

SPECIAL MEETING

AGENDA

June 23, 2016

Executive Session pursuant to 1 M.R.S. § 405(6)(A) which allows for discussion of employment, appointment, assignment, duties, promotions, demotions, compensation, evaluation, discipline, resignation, or dismissal of an individual or group, for discussion of a personnel matter.

The meeting was called to order by the Mayor at 5:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, and Adam Ackor.
Councilor Valli Geiger arrived at 5:15 p.m.
City Manager James Chaousis and City Attorney Kevin Beal did not attend this meeting.

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

Public Forum: There were no speakers for the public forum.

Executive Session: Councilor Pritchett moved to enter into an Executive Session pursuant to 1 M.R.S. § 405(6)(A) which allows for discussion of employment, appointment, assignment, duties, promotions, demotions, compensation, evaluation, discipline, resignation, or dismissal of an individual or group, for discussion of a personnel matter.

Vote: 4 for.

The Council entered Executive Session at 5:01 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection at 7:00 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

SPECIAL MEETING

AGENDA

June 27, 2016

Executive Session pursuant to 1 M.R.S. §405(6)(E) that allows for consultation with legal counsel, for a discussion of the Council’s legal rights and duties.

The meeting was called to order by the Mayor at 5:30 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Valli Geiger, and Adam Ackor.
City Manager James Chaousis and City Attorney Kevin Beal did not attend the meeting.

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

Public Forum: There were no speakers for the public forum.

Executive Session: Councilor Clayton moved to enter into an Executive Session pursuant to 1 M.R.S. §405(6)(E) that allows for consultation with legal counsel, for a discussion of the Council’s legal rights and duties.

Vote: 5 for.

Special Meeting continued:

June 27, 2016

The Council entered Executive Session at 5:31 p.m.

The Council came out of Executive Session and, with no action taken, adjourned without objection from the Council at 6:00 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

SPECIAL MEETING

AGENDA

June 27, 2016

**Order #37 Accepting City Attorney Resignation
Added to agenda. Vote: 5-0.**

Special Meeting continued:

June 27, 2016

- Passed as amended: 5-0. Amended to incorporate Separation Agreement into Order #37. Vote on amendment: 5-0.**
Resolve #29 Public Hearing/Adopting FY 2017 Municipal Budget
Postponed, after public hearing and amendments, until the July 6, 2016 Agenda-Setting Meeting. Vote: 5-0.
Amended to decrease Publicly Funded Utilities (line 35) by \$30,000; and to reduce the RSU #13 Appropriation (line 92) to \$8,836,342. Vote on each amendment: 5-0.
Order #37 #38 Amending & Adopting FY2017 Pollution Control Facility Fees
Postponed until the July 6, 2016 Agenda-Setting Meeting. Vote: 5-0.
#38 #39 Setting Due Dates & Interest Rate – FY 2017 Taxes
Postponed until the July 6, 2016 Agenda-Setting Meeting. Vote: 5-0.
#39 #40 Accepting City Manager Resignation
Passed. Vote: 5-0.

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Valli Geiger, and Adam Ackor. City Manager James Chaousis and City Attorney Kevin Beal did not attend this meeting.

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:

- Edward Miller, 17 Katahdin Avenue, spoke concerning the debate over whether the City should retain the full-time City Attorney position or contract with an outside firm for legal service, saying that the City is much better served with a full-time City Attorney and that it would be a grievous error to not fund that position. He said that Rockland is a thriving community, and with that comes legal challenges that the City needs a good attorney to address. And, he added, that the City has a good attorney in Kevin Beal. He said that the various boards and commissions rely heavily on Mr. Beal's expertise, and outlined a scenario where it could take several days to weeks for a board chair to receive an answer to a simple legal question that Mr. Beal could provide off the top of his head at the meeting. He also said that contracting with an outside firm will cost the City much more than having an in-house attorney. Mr. Miller then congratulated the Council on its budget process, noting that there was not the frustration or rancor that has been witnessed during previous budget deliberations.

- Eileen Wilkinson, 38 Gay Street, spoke concerning the City Attorney position, saying that the importance of that position to the City cannot be overstated. She said the City Attorney represents the third leg in the balance of power in the City, acting as a balance between the City Manager and the City Council to keep overreaching in check. She also said that it was much more expensive to contract for legal services and the City will not receive the nearly the quality of service that it has from Mr. Beal. She said that Mr. Beal has saved the City hundreds of thousands of dollars over the years by keeping the City out of court. She said that during his tenure as City Attorney, the City of Rockland has not been sued once. She said that the slander and humiliation that Mr. Beal has endured has been appalling and that he deserves an apology.

