something certainly needs to be done to address the issue, but she did not feel it was appropriate for the City to place the burden of paying for those repairs on the individual homeowners.

- Bethany Berry, 59 Crescent Street, also spoke in opposition to Ordinance Amendment #24, saying that it would unduly burden the property owners.

- David Myslabodski, 53 Broad Street, said that the City is in a financial crisis and that there are items on this agenda that will end up costing the taxpayers millions of dollars. He said that the City Council needs to start considering the financial impact of every single piece of legislation it enacts and add a fiscal impact statement to each ordinance, order and resolution that it adopts.

Hearing no other speakers, the public forum was closed.

**Work Session with Rick Rockwell – Main Street Properties:** The Council then held a work session with Rick Rockwell, owner of several properties on Main Street, about his plans for redevelopment of these properties. Mr. Rockwell asked for the Council's consideration of a credit enhance agreement for these properties to allow the extensive renovations and redevelopment of the properties that he has planned. The Council directed staff to work with Mr. Rockwell and bring a proposal back to the Council for its consideration.

**Set Agenda for December 8, 2014 Regular Meeting:** The Council then set the agenda for the December 8, 2014 Regular Meeting.

With no further business to come before the City Council, Councilor Clayton moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:25 p.m.

## REGULAR MEETING

## AGENDA

December 8, 2014

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Public Forum of not more than 30 minutes (3 min limit each speaker)
4. Meeting Notice
5. Reading of the Record
6. Reports:
  - a. City Manager's Report
  - b. City Attorney's Report
  - c. Other Official's Report
  - d. Mayor's Report
7. Licenses and Permits:

- a. Liquor & Entertainment Licenses – Rockland Elks Lodge
- b. Liquor License – Captain Lindsey House
- c. Liquor, Entertainment & Motion Picture Licenses – The Strand Theatre
- d. Lodging House License – Limerock Inn
- e. License to Operate a Taxi Company – Reed’s Taxi

8. Resolves:

- |   |                 |
|---|-----------------|
| #43 Re-Appointments – Boards, Commission & Committees     | Mayor Isganitis |
| #44 Appointments – Mid-Coast Regional Planning Commission | Mayor Isganitis |
| #45 Declaring Official Intent – Equipment Lease/Purchase  | City Manager    |
| #46 Accepting Donation – Picnic Table                     | City Manager    |
| #47 Commendation – James Pease                            | City Council    |

9. Ordinances in Final Reading & Public Hearing:

- |   |                         |
|---|-------------------------|
| #24 Chapter 14/Chapter 20 Sewer Lateral Inspection (Postponed)      | Councilor Pritchett     |
| #34 Authorizing Reconveyance – 20 Katahdin Avenue                   | City Council            |
| #35 Authorizing Reconveyance – 63 Warren Street                     | City Council            |
| #36 Chapter 19, Article III Commercial Corridor Overlay Zone (CCOZ) | Mayor Isganitis         |
| #37 Zoning Map Amendment – CCOZ, Camden St.                         | Mayor Isganitis         |
| #38 Chapter 19, Article III Zoning Regs - Adult Amusement Stores    | Councilor MacLellan-Ruf |
| #39 Chapter 11, Article XII Licensing Adult Amusement Stores        | Councilor MacLellan-Ruf |

10. Ordinances in First Reading:

- |  |                         |
|--|-------------------------|
| #40 Chapter 19, Article II Zoning Board of Appeals | Councilor MacLellan-Ruf |
|--|-------------------------|

11. Orders:

- |   |                 |
|---|-----------------|
| #92 Authorizing Blanket Letter of Approval – Games of Chance      | City Clerk      |
| #93 Authorizing Blanket Letter of Approval – Beano/Bingo          | City Clerk      |
| #94 Authorizing Expenditure of TIF Funds – Harbor Trail           | City Manager    |
| #95 Authorizing Expenditure of TIF Funds – Thorndike Parking Area | City Manager    |
| #96 Amendment to Solid Waste Fee Schedule                         | City Manager    |
| #97 Authorizing Reserve Fund Expenditure – Library Evaluation     | City Manager    |
| #98 Authorizing COLA Salary Adjustments – Attorney/Clerk          | Mayor Isganitis |

12. Adjournment.

The meeting was called to order by the Mayor at 7:00 p.m. with the following members answering the roll call: Mayor Frank Isganitis, Louise MacLellan-Ruf, William Clayton, Larry Pritchett, Valli Geiger, City Manager Luttrell, and City Attorney Beal.

**Pledge of Allegiance to the Flag:** All present joined in the Pledge of Allegiance to the Flag.

**Public Forum:** During the public forum, the following persons spoke on the following issues:

- Tess Kilgour, 19 Beech Street and one of the Rockland representatives to the RSU #13 Board of Directors, informed the Council that the City of Rockland will be picking up most of the increase in costs resulting from the withdrawal of the Town of St. George from RSU #13. She urged the Council to keep on top of the RSU #13 budget process and to meet with school officials to discuss the budgets.

- George Chappell, 90 Grace Street, spoke concerning the City’s budget process, saying that the City’s spending is going way beyond the taxpayers’ ability to pay. He also said that services such as solid waste disposal and sewer charges should be included in the taxes and not charged separately.

- Wendy Vodenlick, 18A North Main Street, spoke in opposition to the proposed sewer lateral inspection, maintenance and repair ordinance (Ordinance Amendment #24), saying that it would create a hardship for homeowner who already pay more than enough in taxes and sewer fees. She said that the City needs to stop spending so much money on unnecessary things.

- John Grondin – 1 Rankin Street, spoke concerning the lack of ADA compliance at various City facilities, including the Recreation Center and the public restrooms on Tillson Avenue. He also expressed concern about the proposal to place a number of bicycle racks on Main Street for the summer, fearing that it would impede movement of disabled persons on those sidewalks.

- Steve Carroll, 326 Old County Road and a member of the Knox County Budget Committee, said that the proposed Knox County Budget, which will have a public hearing and final vote on December 11, 2014, would call for a 4-5% increase. Couple that with the information that Mrs. Kilgour just provided on the RSU #13 budget, and the City is looking at a considerable increase in its tax rate. He said that he will make a motion to reduce the County Budget by 4-5% so that it would result in a 0% tax increase, and suggested the Council direct the City Manager to reduce the budget for each city department by 5%.

- Allan Toubman, 45 Ocean Street, said that the City needs to use Zero Based Budgeting in its creation of the City's budget, where every expenditure is justified rather than just adding on to last year's totals. He also spoke in opposition to the proposed sewer lateral ordinance, saying that it has not been widely discussed with the public and that it will not accomplish what the City is trying to do under the DEP's consent agreement.

- Brad Carter, 139 Rankin Street, also spoke in opposition to the proposed sewer lateral ordinance, saying that realtors do not sell homes fast enough to address the problems that this ordinance is supposed to address. He said this ordinance will not do what the City thinks it will, and requires more work before it is adopted.

- Sandra Schramm, 16 Broad Street, spoke concerning fees for solid waste disposal, saying that with the repeal of the pay per bag ordinance, the current fees are not in line with the actual costs of disposal of municipal solid waste. She said that the City needs to clarify what the actual costs are and institute fees that are fair to everyone.

- David Myslabodski, 53 Broad Street, spoke concerning the operation of the solid waste disposal facility, saying that the petitioners for repeal of the pay per bag ordinance have repeatedly called for the city to overhaul the operation at the facility but the Council is not listening. He also said that the Code requires source separation by the disposer of waste, and the City needs to begin enforcing that requirement.

With the 30 minutes allotted for the public forum expired, Councilor Clayton moved to suspend the Rules to extend the public forum for an additional 5 minute. Councilor Pritchett seconded the motion. Vote: 5 for.  
The public forum was extended for an additional 5 minutes.

- Russell Wolfertz, representing the Mid-Coast Board of Realtors, spoke in opposition to the proposed sewer lateral ordinance, as it is currently written, saying that it is a complex issue and that the Board wants to be part of the solution. He said that they all share a mutual interest in addressing the issues raised with regards to the sewer system, but did not feel that this proposal was the answer. He said that the Board is willing to work with the City to come up with a solution that is amenable to all.

Hearing no other speakers, the public forum was closed.

**Meeting Notice:** It was noted that this meeting had been given proper notice.

**Reading of the Record:** Reading of the Record was waived, and the Record of prior City Council meeting was deemed accepted, without objection from the Council. Anyone wishing to review the Record may do so at the City Clerk's Office at Rockland City Hall during regular business hours.

At this time, and without objection from the Council, Mayor Isganitis took Resolve #47, Commendation for Det. Sg. James Pease, out of order.