- Erik Laustsen, 222 Cedar Street, also spoke in support of Mr. Beal and the dedicated service he has provided to not only the Planning Board over the past 9 years, but to the City as a whole. He said that during Mr. Beal's tenure, there has not been even an appeal of a decision of the Planning Board let alone a law suit, which is a testament to Mr. Beal's expertise and professionalism. He said that is not replaceable with an outside law firm. He said Mr. Beal was an invaluable asset to the Planning Board and to the City.

- Sandra Schramm, 16 Broad Street, spoke concerning what the Council said would be a public meeting to discuss the power plant ordinances, but said that the Energy Committee has already met with FMC and the Chamber of Commerce without notice to the public. She wanted to know why this was done and said that she hoped the City would be holding another meeting to discuss this issue as the Council has promised.

Hearing no other speakers, the public forum was closed.

Councilor Clayton said that he wished to address the question raised by Mrs. Schramm, adding that he was not aware of any meeting with FMC.

Special Meeting continued:

June 27, 2016

Councilor Pritchett said that the Energy Committee did meet to discuss the issue amongst itself to determine the questions that need to be answered. He added that representatives from FMC were at that meeting, but it was not intended to be the workshop that Mrs. Schramm referenced.

Councilor Geiger said if it was not meant to be the workshop, why was FMC at the meeting.

Councilor Pritchett explained that FMC is on the email distribution list and gets notices of the Energy Committee's meeting, just as a large number of individuals and businesses do.

Mayor MacLellan-Ruf assured Mrs. Schramm and the public that a workshop on the Power Generation Facility Ordinances will still be held and all stakeholders will be invited.

Councilor Clayton moved to place an order on the agenda to accept the resignation of the City Attorney. Councilor Clayton then read the letter of resignation submitted to the Council by City Attorney Kevin Beal:

Dear Councilors:

June 27, 2016

After careful consideration, I have decided to resign from my appointment as City Attorney of the City of Rockland, Maine. My purpose is to return full time to my primary residence in Portland and there better fulfill my family responsibilities, and pursue other employment opportunities. As requested by Council, my resignation will be effective September 30, 2016, so that I may assist the City in a period of transition between City Managers.

I have greatly enjoyed my public service as City Attorney. Rockland is a great community, with many committed and interested public servants, volunteers, and business and community leaders. It has been my good fortune to have formed many important and, I hope, lasting ties with the community. I wish the City all the best in its future efforts to address the challenges of serving as the Mid-Coast's premier economic, cultural, and social center.

Finally, I thank this and past Councils for the opportunity to serve the community during my nine years as City Attorney.

Sincerely,

Kevin J. Beal

Vote: 5 for.

Order #37 Accepting City Attorney Resignation

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Rockland City Council hereby accepts the resignation of Kevin J. Beal from the position of City Attorney for the City of Rockland, Maine, effective September 30, 2016.

Sponsor: City Council

Originator: City Council

Councilor Pritchett moved passage and moved to amend Order #37 by incorporating the Separation Agreement into the Order.

Vote on amendment: 5 for.

Councilor Pritchett said that the language of the letter lays out where we are, Mr. Beal is looking to make a change and be closer to family. He said Mr. Beal has served the City well and will continue to do so through September 30, 2016. He added that the Council has not made a decision on the City Attorney position as yet.

Councilor Geiger said that she has been privileged to work with Mr. Beal on COMPS and has always found him to be an excellent public servant. She said he was willing to do whatever it took for the betterment of the City, and that she was sorry of the near slanderous accusation he had to endure.

Vote as amended: 5 for.