**Resolve #47 Commendation – James M. Pease**

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** James M. Pease is hereby commended and congratulated for 20 years of service to the City of Rockland with the Rockland Police Department.

**AND**, be it further Resolved that a Plaque and a Certificate of Commendation be presented to Det. Sgt. Pease as a token of the City's appreciation for his years of service to the Community.

Sponsor: City Council  
Originator: City Council

Councilor Pritchett moved passage and said that the City is fortunate to have a number of long-serving dedicated employees and it is one of the Council's most important things to recognize these employees for their service. Councilor Clayton agreed and commended Det. Sgt. Pease for his years of service to the City.

Vote: 5 for.

Mayor Isganitis presented a Plaque and a Certificate of Commendation to Det. Sgt. Pease as a token of the City's appreciation for his service.

The order of the agenda was then resumed.

### **Reports:**

a. City Manager's Report: The City Manager reported on the following issues:

- CMP will begin its tree trimming program in January 2015, with Lucas Tree Service doing the work. However, their usual practice of shelving will need to be altered because that practice is not allowed within the City.

- The City Manager announced that the City has a new Patrol Officer with the Police Department, Michael Freyer, who started today.

- The City Manager sent get well wishes to Rockland Police Officer Bill Smith, who was injured in a training exercise, and wished him a speedy recovery.

- The City has received 10 applications for the position of Community Development Director, and interviews will be scheduled in the near future.

- As the Holiday season approached, the City Manager wished all Happy Holidays and announced that City Hall will be closing at 2:00 p.m. on December 24<sup>th</sup> and will be closed for the Christmas Holiday on December 25<sup>th</sup>.

b. City Attorney's Report: The City Attorney reported that the City expects to receive a favorable judgment in the suit filed in Massachusetts in the Bussone case, after Mr. Bussone failed to respond to the suit. Once the judgment is entered, the City will be able to begin collection efforts of the \$31,000+ judgment.

c. Other Official's Report: Councilor Pritchett, in response to comments made during the public forum, said that the City's budget process includes all aspects of the City's finances; ie the General Fund, and the special revenue accounts such as Solid Waste, Sewer and EMS.

- Councilor Clayton asked the City Manager to look into the ADA concerns expressed during the public forum, as well as contacting RSU #13 officials about meeting with the Council to discuss budget issues.

d. Mayor's Report: Mayor Isganitis reminded the public that the City's Winter Parking Ban went into effect December 1 and will run until April 1, 2015, which means no parking on City Streets between the hours of 2:00 a.m. and 6:00 a.m. The Mayor then said that another snow storm is in the forecast and reminded the public not to block sidewalks or street with snow from driveways.

### **Licenses and Permits:**

- a. Liquor & Entertainment Licenses – Rockland Elks Lodge
- b. Liquor License – Captain Lindsey House
- c. Liquor, Entertainment & Motion Picture Licenses – The Strand Theatre
- d. Lodging House License – Limerock Inn
- e. License to Operate a Taxi Company – Reed's Taxi

A public hearing was opened. Hearing no speakers for or against any of the license applications, the public hearing was closed.

Councilor Clayton moved to grant the licenses for the Rockland Elks Lodge, Captain Lindsey House, The Stand Theatre and Reed's Taxi.

Vote: 5 for.

At this time, Mayor Isganitis asked to be allowed to abstain from voting on the license application for the Limerock Inn as he is the owner of that establishment. Without objection from the Council, Mayor Isganitis was allowed to abstain from voting on that application. Mayor Isganitis then asked Councilor Pritchett to take the Chair.

Councilor Clayton then moved to grant the license for the Limerock Inn.

Vote: 4 for, 0 opposed, 1 abstention (Isganitis).

Councilor Pritchett returned the Chair to Mayor Isganitis.

**Resolves:**

#43 Re-Appointments – Boards, Commissions and Committees

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the re-appointments by the Mayor of the following persons to the following Boards, Commissions and/or Committees for the listed terms are hereby confirmed:

**PLANNING BOARD:**

Erik Laustsen, 222 Cedar Street (2017)

William W. Bodine, 19 Traverse Street (2017)

**BOARD OF ASSESSMENT REVIEW:**

Nathan Davis, 10 Fulton Street (2017)

**PERSONNEL BOARD:**

Joanne Billington, 29 Admontem Ave (2017)

Carol K. Harris, 76 Limerock Street (2017)

**BOARD OF REGISTRATION APPEALS:**

Wayne Gray (R), 67 Lawn Avenue (2017)

**COMPREHENSIVE PLANNING COMMISSION:**

Eileen Wilkinson, 38 Gay Street (2017)

Valli Geiger, 186 Broadway (2017)

**HARBOR MANAGEMENT COMMISSION:**

Guy Polyblank, 260 West Meadow Road (2017)

**CDBG LOAN REVIEW COMMITTEE:**

Edward Miller, 17 Katahdin Avenue (2015)

**COAST GUARD CITY ADVISORY COMMITTEE:**

Brandy Perkins, P.O. Box 793 (2017)

Cynthia Powell, 114 Broadway (2017)

**ECONOMIC DEVELOPMENT ADVISORY COMMITTEE:**

Joanne Billington, 29 Admontem Avenue (2017)

Leah Ondra, 65 Pleasant Street (2017)

**LIBRARY ADVISORY COMMITTEE:**

Carol Maines, 186 North Main Street (2017)

**PARKING ADVISORY COMMITTEE:**

Joanne Billington, 29 Admontem Avenue (2017)

Paul Chartrand, 45 Crescent Street (2017)

Sponsor: Mayor Isganitis  
Originator: Mayor Isganitis

Councilor Clayton moved passage.

Councilor Pritchett said that it was important to recognize those who serve on the City’s boards and committees and the important work that they do. He thanked all members for their service.

Vote: 5 for.

#44 Appointment to MKid-Coast Regional Planning Commission

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** Mayor Frank Isganitis and Assistant Code Enforcement Officer David Kalloch are hereby appointed as Rockland representatives to the Mid-Coast Regional Planning Commission for 2015.

Sponsor: Mayor Isganitis  
Originator: Mayor Isganitis

Councilor MacLellen-Ruf moved passage.

Mayor Isganitis asked to be allowed to abstain from voting on this measure as he was one of the appointees, even though there is no conflict of interest in this instance. Without objection from the Council, the Mayor was allowed to abstain from voting on this measure.

Vote: 4 for, 0 opposed, 1 abstention (Isganitis)

#45 Adopting Declaration of Official Intent to Reimburse Expenses – CIP Equipment Lease/Purchase

**WHEREAS**, the City of Rockland desires to purchase equipment for the various City departments; and

**WHEREAS**, the City proposes to finance these purchases through proceeds from a tax exempt lease purchase, as authorized by Ordinance Amendment #18, adopted by the City Council 07/14/14;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Rockland, pursuant to the requirements of the United States Treasury Regulations Section 1.150-2, that the Council intends this resolution to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

**AND, BE IT FURTHER RESOLVED that:**

1. **Expenditures to be incurred.** The City anticipates incurring expenditures (the “Expenditures”) for equipment purchases,
2. **Plan of Finance.** The Issuer intends to finance the costs of the purchases with the proceeds of debt to be issued by the City (the “Borrowing”) the interest on which is to be excluded from gross income for Federal income tax purposes.
3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the City to finance the equipment: \$404,500.
4. **Declaration of Official Intent to Reimburse.** The City hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for the Expenditures incurred by it prior to the issuance of the Borrowing.

**AND, BE IT FURTHER RESOLVED** that the Council authorizes the City Clerk to certify a copy of this resolution for the Local Government Commission.

Sponsor: City Manager  
Originator: City Manager

Councilor Clayton moved passage.

Councilor Geiger asked for an explanation of this measure.

The City Manager said that the Council approved the lease/purchase of various pieces of equipment in the Capital Improvement

Plan on July 14, 2014 to be financed through a lease/purchase agreement. However, the City has incurred some expenses in acquiring the equipment prior to the issuance of the lease/purchase financing agreement. He said this measure allows the City to reimburse itself for those expenses with proceeds from the tax-exempt financing. Vote: 5 for.

#46 Accepting Donation – Handicapped Accessible Picnic Table

**WHEREAS**, the Maine State Prison Showroom donated a handicapped accessible picnic table to the Parks Commission and Recreation Department, for placement to be determined by the City Manager after consultation with the Parks Commission and Recreation Director;

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City gratefully accepts the donation and directs that letters of thanks be sent to the Maine State Prison Showroom in recognition of its generous donations.