Resolve #29 Public Hearing/Adopting FY 2017 Municipal Budget

BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

THAT, after due notice and public hearing being held, the budget for the City of Rockland for the fiscal year ending June 30, 2017 is hereby adopted as follows:

Fiscal Year 2017 Budget		
Appropriations		
11	Legislative	\$160,400
12	Executive	\$185,780
13	Assessment	\$174,750
14	Finance	\$348,350
15	Legal	-----
16	Records/City Clerk	\$205,990
18	Technology	\$371,305
19	City Hall	\$78,240
20	Insurance and Benefits	\$283,735
28	Community Development	\$174,590
31	Police	\$2,061,035
32	Fire/EMS Services	\$1,882,004
35	Publicly Funded Utilities	\$703,100
36	Code Enforcement	\$232,550
41	Public Services	\$3,076,705
52	General Assistance	\$69,355
61	Harbor & Waterfront	\$460,930
62	Library	\$547,125
63	Recreation	\$213,325
81	Total Debt Service	\$1,070,587
91	County Appropriations	\$955,998
92	RSU #13 Appropriations	\$8,935,630
	TOTAL GROSS BUDGET	\$22,191,485
	Less Non-Property Tax Revenues	(\$5,219,125)
	NET BUDGET, GENERAL FUND	\$16,972,360
	Capital Improvements Fund	\$431,380
	Sewer Fund	\$4,246,940

The same is now hereby appropriated for the fiscal year ending June 30, 2017, and said amounts are declared not to be in excess of the estimated revenues from taxation and sources other than taxation for the fiscal year ending June 30, 2017.

AND, BE IT FURTHER RESOLVED, that the Assessor of the City of Rockland be and hereby is directed to assess a tax upon all real estate liable to be taxed thereon and to assess the owner of, or such other persons as may be liable by law for, personal property liable to be taxed thereon, to the aggregate amount of \$16,972,360 and in accordance with the provisions of the Statutes of Maine in such cases made and provided make perfect lists under her hand of such assessments and commit the same to the Finance Director of the City of Rockland.

Sponsor: City Council
Originator: City Council

A public hearing was opened with Debby Atwell, 81 Pleasant Street, spoke concerning the "Technology & Professional Services" line item in the budget, expressing considerable distress that the Council was considering just giving the City Manager nearly \$400,000 to spend with no oversight. She also criticized the Council for once again ignoring the Charter by allowing the City Manager to create a new department, when the Charter clearly states that only the Council can do so. She said if the Council passes this budget as proposed, it will be further evidence that the Council does not care about the Charter or the taxpayers.

- Carol Maines, 186 North Main Street, said that she was quite sure that the City will require legal services over the course of the next fiscal year, and suggested that some funds be added to that budget line. She then said that the biggest problem with the budget process is the process itself. She said having the public hearing prior to the Council making amendments to the budget does not allow the public an opportunity to comment on those amendments. She said that the Council should make any changes that they wish and then hold the public hearing.

- Steve Carroll, 526 Old County Road, said that he did not bother to attend the public hearing on the RSU #13 budget because there is a feeling that they don't listen to the public. He said he is getting the same feeling here. He said the public has been told that this year the budget process was going to be different, but all he sees is the same old thing. He said he has made several suggestions on how the City's budget could be reduced, but apparently the Council has no interest in doing that. He said this budget is more of the same, slowly increasing spending over and over. He said that he was certain that the budget is already set, and that the Council won't even consider any of the comments made by the public. However, he said that the taxpayers simply cannot afford any more increases in their taxes. He said that the Council needs to begin lowering the budget rather than keeping it the same.

Hearing no other speakers, the public hearing was closed.

Councilor Pritchett moved passage and asked the Finance Director what the mil rate would be given the change in the RSU #13 assessment.

The Finance Director said that the mil rate will not be known until the assessor determines what the City valuation will be, and that won't be until sometime in August just prior to commitment.

Councilor Clayton said that the Finance Director cannot give an answer to that question at this time, but the number that has been bandied about has been an increase of approximately 4.2%.

Councilor Geiger said that she is a taxpayer, and that she too struggles each year to pay her taxes. She said that the Council has held the line on a tax increase on the municipal side for last year, but had to make some very painful cuts. She also said that the Council did something that it rarely does, it weighed in on the school budget when it was announced that the City was facing an 8% increase in its school assessment. She said thankfully the increase was less than that, but it still required many painful cuts. She said this year, there is a small increase in the City's budget, due mostly to broken promises from the State. She said that RSU #13 only receives 16% of aid to education from the State rather than the 55% it is supposed to receive, and that municipalities are not allowed to institute a local sales tax to help offset property taxes. She also said that the State continues to raid Revenue Sharing, taking money away from municipalities that is rightly theirs. She also said that Rockland is a service center and as such must provide services equivalent to a much larger community paid for on the backs of the residents. She said it isn't fair, but that's the way it is. She said the City has huge infrastructure issues that need to be address, and it is time for people to turn their attention to the State to get them to keep the promises that it has made to the municipalities.