Sponsor: City Manager  
Originator: City Manager

Councilor MacLellan-Ruf moved passage and thanked John Grondin for his efforts in securing a number of picnic tables for the City over the past year. Vote: 5 for.

**Ordinances in Final Reading and Public Hearing:**

#24 Ch 14/Ch 20 Sanitary and Storm Water Sewer and Facilities (Sewer Lateral Inspection, Maintenance & Repair) (See Book 40, Pages 247-252 for text)  
It was noted that this amendment had been postponed at the October 15, 2014 Regular Meeting until this meeting, and has received a public hearing and motion for final passage.  
Councilor Pritchett moved to amend Ordinance Amendment #24 by substituting the current text with the following:

**CHAPTER 14 Municipal Solid Waste Facility, Collection, and Recycling**

~~**Sewers, Drains and Solid Waste**~~

\* \* \*

**[MOVE ARTICLES II, III, AND IV TO NEW CHAPTER 20.]**

**ADD:**

**CHAPTER 20 Sanitary And Storm Water Sewers And Facilities**

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**ARTICLE II Sewers; Construction and Assessment**

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**Sec. 20-208 Action for Collection**

All assessments and charges made under Articles ~~II and IIIIV and V~~ shall be assessed upon the owner(s) and/or occupant(s) of the property served by a public sewer~~certified by the Municipal Officers and filed with the Tax Collector for collection.~~ If the person assessed, within thirty (30) days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay the municipality the expense thereby incurred, the City, in addition to any other remedy available at law or in equity, may collect such assessments and charges utilizing the collection procedures set forth in 30-A M.R.S. § 5405 and 38 M.R.S. § 1208, pursuant to 30-A M.R.S. § 5406. ~~a special tax in the amount of such assessment and charges may be assessed by the Municipal Assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the Tax Collector for collection, and shall be collected in the same manner as State, county and municipal taxes are collected.~~

\* \* \*

**ADD:**

**ARTICLE IV Sewer Lateral Inspection, Repair And/Or Replacement**

**Sec. 20-401 Purpose**

The purpose of this Article is to establish requirements for property owners to inspect, maintain, repair and/or replace sewer laterals, sewer relief valves and sewer backwater valves, as required, on each property in the City that is connected to the City’s sewer system. A sewer lateral that is properly maintained will reduce the risk of sanitary sewer overflows (“SSOs”) and sewer backups by minimizing inflow and infiltration into the sewer system and minimizing blockages due to pipe failures or root intrusion. A sewer relief valve properly installed on a sewer lateral will prevent sewage that is blocked in or near the sewer main from flowing back into a residence and causing a health hazard and causing property damage. A sewer backwater valve will protect properties that sit in a low elevation, with respect to the sewer main, from backflows and associated health hazards and property damage. SSOs and sewer backups pollute surface and groundwaters, threaten public health, adversely affect aquatic life and impair the recreational use and aesthetic enjoyment of surface waters. Typical consequences of SSOs include the closure of beaches and other recreational areas, inundated properties and polluted rivers and streams. SSOs can result in penalties and fines to the City from governmental agencies and nongovernmental organizations. Due to the risk of sanitary sewer overflows and sewer backups, the City Council finds that a program to keep sewer laterals in good repair and to install sewer relief valves and sewer backwater valves where required, is in the best interests of the health and welfare of the citizens of the City of Rockland.

**Sec. 20-402 Definitions**

The following definitions apply to this Article. Terms not defined in this chapter shall have their ordinary and common meaning, or if applicable, the meaning set forth in the Uniform Plumbing Code.

1. “Applicant” shall mean any individual, firm, limited liability company, limited liability partnership, association, partnership, government agency, industry, public or private corporation or any other person or entity whatsoever who applies to the City for permits for building improvements. An applicant shall be the property owner or an authorized agent of the property owner.
2. “Building Improvement” for the purposes of this chapter shall mean the following:
  - A. New sewer connections to the public sewer;
  - B. Repair, remodeling or improvement of a building served by public sewer where the cost of the improvements exceeds fifty thousand dollars (\$50,000) in 2014 dollars, an amount to be adjusted every year for inflation according to an inflation adjustment to be determined by resolution of the City Council.
  - C. Repair, remodeling or improvement of a building served by public sewer where more than twenty five percent (25%) of the building is being repaired, remodeled or improved.
  - D. Repair, remodeling or improvement of a building served by public sewer where one or more additional dwelling units, bedrooms or toilets are being installed.
  - E. Change of use on the property served by public sewer from residential to commercial.
  - ~~F. Change of use on the property from non-restaurant commercial to restaurant commercial.~~
  - ~~G. Change of use on the property from non-manufacturing to manufacturing.~~
  - F. Establishment of a daycare, or of Level III Home Occupation with two or more non-resident employees.
3. “City” shall mean the City of Rockland, a municipal corporation situated in the County of Knox and State of Maine.
4. “Director” shall mean the Director of City’s Water Pollution Control Facility, or his designee.

5. "Fats, Oils and Grease" or "FOG" means any fats, oils, waxes or other similar or related constituents. FOG may be of vegetable or animal origin, including; but not limited to: butter, lard, margarine, vegetable fats and oils as well as fats in meats, cereals, seeds, nuts and certain fruits. FOG may also be of mineral origin including kerosene, lubricating oil or road oil. FOG in the City's sewer system is generally present as, but need not be, a floatable solid, a liquid, a colloid, an emulsion or in a solution.
- ~~6. "Good Cause" shall mean practical difficulties, including interference with the use or safety of the public right of way or adverse weather conditions.~~
6. "Infiltration" shall mean the seepage of groundwater into a sewer system, including sewer laterals. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections or manhole walls.
7. "Inflow" shall mean water discharged into a sewer system including sewer laterals from such sources as, but not limited to, roof leaders, cellars, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, areas around manhole covers or through holes in the covers, cross connections from storm systems, catch basins, surface runoff, street wash waters or drainage.
8. "Lower lateral" shall mean the portion of a sewer lateral lying within a public street connecting an upper lateral to the sewer main.
9. "Notice to repair" shall mean notice issued by the Director of Pollution Control to a property owner that the sewer lateral is in violation of this chapter, which order directs the abatement of the violation.
10. "Property Owner" shall mean the owner of the property as shown on the last equalized assessment roll or in the records of the Knox County Registry of Deeds.
11. "Sanitary Sewer Overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oil and grease.
12. "Sewer backup" means a blockage of sewer flow in a sewer lateral which results in damage to private property.
13. "Sewer backwater valve" shall mean a device installed in the horizontal position in the sewer lateral below ground, which includes a one-way flap valve which allows the sewage to flow out to the sewer main in normal use, but prevents sewage from backing up into the property if the sewer main shall become blocked.
14. "Sewer lateral" shall mean the sewer line beginning at the foundation wall of any building and terminating at the sewer main and shall include the upper lateral and lower lateral together.
15. "Sewer main" shall mean a public sewer designed to accommodate more than one sewer lateral.
16. "Sewer relief valve" shall mean a device that allows water and materials that back up to escape from the cleanout rather than flowing into the property.
17. "Stormwater" shall mean the water running off or draining from the surface and subsurface of an area during and after a period of rain or irrigation.
18. "Public Street" shall mean any public highway, street, alley, public easement or right-of-way.
19. "Upper lateral" shall mean that portion of a sewer lateral beginning at the foundation wall of any building or industrial facility and running to the property line.

**Sec. 20-403 General Requirements for Sewer Lateral Inspection, Repair and/or Replacement.**

1. Administration. The Director is authorized to prepare and publish administrative procedures which shall, among other things, establish the following:

1. Standards for sewer lateral inspection, repair and/or replacement.
2. Standards for sewer relief valves and sewer backwater valve devices.
3. Standard for root removal from sewer laterals.
4. A standard notice to repair and enforcement procedures for sewer lateral repair and/or replacement.
5. An enforcement response plan related to sewer ordinances.

2. Applicability.

- A. This chapter shall apply to property located within the City or connected to the City's sewer collection system through an outside sewer service agreement.
- B. All sewer laterals connected to the public sewer, including sewer laterals servicing residential, multi-family residential, commercial or industrial uses shall be inspected in accordance with the appropriate provisions of Sections ~~13.05.050~~ 20-404 through ~~13.05.090~~ 20-407 upon the occurrence of any of the following, unless a valid certificate of sewer lateral compliance is on file with the City:
  - (1) Application for a new connection to the sewer collection system; or
  - (2) Change of ownership; or
  - (3) Application for a building permit for a building improvement; or

Notwithstanding anything to the contrary in this Article, no inspection of a sewer lateral by or for the owner shall be required (1) within five years of the construction or replacement of the sewer lateral, or (2) within three years of one of the foregoing inspections and the satisfactory completion of any resulting repairs, except upon the occurrence of a sewer backup or other malfunction of the sewer lateral.

- C. The Director may inspect one or more sewer laterals, and/or issue one or more Notices to Repair:
  - (1) In conjunction with a repair or replacement of the sewer main to which the sewer lateral is connected; or
  - (2) In conjunction with smoke testing or other inspection of the sewer main; or
  - (3) Subsequent to a sewer backup or sanitary sewer overflow resulting from blockage in a lower lateral; or
  - (4) As part of a lateral inspection program, or randomly.

3. Approved Inspection Methods. Inspection of sewer laterals shall be conducted according to standards adopted by the Director. Inspection shall be conducted by closed circuit television or three-dimensional photography. Inspection shall be performed by a licensed plumber, contractor or other person who possesses any license required by law, if any, to perform the inspection. The inspection record shall contain a photo or video of the exterior of the property being inspected. Inspection shall not commence without a valid permit issued by the City, which provides the opportunity for the inspection to be witnessed by the Director. Upon completion of the visual inspection, the person conducting the inspection shall provide a copy of the inspection results to the Director. A video inspection shall be valid for a period of 1 year from the date of video recording.
4. Sewer Relief Valve Requirements. A sewer relief valve shall be installed by the property owner on the sewer cleanout at a suitable location by the Director, where the upper lateral connects to the lower lateral on each sewer lateral connection of a single family or multi family residential property to a sewer main.
5. Sewer Backwater Valve. A sewer backwater valve shall be installed by the property owner on the upper lateral where the elevation of any floor of the building is below the street elevation of the sewer main, where a condition exists where a blockage in the sewer main would cause the sewer to back up to an elevation above the lowest floor level of the building.

or where a pump is used to lift sewage to the sewer lateral or sewer main.

6. Requirements for Sewer Lateral Repair and/or Replacement. The Director shall issue a notice to repair when the sewer lateral has conditions which would result in an unacceptable amount of inflow or infiltration to enter the sewer system or which would result in an unacceptable risk of blockages. The Director shall have the sole discretion to determine when repair and/or replacement is required due to unacceptable conditions of a sewer lateral. A sewer lateral shall be considered in compliance with the provisions of this chapter if inspection verifies all of the following conditions to the satisfaction of the Director:

A. The sewer lateral is free of roots, deposits of FOG and/or other solids which may impede or obstruct the flow of sewage.

B. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders or yard drains.

C. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage and/or the infiltration of groundwater.

D. The sewer lateral is free of structural defects, cracks, breaks or missing portions and the grade is reasonably uniform without major sags or offsets.

E. The sewer lateral is equipped with cleanouts as shown on the City's standard detail.

F. The sewer lateral is constructed of materials with a remaining design life of at least twenty-five (25) years. ~~"Orangeburg pipe" a bituminized fiber pipe made from layers of wood pulp and pitch pressed together, shall be considered to be at the end of its design life.~~

G. A sewer relief valve is installed.

H. A sewer backwater valve, if required, is installed.

7. Time Limit for Sewer Lateral Repair and/or Replacement. Repair and/or replacement of sewer laterals shall be completed within one hundred twenty (120) calendar days after the issuance of a notice to repair.

8. Time Limit for Root Removal. Removal of tree roots from sewer laterals shall be completed within ninety (90) days after the issuance of a notice to repair.

9. Permits Required for Repair. All repair or replacement work shall be completed by a person properly qualified ~~licensed~~ to perform the work, such as ~~including~~ a licensed plumber and/or contractor and shall be completed under all appropriate permits from the City including, as appropriate, building and encroachment permits.

10. Repair Performed by City and Recovery of Costs.

A. If the sewer lateral repair/replacement and/or sewer lateral root removal are not completed by the property owner within the required time limits, including any extensions granted, the City may complete the required repair/replacement and/or root removal. The cost in any sum of money expended by the City in making such a repair/replacement shall become a lien upon the property served by the sewer lateral and may be recovered in an action brought thereof in the name of the City; or, in the alternative, such cost and expenditure may be placed upon the municipal tax bill to be collected by the City of Rockland for the benefit of the City.

B. Prior to the City causing a lien to be placed on the municipal tax bill, the City Clerk shall notify the property owner of the intent to place the cost of the repair/replacement on the municipal tax bill and shall give the property owner the opportunity to appear before the City Council to show cause for why such sums should not be placed on the municipal tax bill to be collected for the benefit of the City.

C. Any and all sums determined to be due and owing to the City by resolution of the City Council shall accrue interest

at the rate set by resolution.

11. Final Inspection. Upon completion of the repair and/or replacement of the sewer lateral, re-inspections shall be conducted until the sewer lateral passes inspection.

**Sec. 20-404 Requirements for Sewer Lateral Inspection, Repair and/or Replacement Prior to Sale and as a Condition of Permits for Building Improvements or Changes of Use.**

1. Responsibility for Sewer Lateral Inspection, Repair and/or Replacement Prior to Sale. Prior to the sale or other change in ownership to property served by public sewerage, the property owner shall be responsible for performing a sewer lateral inspection, repair and/or replacement. No such inspection shall be required if the sewer lateral was installed or replaced within the preceeding three years.
2. Responsibility for Sewer Lateral Inspection, Repair and/or Replacement Upon Change of Use or Improvement. The applicant for permits for (A) one or more Building Improvements or (B) a change of use, shall be responsible for performing sewer lateral inspection, repair and/or replacement. No such inspection shall be required if the sewer lateral was installed or replaced with the preceding three years.
3. Occupancy Contingent on Completion of Sewer Lateral Repair and/or Replacement. Occupancy permits following ~~for~~ building improvements and changes of use shall only be issued if the sewer lateral passes inspection.

**Sec. 20-405 Requirements for Upper Lateral Inspection, Repair and/or Replacement in Conjunction with Repair and/or Replacement of the Sewer Main.**

1. Responsibility for Inspection of Upper Lateral and Lower Lateral. Upon repair and/or replacement of the sewer main, the City may inspect the upper lateral and/or the lower lateral. In addition to visual inspection, the inspection performed by the City may include smoke testing, dye testing or other methods to assess the condition of the sewer lateral.
2. Notice to Repair and Time Limits. A notice to repair will be issued by the Director when conditions are observed in conjunction with the City's inspection ~~repair and/or replacement of the sewer main~~ which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be stated in Section 20-403.
3. Responsibility for Repair and/or Replacement of Sewer Lateral . The property owner shall be responsible for repair and/or replacement of the ~~upper~~ sewer lateral ~~in the case where the City is repairing and/or replacing the sewer main and/or the lower lateral.~~ The property owner shall also be responsible for correcting all sources of inflow to the sewer lateral; provided, however, that no Notice of Repair shall be issued to the property owner and the City shall be responsible for the repair and/or replacement of the sewer lateral where the City caused the need for repair or replacement including, without limitation, by relocating the sewer main or by damaging the lateral during construction or maintenance activities. Where it is demonstrated that a lower sewer lateral in need of repair was installed by or on behalf of the City, and no the property owner and that the repair is needed as a result of poor workmanship or defective materials, the City and not the property owner shall be responsible for the cost of the repair.
4. Repair Performed by the City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed within the required time limits, including any extensions granted, the City may complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 20-403.

**Sec. 20-406 Requirements for Sewer Lateral Inspection, Repair and/or Replacement Upon Smoke Testing or Other Inspection of the Sewer Drain.**

1. Responsibility for Inspection. The City may perform smoke testing of sewer mains to detect sources of inflow or other inspections of sewer mains. Upon notification by the Director that smoke testing or other inspection indicates the presence of inflow from private property or other defect in a sewer lateral, it shall be the responsibility of the property owner to perform an inspection of the sewer lateral according to the approved inspection methods described in Section 20-403.
2. Notice to Repair and Time Limits. A Notice to Repair will be issued by the Director when conditions are observed in

conjunction with smoke testing or other inspection which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be stated in Section 20-403.

3. Responsibility for Repair and/or Replacement of Sewer Lateral . The property owner shall be responsible for repair and/or replacement of the sewer lateral in the case where a notice to repair has been issued as a result of smoke testing or other City inspection.
4. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed with the required time limits, including any extensions granted, the City may complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 20-403.