Councilor Pritchett moved to amend Resolve #29 by decreasing 35 Publicly Funded Utilities by \$30,000 to \$673,100. He said this amount is ½ of the expected annual savings in rental costs that the City will realize when the downtown street lighting project is complete and the City no longer needs to pay the lighting rental costs to CMP.

Vote on amendment: 5 for.

Councilor Geiger noted that the Council did not discuss the Sewer budget proposal during its deliberations, and asked why that was not done.

Assistant City Manager Audra Caler-Bell said that she could not answer that question, but noted that the Council controlled the deliberations schedule.

Councilor Geiger said that she was like to hear from the Pollution Control Director, Terry Pinto, on the Sewer budget before proceeding.

Councilor Clayton said he too would like to hear from Mr. Pinto on the Sewer budget.

Councilor Ackor moved to increase 15 Legal by \$113,000, thereby reinstating the full-time in-house City Attorney position. He said that the City has benefitted greatly in the past from this position and would like to see it continued.

Councilor Clayton said that the Council has set aside \$130,000 for legal and planning services in this budget. He said if Councilor Ackor's amendment is adopted, it would increase the budget by \$113,000.

Councilor Ackor said that he would like to use those funds to fully reinstate the City Attorney position.

Councilor Geiger said that with the resignation of Mr. Beal, the City is at a crossroads with regard to the City Attorney position. She said she believes that it is valuable to have an attorney on staff, and that Mr. Beal did what needed to be done to move the City forward, but perhaps this is an opportunity to take a step back and re-evaluate the position and determine what the actual needs are.

Councilor Pritchett agreed with both Councilor Geiger and Councilor Ackor, saying that Mr. Beal did an incredible job, but did work that one does not need an attorney to do. He said the City now has the option of looking at the position and choosing what direction it wants to go. He suggested that the budget with regard to this position be left as proposed and that the Council explore its options in this matter.

Councilor Clayton said it would be beneficial to have that discussion before making any decisions on the City Attorney position, and asked Councilor Ackor if he would be willing to withdraw his motion until the Council had a chance to hold those discussions.

Councilor Ackor withdrew his motion to amend Resolve #29 so that the Council could discuss options.

Councilor Pritchett then noted that the "Technology" budget, as mentioned by Ms. Atwell during the public hearing, included technology and professional services, and was not nearly half a million dollars as Ms. Atwell claimed.

Councilor Geiger added that the technology budget has been a line item ever since 2014, so it was not a "new department" as claimed by Ms. Atwell during the public hearing. She said this is a combination of a number of line items from previous budgets.

The Council then asked the Finance Director to have additional information ready for discussion at the July 6, 2016 meeting. The Finance Director then informed the Council that the figure in Resolve #29 for RSU #13 Appropriation had changed as a result of the Budget Validation Referendum held on June 14, 2016. She said the actual figure for RSU #13 Appropriations should be \$8,836,342.

Councilor Pritchett moved to amend Resolve #29 to change the RSU #13 Appropriation to \$8,836,342.

Vote on amendment: 5 for.

Councilor Pritchett then moved to postpone Resolve #29 until the July 6, 2016 Agenda-Setting Meeting.

It was noted that City Charter Section 506(c) states "The council shall adopt the budget on or before the fifteenth day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year."

Vote: 5 for.

Resolve #29 was postponed until the July 6, 2016 Agenda-Setting Meeting.

Order #38 Amending and Adopting Water Pollution Control Facility Fees

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Charges and Fees for the Pollution Control Facility for FY 2017 (July 1, 2016 through June 30, 2017) shall be amended and adopted as follows, and shall be effective as of July 1, 2016:

POLLUTION CONTROL FACILITY FEES

GENERAL

All references to the City of Rockland’s Sewer Use Ordinance shall be understood to mean the version of this document that has most recently been passed and adopted by the City Council of the City of Rockland, Maine. Similarly, all references to the Enforcement Response Plan shall be understood to mean the current version of this document, incorporated by reference into the most recently adopted Sewer Use Ordinance.