**Sec. 20-407 Requirements for Sewer Lateral Inspection, Repair and/or Replacement Upon Sanitary Sewer Overflows and/or Sewer Backups.**

1. Responsibility Authority for Inspection. The City may perform inspection of sewer laterals including upon the occurrence of sanitary sewer overflows and/or sewer backups.
2. Notice to Repair and Time Limits. A Notice to Repair will be issued by the Director when conditions are observed in conjunction with sewer overflow and/or sewer backup which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be stated in Section 20-403.
3. Responsibility for Repair and/or Replacement of Sewer Lateral . The property owner shall be responsible for repair and/or replacement of the upper lateral in the case where a notice to repair has been issued following a sanitary sewer overflow and/or a sewer backup. The property owner shall also be responsible for correcting all sources of inflow to the sewer lateral.
4. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed with the required time limits, including any extensions granted, the City shall complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 20-403.  
State Law Ref.: 38 M.R.S. § 3426.

**Sec. 20-408 Failure to Repair and/or Replace Sewer Lateral a Public Nuisance**

The failure of a property owner to repair and/or replace a sewer lateral within the time limits stated in Section 20-403:

1. Shall be deemed a public nuisance; and
2. Shall relieve the City, its officers, employees and agents from any liability, damages, or claims resulting from a sewer backup, regardless of whether the sewer backup occurs from a blockage of a sewer main or a sewer lateral.

**State Law Ref.: 38 M.R.S. §§ 3405, 3422(3), 3426, 3428.**

Councilor Pritchett thanked the City Attorney for his work on this amendment, but urged his fellow Councilor to vote down this proposal. He said he believes that the City needs to go back to the drawing board on this matter. He said that he was not comfortable with the inspection requirements that this amendment would institute, and said that the best approach would be to vote down this proposal and start over.

Councilor MacLellan-Ruf agreed with Councilor Pritchett, adding that she felt this amendment was putting the cart before the horse. She said that this proposal needs more work and more public input. She said that the Council needs to slow down and listen to the concerns of the public.

Councilor Geiger said that she was concerned about this proposal for the beginning. She said that even though she agreed with Mr. Pinto's concerns about the sewer system as a whole, and the fact that storm water infiltration needs to be address; this proposal does not do it. However, she said should this proposal be voted down, the responsibility for maintenance, repair and/or replacement of sewer laterals from the house to the sewer main still lies with the property owner. She said that she supported Councilor Pritchett's suggestion, and added that she would like to see a series of public forums held to get input from the public to address their concerns.

Councilor Pritchett said that even though he was opposed to this ordinance amendment, he wanted to have the discussion. He said that he agreed with Councilor Geiger's assessment of the matter, and added that the ordinance currently in effect is not uncommon. However, when facing a City-wide system rehabilitation, some sort of cost-sharing needs to be explored. He said the impetus of this proposal was the requirement from DEP that the City deal with peak storm water flow. He said that there may still be a cost to individual property owners, but the issue needs a more comprehensive look.

The City Manager asked for directions from the Council on how and when such informational meetings should take place, should this proposal be voted down.

Mayor Isganitis asked Councilor Clayton to take the Chair so that he could speak on this issue.

Mayor Isganitis said that he does not disagree with anything that the other Councilors have said, but would like to see the amendment by substitution approved and then postponed to be used as a starting point for the discussions that he agrees need to be held. He said that this has been an evolving process, and that he knows why we are here. He said if a lateral fails and allows storm water to infiltrate the system, it creates problems for the system. If a lateral fails and allows sewerage to leach into surrounding ground water it creates an environmental problem. He added that the City could have done a better job informing the public of the larger picture, and that the City has been working on improvements to the sewer system for the past several years.

Vote on amendment: 1 for, 4 opposed.

(Clayton, MacLellan-Ruf, Pritchett, Geiger)

Motion Defeated.

Councilor Pritchett said that Order #48 passed by the Council in June regarding evaluation of the City's sewer system provides the framework that Mayor Isganitis is looking for.

The City Manager added that a report on the smoke testing will be ready in the near future and will be presented to Council when ready.

Councilor Geiger said that this is a huge and expensive issue for the City and for the property owners. She said, coupled with the information received about the County and School budgets, everyone needs to get involved with the informational session to figure out the best way to proceed.

Mayor Isganitis said that he wanted to move the amendment by substitution forward as a framework for further discussions on this issue at public informational session. He said that City needs to keep its eye on the ball and move this issue forward to demonstrate to DEP that the City is addressing the issues.

Councilor Pritchett said that the work plan just adopted by the Council includes addressing the sewer issues.

Vote: 0 for, 5 opposed.

Motion Defeated.

#### #34 Authorizing Reconveyance – 20 Katahdin Avenue

(See Book 40, Pages 280-282 for text)

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Councilor Clayton moved passage.

Councilor Geiger said that there are a number of bank foreclosed properties around the City that seem to sit vacant for a long time with nothing being done to them. She said she understood that this reconveyance agreement requires the bank to make certain repairs and improvement before the City will reconvey the property. However, she said that she was concerned that there did not appear to be any requirement that the property be maintained.

The City Attorney said that Councilor Geiger was correct that certain improvements and repairs must be made prior to reconveyance. He added that Article V of Chapter 2 outlines the reconveyance procedure. He said in this instances, the property was foreclosed upon by the bank which failed to properly winterize the property resulting in damage. He said that the City is requiring that certain repairs be made prior to reconveyance.

Councilor Geiger said that she would like to see, if possible, a provision that would require the bank to dispose of the property within 18 months from the date of reconveyance. She said that there are a number of properties in the City that are still being held by various banks.

Councilor Pritchett noted that the reconveyance agreement requires the bank to make the heating system functional. He asked if the agreement would require the bank to use it.

The City Attorney said that the City cannot require that a minimum temperature be maintained in a dwelling that is not occupied.

Councilor Clayton agreed that upkeep of bank-owned properties is an issue, and added, from a business standpoint, it is easier to sell a home that is in good condition.

Vote: 3 for, 2 opposed.

(Pritchett, Geiger)

The Ordinance will become effective January 7, 2015.

#### #35 Authorizing Reconveyance – 63 Warren Street

(See Book 40, Pages 282-284 for text)

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Regular Meeting, Ordinance Amendment #35 continued:

December 8, 2014

Councilor Pritchett moved passage.  
The Ordinance will become effective January 7, 2014.

Vote: 5 for.

#36 Chapter 19, Article III Commercial Corridor Overlay Zone (CCOZ)

(See Book #40, Pages 284-286 for text)

Prior to the opening of the public hearing, Councilor Pritchett moved to postpone Ordinance Amendment #36 until the January 12, 2015 Regular Meeting.

Vote: 5 for.

Ordinance Amendment #36 was postponed until the January 12, 2015 Regular Meeting.

#37 Zoning Map Amendment – CCOZ, Camden Street

(See Book #40, Pages 286-287 for text)

Prior to the opening of the public hearing, Councilor Pritchett moved to postpone Ordinance Amendment #37 until the January 12, 2015 Regular Meeting.

Councilor Clayton said that he had a couple of questions on this proposal and asked if the Rules could be suspended so that he could ask those questions.

Councilor Pritchett moved to suspend the Rules to allow Councilor Clayton to ask his questions. Councilor MacLellan-Ruf seconded the motion.

Vote: 5 for.

Councilor Clayton asked if the setbacks for existing properties would be grandfathered, or would they be required to conform to the setbacks proposed in this amendment.

Councilor Geiger (who is also the Chair of the Comprehensive Planning Commission) said that existing developments and businesses would not be effected by this change. She said the CCOZ is intended to guide future development by creating a roadmap for where the City wants to go along the commercial corridors.

Councilor Clayton then asked if this change would have an effect on the tax base of those existing businesses.

Councilor Pritchett said that the Camden Street Visioning Project actually looks to increase development opportunities for property owners which could potentially increase the values of those properties. He also noted that the zoning map attached to this amendment is incorrect, and that the area currently zone WF-5 should not be included in the CCOZ.

The Council went back into Regular Session for a vote on Councilor Pritchett's motion to postpone Ordinance Amendment #37 until the January 12, 2015 Regular Meeting.

Vote: 5 for.

Ordinance Amendment #37 was postponed until the January 12, 2015 Regular Meeting.

#38 Chapter 19, Article III Zoning Regulations – Adult Amusement Stores

(See Book #40, Pages 288-292 for text)

Reading of the Amendment was waived, without objection from the Council, and the amendment was paraphrased by the City Attorney.

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Councilor MacLellan-Ruf moved passage.

Councilor Geiger thanked the City Attorney for his work on this issue. She said this was a tricky situation where the City could not simply prohibit this type of business entirely without opening itself up to a potential lawsuit. She said that the City Attorney has crafted an ordinance that regulates these kinds of businesses to protect the public without opening the City to legal action.

Councilor Pritchett agreed with Councilor Geiger and added that the City Attorney came to the Council and asked for its input prior to drafting the ordinance.

Vote: 5 for.

The amendment will become effective January 7, 2015.

#39 Chapter 11, Article XII Licensing of Adult Amusement Stores

(See Book #40, Pages 292-296 for text)

Reading of the amendment was waived, without objection from the Council, and the amendment was paraphrased by the City Attorney.

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Councilor MacLellan-Ruf moved passage.

Vote: 5 for.

The amendment will become effective January 7, 2015.

**Ordinances in First Reading:**

#40 Chapter 19, Articles II & III, Chapter 14, Article IV Scope of Review - Zoning Board of Appeals

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE II, Board of Appeals, SECTION 19-202, Powers and Duties; Conduct of Appeals; and ARTICLE III, Zone Regulations, SECTION 19-**

**304(20), Shoreland Zone Ordinance; and CHAPTER 14, ARTICLE IV, SECTION 14-423, Board of Sewer Appeals, BE AMENDED AS FOLLOWS:**

**Sec. 19-202 Powers and Duties; Conduct of Appeals; Variances**

The Zoning Board of Appeals shall have the following powers and duties exercised by vote of not less than a majority of its full membership, after public notice and hearing:

**1. Administrative Appeals.** To hear and decide appeals arising from a zoning determination or interpretation of a zoning regulation, ~~or the issuance or failure to issue a building or occupancy permit by the Code Enforcement Officer or his authorized agent, the issuance of a notice of violation under Ch. 4 and/or 7, a determination regarding the application of the Floodplain Management Ordinance under Ch. 19, Art. VI, the denial, suspension, or revocation of a solid waste license by the City Council pursuant to Ch. 14, Art. I, Sec. 14-112(7), a decision of the Water Pollution Control Facility Director or a Local Plumbing Inspector pursuant to Ch. 14, Art. IV, Sec. 14-423, or other appeal authorized by law or ordinance and assigned to the jurisdiction of the Zoning Board of Appeals.~~

**A. Standing For Appeals Under Chapters 4, 7, or 19.** Any person having a potential ~~particularized direct and personal~~ injury as a result of, and any owner or lessee of abutting property or of parcels located entirely or partially within 300 feet of property that is the subject of any decision, action, or inaction of the Code Enforcement Officer or other authorized official under Chapter 4, 7, or 19, ~~may have standing to appeal such decision, action, or failure to act to the Zoning Board of Appeals, and may appeal a decision of such Board to the Superior Court, as provided by law or rule of civil procedure.~~

**B. Appeal Procedure.** Except when a person having standing to appeal demonstrates good cause, an appeal must be filed with the Code Enforcement Office within thirty (30) days of the decision that is the subject of the appeal. The person taking the appeal shall file with the Code Enforcement Office a notice of appeal on a form provided for that purpose by the Code Enforcement Office, and; pay to the City the administrative appeal fee as prescribed ~~in the Code of Ordinances or by~~ Order of the City Council, which fee is calculated to cover the various costs to the City including, but not limited to, publishing notice of hearing, notifying ~~abutting~~ land owners, and reviewing the appeal. The Code Enforcement Officer shall forthwith transmit to the Board a copy of the notice of appeal ~~and of all papers constituting the record of the action that is the subject of the appeal.~~ The Zoning Board of Appeals shall ~~hear such appeal~~ fix a reasonable time within ninety (90) days ~~six months for the hearing of the appeal, which deadline may be extended by the Chair upon the agreement of the parties; A failure by the Board to decide the appeal within six months of the date of a completed notice of appeal shall be deemed a denial of the appeal. The Chair~~ may require that the ~~parties~~ appellant(s) submit a narrative summary, a list of witnesses to be called at the hearing, and copies of exhibits to be submitted to the Board for its consideration ~~of the appeal and of the grounds therefor~~; and, at least one (1) week prior to the hearing, shall give public notice of such hearing by publication in at least one (1) issue of a newspaper of general circulation ~~published~~ in the City, and, with respect to appeals brought pursuant Chapter 4, 7, or 19, by mailing notification to land owners within 300 feet of the subject property. The appellant and applicant may appear in person, or by attorney or other agent.

**C. Standard of Review; Burden of Proof.** When acting in ~~this~~ an appellate capacity, the Zoning Board of Appeals shall review the matter de novo. That is, the Board shall hold a hearing at which it may receive and consider all relevant evidence, either written or oral; ~~the Board's review shall not be limited to the information reviewed by the Code Enforcement Officer at the time of the decision being appealed.~~ ~~may reverse the decision of the Code Enforcement Officer only upon a finding that the decision was contrary to specific provisions of the Rockland Code of Ordinances, or contrary to the facts presented to the Code Enforcement Officer at or prior to his decision. The Board may remand the matter to the Code Enforcement Officer for further consideration, specifying the information to be obtained and/or considered upon remand, or may sustain the decision of the Code Enforcement Officer or grant the appeal and vacate or modify the decision that is the subject of the appeal. The party~~ person that filing the appeal shall have the burden of proof as to all matters in the appeal.

**D. Decisions.** Upon the conclusion of the hearing, the Zoning Board of Appeals shall vote to affirm, modify, or reverse the decision that is the subject of the appeal of the Code Enforcement Officer. The decision of the Board shall not be final until the earlier of (1) the approval of a written notice of decision by the Board at a public meeting, which decision shall whenever feasible include findings of fact and conclusions of law, shall be signed by the Chair, and shall be served on the parties, or (2) the passage of six months following the date of the completed notice of appeal. ~~and notify the parties of its decision in a notice of decision signed by the Chair.~~

**2. Variances.** To hear and decide applications for variances when the Code Enforcement Officer shall have denied an application for a building permit or otherwise determined that a dimensional requirement in the applicable zoning regulations precludes a proposed development or an element thereof.

**A. Standard of Review; Burden of Proof.** A variance from a dimensional requirement or limitation imposed in Chapter 19, Section 19-304 may be granted by the Board only where strict application of the Article, or a provision thereof, to the petitioner and his property would cause undue hardship. A variance may not be granted to permit a use not permitted or conditionally permissible under~~otherwise prohibited by~~ Section 19-304. The phrase “undue hardship” as used in this subsection shall mean:

- (1)~~A.~~ That the land in question cannot yield a reasonable return unless a variance is granted;
- (2)~~B.~~ That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- (3)~~C.~~ That the granting of a variance will not alter the essential character of the locality; and
- (4)~~D.~~ That the hardship is not the result of action taken by the applicant or a prior owner.

**B. Procedure.** The person requesting a variance shall file with the Code Enforcement Office a Variance Application on a form provided for that purpose by the Code Enforcement Office, and pay to the City the variance application fee as prescribed by Order of the City Council, which fee is calculated to cover the various costs to the City including, but not limited to, publishing notice of hearing, notifying land owners, and reviewing the variance application. A detailed and scaled site plan showing the shape and dimensions of the lot, the dimensions and location of existing and proposed buildings and additions, any natural or topographic peculiarities of the lot, the location of any water body adjacent to the property, and the distances to the nearest principal and accessory structures on abutting properties must be included with the variance application. The Code Enforcement Officer shall determine when a variance application is complete, and forthwith transmit to the Board a copy of the completed application. Though determined to be complete by the Code Enforcement Officer, the Chair may request additional information relating to the application. The Zoning Board of Appeals shall hear and grant, grant with conditions, or deny the application within ninety (90) days of the date of the completed application, which deadline may be extended by the Chair upon the agreement of the parties. A failure by the Board to issue a decision on the application within six months of the date of the completed application shall be deemed a denial of the application. The Board, at least one (1) week prior to the hearing, shall give public notice of such hearing by publication in at least one (1) issue of a newspaper of general circulation in the City, and by mailing notification to land owners within 300 feet of the subject property. The applicant may appear in person, or by attorney or other agent. The decision of the Board of Appeals shall be in writing, and shall be effective as of the earlier of the date of such written notice of decision or the date the decision is announced by the Board Chair at a meeting of which the applicant was provided notice. The written notice of decision shall include, as conditions, the time limitations set forth in Subsection 19-202(2)(F).

**C. Floodplain Variances.** Variances from requirements of the Floodplain Management Ordinance of the City of Rockland, Maine shall be subject to procedures set forth in Article VI of that Ordinance.

**D. Disability Variances.** The Board also may hear, grant, grant with conditions, or deny applications for disability variances pursuant to 30-A M.R.S. § 43534-A).

**E. Evidence of Recordation.** If granted, the approved variance shall be set forth in a certificate that shall be recorded by the applicant on the Knox County Registry of Deeds within ninety (90) days. The Code Enforcement Officer may not issue a building permit for work authorized by a variance until and unless he is provided with evidence of its recordation.