CHARGES AND FEES AT A GLANCE

Type of Charge	Current Value
Minimum Charge	
Residential and Commercial	Usage 1,000 cubic feet per ERU Rates First 1,000 cubic feet: \$43.93 <u>\$45.25</u> 1,001 cubic feet and above: \$5.25 <u>\$5.41</u> per 100 cubic feet
Industrial <i>Minimum Charge</i>	Usage 30% of monthly flow, BOD, and TSS in Industrial User’s current Wastewater Discharge Permit. Rates \$2.50 <u>\$2.58</u> per 1,000 gallons permitted (monthly) \$95.73 <u>\$98.60</u> per 100 pounds BOD permitted (monthly) \$129.02 <u>\$132.89</u> per 100 pounds TSS permitted (monthly)
<i>Monthly Charge</i>	Monthly charges will be based on actual flows and BOD and TSS loadings discharged.
Billing Charge	\$4.20 per bill/\$1.50 per duplicate bill
Return Check Fees	\$40.00 charged to account for handling
Septage Discharge Fee	\$160.00 per 1000 gallons minimum of \$100.00
Recreational Vehicle Dump Fee With assistance	\$25.00
Coach/Charter Bus Dump Fee	\$75.00
Private Sewage System (Septic System) Connection Permit	As per Department of Health and Human Services Subsurface Wastewater Program
Sewer Connection Permit Residential/Commercial Connection Permit Industrial Connection Permit	\$50.00 \$50.00
Inflow And Infiltration Development Charge	\$2.64 per gallon
Reserve Capacity Charge	\$2,400.00 per EDU
Sewer Lateral Televised Inspection Fee	\$140.00 per occurrence

Industrial Permit Application Fee	Less than 1,000 gallons: \$ Actual Cost + 15% minimum of \$400. Between 1,000 and 50,000 gallons: Actual Cost +15% minimum of \$750 Between 50,000 to 150,000 gallons: Actual Cost +15% minimum of \$1,500 More than 150,000 gallons Actual Cost +15% minimum of \$4,000 Appeal: \$150.00
Industrial User Inspection Fee	Actual Cost with a \$150.00 minimum charge
Decision Appeal Fee	\$150.00
Interest Charge	Same rate as set annually by Order of the City Council for past due taxes

1.0 MINIMUM CHARGE FEE

Fees

A. Residential Minimum Charge

The cost for treatment of residential wastewater shall be based on both a fixed minimum charge and on water consumption. Water consumption shall be per hundred cubic feet of water used, based on the water meter at each residential location as recorded by the Aqua Maine water company, and according to the schedule in the following table.

Typical residential unit is defined as that in which water use ranges from zero (0) to three hundred (300) gallons per day (on a maximum day basis) or zero (0) to two hundred fifty (250) gallons per day (on a maximum month basis).

Equivalent Residential Units (ERUs) are a method of defining the wastewater generated by a commercial or multi-family user location as a function of the water use in specific processes or by specific users at that location. These ERUs are developed as a ratio of the commercial or multi-family residential unit to a single-family residence. The Equivalent Residential Unit (ERU) for a single family home is 1.0. Minimum Usage shall be 1,000 cubic feet per ERU per billing quarter.

The ERU for single homes converted into apartments shall be defined as 0.5 ERU per dwelling unit. The ERU for multi-family homes (i.e., duplex) shall be defined as 1.0 ERU per dwelling unit. The ERU for a building built as an apartment complex shall be 1.0 ERU per dwelling unit. The ERU for a mobile home shall be 1.0 per unit.

Cost Per Equivalent Residential Unit	
Usage	1,000 cubic feet per ERU per billing quarter
Rates	First 1,000 cubic feet: \$43.93 <u>\$45.25</u> dollars
	1,001 cubic feet and above: \$5.25 <u>\$5.41</u> per 100 cubic feet

Any residence that does not presently have a water meter shall install one that is approved by Maine Water Company (if the residence receives public water) or by the WPCF (if the residence has a private water source [i.e., a well]).

B. Commercial Minimum Charge

The cost for treatment of commercial wastewater shall be based on both a fixed minimum charge and on water consumption. Water consumption shall be per thousand cubic feet of water used, based on the water meter at each

commercial location as recorded by the Aqua Maine water company.

Minimum Usage shall be 1,000 cubic feet per ERU per billing quarter. The ERUs applicable to commercial establishments in the City of Rockland are defined in the following table. The ERU applicable shall be the Minimum ERU (as shown) or the calculated ERU, whichever is greater.