**F. Commencement, Completion of the Work.** The work ~~or change authorized by~~ involving the variance shall be commenced within six (6) months ~~of the granting of the variance~~ and shall be substantially completed within one (1) year of the date on which the variance is ~~effective, granted~~ unless the Board grants an extension of either period. The variance shall provide by its terms that rights thereunder will cease unless work is thus commenced and substantially completed. ~~No variance shall be granted for a use not allowed within the zone in which the property is located.~~

**3. Administration.** To make the following determinations and grant the following permits:

Determine precise zone boundary lines to the extent authorized by Section 19-301(4).

4. Appeals to Superior Court. Pursuant to Title 30-A, Maine Revised Statutes, Section 2691(3)(G) and Maine Rule of Civil Procedure 80B, any party who participated in a proceeding before the Zoning Board of Appeals and who has a particularized injury may appeal the decision of the Board to Superior Court within 45 days of the date of the vote on the original decision.

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**ARTICLE III Zone Regulations**

**Sec. 19-304(20) Shoreland Zone Ordinance**

\* \* \*

**16. Administration.**

\* \* \*

**H. Appeals**

Any appeal of a decision of the Code Enforcement Officer under Section 19-304(20), or a variance request, shall be heard by the Zoning Board of Appeals pursuant to Chapter 19, Article II, Section 19-202. A decision of the Planning Board regarding the application of the Shoreland Ordinance to an application for approval of a subdivision or site plan may be appealed under Ch. 16, Art. I, § 16-109 or Art. II, § 16-26, respectively, to the Knox County Superior Court, pursuant to Maine Rule of Civil Procedure 80B. ~~Any such appeal must be filed with the court within thirty (30) days of the decision appealed from. Such appeal shall be reviewed by the court consistent with state law and/or the Maine Rules of Civil Procedure., it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board.~~

~~(1) Powers and Duties of the Zoning Board of Appeals. The Zoning Board of Appeals shall have the following powers:~~

~~(a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by any person having a potential direct and personal injury, or by any owner or lessee of abutting property or of property located entirely or partially within 300 feet of the affected property, that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration of this Ordinance.~~

~~(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.~~

~~\* \* \*~~

~~(3) Administrative Appeals~~

~~When the Board of Appeals reviews an appeal of a decision of the Code Enforcement Officer, the Board of Appeals shall review the matter de novo. That is, the Board shall hold a hearing at which it may receive and consider all relevant evidence, either written or oral; the Board's review shall not be limited to the information reviewed by the Code Enforcement Officer at the time of the decision being appealed. may reverse the decision only upon a finding that the decision was contrary to specific provisions of the Ordinance, or unsupported by substantial evidence before the Code Enforcement Officer at the time of his/her decision. The Board Appeals shall not receive or consider any evidence which was not presented to the Code Enforcement Officer, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the administrative record was inadequate, the Board of Appeals may remand the matter to the Code Enforcement Officer for additional fact finding.~~

~~(4) Appeal Procedure~~

~~(a) Making an Appeal~~

- ~~(i) An administrative appeal or variance appeal may be madetaken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer, except for enforcement related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.~~
- ~~(ii) Applications for appeals shall be made by filing with the Code Enforcement Office a written notice of appeal which includes:
 
  - ~~a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.~~
  - ~~b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.~~~~
- ~~(iii) Applications for variances shall be made in the same manner as is provided for administrative appeals.~~
- ~~(ivii) Upon receiving an application for an administrative appeal or for a variance, the Code Enforcement Officer, as appropriate, shall transmit to the Board of Appeals a copy of the application and, in the case of an appeal, of the decision that is the subject of the appealall of the papers constituting the record of the decision appealed from.~~
- ~~(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.~~

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**ARTICLE VI Floodplain Management**

\* \* \*

**ARTICLE X - APPEALS AND VARIANCES**

The Board of Appeals of the City of Rockland may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this Ordinance. Such appeals shall be conducted and heard in accordance with the procedures set forth in Ch. 19, Art. II, Sec. 19-202(1) – Administrative Appeals. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law, applying the procedure and requirements set forth in Ch. 19, Art. II, Sec. 19-202(2) – Variances, and satisfying the following criteria:

\* \* \*

**CHAPTER 14 Sewers, Drains and Solid Waste**

**ARTICLE IV Use of Public and Private Sewers and Drains**

**Sec. 14-423 Board of Sewer Appeals**

\* \* \*

4. Appeal Procedure.

A. *Appealable Decisions.* Any user and any municipal department aggrieved by the decision of the Director, or the Local Plumbing Inspector, which decisions arise from provisions of Article IV may appeal such decision to the Board of Sewer Appeals.

B. *Appeal Deadline.* Within thirty (30) days of the date of the decision of the Director or Local Plumbing Inspector, the appeal shall be entered at the ~~Code Enforcement Office of the City Clerk~~ upon forms to be approved by the Board of Appeals. The appellant shall set forth in the form the grounds of his appeal and shall refer to the specific provisions

of Article IV involved.

Following the receipt of any appeal, the ~~Code Enforcement Officer~~~~City Clerk~~ shall notify forthwith the officer concerned and the Chairperson of the Board of Sewer Appeals. The appellant shall pay to the ~~Code Enforcement Office~~~~City Clerk~~ a fee as established by ~~the Charges and Fees~~ Order of the Rockland City Council.

C. *Appeal to Superior Court.* An aggrieved user may appeal from the decision of the Board of Sewer Appeals to the Superior Court as provided by the laws of the State of Maine.

Sponsor: Councilor MacLellan-Ruf  
Originator: Zoning Board of Appeals

Councilor MacLellan-Ruf moved passage.  
Councilor Geiger asked if this amendment affected the variance procedure.  
The City Attorney said that it did not.  
A public hearing was set for January 12, 2015 at 7:00 p.m.

Vote: 5 for.

**Orders:**

#92 Authorizing Blanket Letter of Approval – Games of Chance Licenses

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Games of Chance Licenses for the following establishments and/or organizations be approved for a period of one (1) year beginning January 1, 2015, and that a blanket letter of approval be sent to the Maine State Police notifying them of this approval:

- Winslow-Holbrook-Merritt Post #1, American Legion
- Rockland Memorial Post #2499, VFW
- Benevolent and Protective Order of Elk, Lodge #1008
- St. Bernard’s Parish Center
- Rockland Masonic Temple Corporation
- American Legion Auxiliary, Unit #1
- Limerock Council #138, Knights of Columbus
- Penobscot Bay Regional Chamber of Commerce
- Rockland Social Club
- Vanguard Colorguard
- Rockland Emblem Club
- Rockland Kiwanis Club
- Rockland Rotary Club

Sponsor: City Clerk  
Originator: City Clerk

Councilor Pritchett moved passage.

Vote: 5 for.

#93 Authorizing Blanket Letter of Approval – Beano/Bingo Licenses

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Beano/Bingo Licenses for the following establishments and/or organizations be approved for a period of one (1) year beginning January 1, 2015, and that a blanket letter of approval be sent to the Maine State Police notifying them of this approval by mail:

- Winslow-Holbrook-Merritt Post #1, American Legion
- Rockland Memorial Post #2499, VFW
- Benevolent and Protective Order of Elk, Lodge #1008
- St. Bernard’s Parish Center

Rockland Masonic Temple Corporation  
 American Legion Auxiliary, Unit #1  
 Limerock Council #138, Knights of Columbus  
 Penobscot Bay Regional Chamber of Commerce  
 Knox County Fish and Game Association  
 Rockland Social Club  
 Vanguard Colorguard  
 Rockland Emblem Club  
 Rockland Kiwanis Club  
 Rockland Rotary Club

Sponsor: City Clerk  
 Originator: City Clerk

Councilor Clayton moved passage.

Vote: 5 for.

#94 Authorizing Fisher TIF Expenditure – Harbor Trail

**WHEREAS**, the City has secured \$35,000 in grant funding from the Recreation Trail Program to build a portion of the Harbor Trail along Mechanic Street; and

**WHEREAS**, the City has dedicated \$9,000 from the Fisher Engineering TIF as match to the RTP grant; and

**WHEREAS**, the Harbor Trail Committee has reviewed and approved of the engineered plans for this project; and

**WHEREAS**, the final engineering and cost estimates for this project are \$20,000 over the estimated costs; and

**WHEREAS**, the completion of the Mechanic and Atlantic Street portions of the Harbor Trail will provide for a safe walking path from Snow Marine Drive to Harbor Park and Downtown; and

**WHEREAS**, it is expected that the City will apply for and be considered favorably for funding from the RTP in 2015 for the completion of the Harbor Trail along Atlantic Street; and

**WHEREAS**, the City wishes to complete the Mechanic Street project and reserve funds for an application to RTP or other grants for completion of Atlantic Street;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT**, the City Manager is hereby authorized to expend up to \$20,000 from the Fisher Engineering Development Program (Account #10000-1898) from FY 2015 and \$16,000 from the same account from FY 2016 to complete the Mechanic Street project and reserve funds for the Atlantic Street portion of Harbor Trail.