Description of Unit	Unit Measure	Equivalent Units	Minimum ERUs
Residences (Single-Family)	(Each)	(1.0)	(1.0)
Apartments (Single home, converted)	Per Apartment	0.5	2.0
Apartments (Complex, built as)	Per Apartment	1.0	2.0
Mobile Homes and Parks	Per Dwelling Unit	1.0	2.0
Motels & Hotels Without kitchen units	Per Unit	0.25	2.0
With kitchen units	Per Unit	0.35	2.0
Bed and Breakfasts and Rooming Houses w/o kitchens in the individual rooms	Per Unit Plus one full unit for kitchen	.25	2.0
Churches and Service Clubs Without kitchen	Each	-	1.0
With kitchen	Each	-	2.0
Office Use	Up to 5,000 square feet Per 1,000 square feet thereafter	1.0 0.25	2.0
Medical Office	Per exam room	0.25	2.0
Dentist Office	Per chair	1.0	2.0
Veterinary Office or Facility	Per exam room	0.25	2.0
Hospital	Per bed	0.5	2.0
Nursing Home	Per bed	0.5	2.0
Day Care	Each <i>plus</i> For first 10 children Per child thereafter	1.0 0.2 0.1	2.0
Personal Care (Beauty Salon/Barber)	Per chair	0.5	2.0
Restaurant (including Fast Food)	For every table over 10	0.1	2.0
Drive In Restaurant	Per parking space over 25	0.25	2.0
Food and Drug Retail Store	One to three water fixtures Per three water fixtures thereafter	1.0 1.0	2.0
Supermarkets (over 5,000 sq feet)	Per water fixture and drain	1.0	10.0
Bank	Up to 5,000 square feet Per 1,000 square feet thereafter	1.0 0.25	2.0
Movie Theaters	Per seat	0.05	2.0
Laundry	Per washing machine	1.0	2.0
Dry cleaner	Each	-	2.0
Car Wash	Per bay	1.0	2.0
Service Station	Each	-	2.0

Retail Sales & Service	Up to 5,000 square feet Per 1,000 square feet thereafter	1.0 0.25	2.0
Bars and Cocktail Lounges (Without restaurant)	One to fifty seats Each additional 15 seats (or portion thereof)	1.0 1.0	2.0
Bowling Alley	Per lane	0.4	2.0
Schools	Per 50 full-time students and faculty Per 100 part-time students and faculty	1.0 1.0	2.0

In the event that a commercial establishment does not fall into one of these classifications *or* if categorization in one of these classifications would result in inequitable treatment cost, the WPCF has the discretion to determine the ERU that is most applicable.

Any commercial establishment that does not presently have a water meter shall install one that is approved by Maine Water Company (if the establishment receives public water) or by the WPCF (if the establishment has a private water source [i.e., a well]).

C. Industrial Minimum Charge and Monthly Charges

Minimum Charge

Charges for the treatment of industrial wastewater shall be based on operation and maintenance costs of the WPCF. Permitted monthly flow shall be used in conjunction with permitted Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) values (both in pounds per month) to minimum charges. “Flow” (in thousands of gallons) and “Permitted” BOD and TSS (in pounds) are as defined in the industrial user’s Permit. The formula used to calculate the industrial user’s Minimum Charge is as follows:

$$\text{Industrial Minimum Charge} = 30\% * (\text{Monthly Permitted Flow} * \text{Flow Unit Cost}) + (\text{Monthly Average Permitted BOD} * \text{BOD Unit Cost}) + (\text{Monthly Average Permitted TSS} * \text{TSS Unit Cost})$$

For permits containing only maximum daily allowances for any parameter, minimum monthly charge for that parameter shall be as follows:

Flow = fixed monthly cost allocated to flow times maximum daily flow allowance divided by PCF maximum daily design flow capacity

BOD = fixed monthly cost allocated to BOD times maximum daily BOD allowance divided by PCF maximum daily design BOD capacity

TSS = fixed monthly cost allocated to TSS times maximum daily TSS allowance divided by PCF maximum daily design TSS capacity

Where unit costs are as defined below

- Flow unit cost: ~~\$2.50~~ \$2.58 per 1,000 gallons permitted (monthly)
- BOD Unit Cost: ~~\$95.73~~ \$98.60 per 100 pounds BOD permitted (monthly)
- TSS Unit Cost: ~~\$129.02~~ \$132.89 per 100 pounds TSS permitted (monthly)

Domestic wastewater generated by industrial users shall be calculated according to the number of workers at the facility. Dividing total man-hours by 8-hours results in the number of domestic users at the industrial facility. Domestic wastewater generated by the industrial facility is 30 gallons per day per domestic user. This is represented as follows:

$$\frac{\text{Total Man-hours}}{8 \text{ hours}} * \frac{30 \text{ gallons}}{\text{day} \cdot \text{user}} = \frac{\text{gallons}}{\text{day}}$$

The Minimum Charge for treatment of residential and commercial wastewater (see A and B of this section) shall be applied to gallons per day of domestic wastewater from industrial facilities, using a conversion rate of 1,000 gallons = 156 cubic feet.