Sponsor: City Manager  
 Originator: Community Development Director

Councilor MacLellan-Ruf moved passage.

Councilor Pritchett thanked Councilor MacLellan-Ruf on the work that she has done on this issue.

Councilor Clayton said that he was in favor overall of the Harbor Trail, but has concerns about the plans that the Council was shown at the last meeting in the Snow Marine Park area and asked if there would be more discussions on the design of if this was it.

Councilor MacLellan-Ruf said that the design has been discussed, and because of limitations of the topography in the Snow Marine Park area, the alternate route was created. However, she said this proposal does not address the area shown on the map last week. She said that this proposal is for establishment of Harbor Trail along Mechanic Street to Atlantic Street, and reserve funds to complete the Atlantic Street portion at a later date.

Councilor Pritchett asked if approval of this Order would lock the City into a particular design.

The City Manager said that this Order only provides the funding, and does not seem to lock in a specific design.

Vote: 5 for.

#95 Authorizing Downtown TIF Expenditure – Thorndike Parking Area Project

**WHEREAS**, the City has approved designed improvements to the Thorndike Parking Lot; and

**WHEREAS**, said Plans make use of the Community for Maine’s Future Program grant funds; and

**WHEREAS**, said Plans make use of private contributions from the owner of 449 Main Street and other properties along block; and

**WHEREAS**, said Plans have been bid and as a result revised and now include a part one as detailed on the attached budget; and

**WHEREAS**, said Plans including improvements to the Tillson Avenue north side sidewalk from Main to the entry to the Thorndike Parking lot require additional funds to complete; and

**WHEREAS**, the City wishes to proceed with this project; and

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT**, the City Manager is hereby authorized to expend up to \$20,000 from the Downtown TIF Development Program (Account #10000-1899) from FY 2015 and \$17,000 from the same account from FY 2016 for the balance of part one of Phase I of the project.

Sponsor: City Manager  
Originator: Community Development Director

Councilor Pritchett moved passage and asked if these are additional funds for the project.

The City Manager said that they are additional funds to cover the gap between the grant funds allocated for this project and the actual costs.  
Vote: 5 for.

#96 Amending Solid Waste Fee Schedule

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT**, the fee schedule for the City’s Solid Waste Disposal Facility, as amended 06/30/14, be further amended as follows:

\* \* \* \*

**PERMIT AND LICENSE FEES**

Resident Permit	\$135.00 per year if <del>purchased on or before 04/30/15, which fee shall permit MSW disposals through 05/01/15; no fee thereafter</del>
Commercial Permit	\$ no fee ( <u>Disposal Fee: \$115 per ton through 05/01/2015, then \$125 per ton from 05/01/2015 on).</u> )
Recycling Permit	\$0 per year ( <del>to be discontinued on 05/01/15</del> )
Seasonal Permit	\$135.00 per year if <del>purchased on or before 04/30/15, which fee shall</del>

	<del>permit MSW disposals through 05/01/15; no fee thereafter</del>
Commercial Hauler License Fee	\$250.00 per year
Non-Resident Contractor Permit (each job)	\$20.00 per job
Non-Resident Landscape Contractor Permit	\$72.00 per year
Temporary General Permit	no fee

Sponsor: City Manager  
Originator: City Manager

Councilor Clayton moved passage and said he was unclear about the meaning of this Order. He said it was explained to him that this order simply removes the language that was added when the Council approved the Pay Per Bag Ordinance, but was repealed by the voters at the November 4<sup>th</sup> Election. He said this is not an increase in fees, and that the fees stay the same as was approved June 30, 2014. However, he said that he would like to have further discussion on the fees themselves.

Councilor Pritchett asked if there was any practical implication if this change was not made now.

The City Attorney said that it was essential that the Council take action prior to May 1, 2015, and there was no practical implication of postponing the order.

Councilor Pritchett moved to postpone Order #96 until the March 9, 2015 Regular Meeting. He said that the Council needs to act by May 1, 2015, but that gives the City enough time to review the fees and make sure that they are appropriate given the repeal of the pay per bag ordinance. He said that the City needs to be sure that the fees are as equal as possible before enacting a final fee structure.

Councilor MacLellan-Ruf said that it made sense to postpone this Order. She said that the voters were clear in what they want, and postponing this action will give sufficient time for the City to educate, and re-educate, the public on where the fees come from. She said that pay per bag is still an option along with the sticker, and people need to determine which method is going to be the most beneficial to them.

Councilor Geiger said that she was a new City Councilor and it appears from public comments that there are questions about what the facts really are with regards to solid waste disposal. She said postponing this order will give the City time to outline the differences of opinion and come together with what needs to be done to cover the actual costs of operating the facility.

Councilor Clayton said that he was going to propose postponing this Order, but was told that it needed to be voted on now so that the fee schedule in place reflected the current ordinance. If that was not the case, he would support postponing the Order.

Councilor Geiger said that other comments seemed to indicate a preference that solid waste disposal be paid for through property taxes, however that creates a situation where those who do not pay property taxes do not carry their own weight in paying for waste disposal.

Councilor Pritchett said that there have been repeated comments from member of the public that there is inappropriate disposal of materials in the landfill and that it's being covered daily to "hide the evidence". He said that the daily cover is part of the facility's management plan to minimize odors and the threat of fire. As for inappropriate disposal in the landfill, staff has immediately addressed any inappropriate disposal when it is seen, and that DEP has never validated any claims of inappropriate disposal in the landfill, in fact praising the operation of the facility. He said that staff is doing a good job.

Vote: 5 for.

Order #96 was postponed until the March 9, 2015 Regular Meeting.

#### #97 Authorizing Reserve Fund Expenditure – Library Evaluation

**THAT** the City Manager is hereby authorized to expend up to \$28,634 from the City Land Sale Reserve Account (#70000-01724) to cover the cost of Casco Bay Engineering of Portland, Maine, to provide a study of existing conditions of the Rockland Public Library, and to provide rehabilitation needs and repair options with cost estimates, in substantial conformance with the attached Statement of Services and Deliverables.

Sponsor: City Manager  
Originator: City Manager

Councilor Clayton moved passage.

Councilor MacLellan-Ruf asked if these funds were for an evaluation only or if it included any remediation work.

The City Manager said that these funds are for the evaluation and identifying rehabilitation needs and cost estimates for the remediation work.

Councilor MacLellan-Ruf asked when the City could expect this evaluation to be completed.

The City Manager said that he will asked that it be completed as soon as possible so that the remediation costs can be included in the Capital Improvement budget for Council’s consideration.

Councilor MacLellan-Ruf expressed concern about the time involved and the possibility of further damage to the building if the problem is not addressed sooner.

The City Manager said that options are currently being explored for a temporary fix to prevent further damage.

Councilor Geiger said that she shares Councilor MacLellan-Ruf’s concerns, and was dismayed that the City does not have an emergency repair fund to address these kinds of issue.

The City Manager said that typically such emergencies would be funded out of the City’s Undesignated Fund Balance, however that fund has been so depleted over the past few years that funds currently are not available.

Councilor Pritchett said that this proposal does not include actual remediation work, but it does include project supervision.

Vote: 5 for.

#98 Authorizing COLA Salary Adjustments – City Attorney & City Clerk

**WHEREAS**, the cost of living salary adjustments for all City employees were allocated in the FY2015 Municipal Budget adopted by the City Council on June 30, 2014; and

**WHEREAS**, the cost of living salary adjustments were granted as of July 1, 2014 for all City employees for FY 2015 with the exception of the City Attorney and City Clerk, even though the funds were budgeted and available for distribution;

**NOW THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to make the following cost of living salary adjustments for the City Attorney and the City Clerk, retroactive to July 1, 2014.

City Attorney Full-Time Payroll:	\$2,321.86
City Clerk Full-Time Payroll:	\$1,589.03

Sponsor: Mayor Isganitis  
Originator: Mayor Isganitis

Councilor Clayton moved passage.

Vote: 5 for.

With no further business to come before the City Council, Councilor Pritchett moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:20 p.m.

A TRUE COPY.

ATTESTED: \_\_\_\_\_ City Clerk