Monthly Charges

All industrial users are required (by virtue of their Industrial Wastewater Discharge Permit) to install a non-settable totalizer (i.e., flowmeter) to monitor wastewater actually discharged to the Rockland WPCF. Each industrial user is required to report actual total daily and monthly flow, as measured by this device, to the Rockland WPCF on a monthly basis. Users are also required to report actual discharges of BOD and TSS to the Rockland WPCF. Treatment charges for actual flows and loadings discharged by an industrial user to the Rockland WPCF are calculated on a monthly basis as described in the following sections.

Industrial User Sulfur Fee

Industrial users (IU) shall pay a monthly sulfur fee in order to cover the cost of chemical treatment of PCF sludge. The fee shall be based on monthly total sulfur analysis carried out by the IU, and actual chemical expense for the month plus 15%. Each IU share of the cost shall be based on a mass balance ratio between individual IU sulfur loading and total sulfur loading for the month. Therefore, the individual IU monthly fee shall be calculated as follows:

$$\text{Individual IU Sulfur Fee} = \text{Individual IU Sulfur Contribution (lbs)} \div \text{Total IU Sulfur Contribution (lbs)} * \text{Actual Treatment Chemical Expense (\$)}$$

Expense Recovery

Any discharger who discharges any waste that requires additional treatment or chemical additives, shall be liable to the City for all costs incurred by the City as a result of the discharge plus 15 percent. This includes any costs associated with additional treatment measures and chemicals that are deemed necessary to ensure continued compliance with the State and Federal discharge requirements.

Sampling and Laboratory Analysis Fee: Actual cost +15% minimum of \$250.00.

Industrial Users with Tier One Discharge Limits

The cost per pound for removal of BOD and TSS from industrial wastewaters for users holding “Tier One” Permit limits (i.e., Daily Maximum and Monthly Average loading limits) for these parameters shall be competed according to the schedule shown below:

Parameter	Unit Cost: Industrial
Flow	\$2.50 <u>\$2.58</u> (per 1,000 gallons discharged)
BOD	\$95.73 <u>\$98.60</u> (per 100 pounds treated)
TSS	\$129.02 <u>\$132.89</u> (per 100 pounds treated)

Industrial Users with Three-Tier Discharge Limits

The cost per pound for removal of BOD and TSS from Industrial wastewaters for users holding “three-tier” permit limits (i.e., three tiers of loading limits) for these parameters shall be competed according to the schedule shown below. The definitions of the three tiers shall be as defined in the most recent Permit issued to that user.

Parameter	Unit Cost: Industrial
Flow	\$2.50 <u>\$2.58</u> per 1,000 gallons discharged

BOD	Tier 1: \$95.73 <u>\$98.60</u> (per 100 pounds treated) Tier 2: 5% in excess of Tier 1 limit ¹ Tier 3: 5% in excess of Tier 2 limit ²
TSS	Tier 1: \$129.02 <u>\$132.89</u> (per 100 pounds treated) Tier 2: 5% in excess of Tier 1 limit ¹ Tier 3: 5% in excess of Tier 2 limit ²

Note 1- The Tier 2 surcharge shall be applied to loadings that exceed Tier 1 loading limits. The additional surcharge shall apply to each 100 pounds (or fraction thereof) of loading that exceeds the Tier 1 limits as calculated by the difference between the actual discharged loading and the permitted Tier 1 loading.

Note 2- The Tier 3 surcharge shall be applied to loadings that exceed Tier 2 loading limits. The additional surcharge shall apply to each 100 pounds (or fraction thereof) of loading that exceeds the Tier 2 limits as calculated by the difference between the actual discharged loading and the permitted Tier 2 loading.

Residential, Commercial or Industrial discharge of groundwater and/or stormwater to the Sanitary Sewer System shall be charged based on the industrial rates.

2.0 BILLING CHARGE

Fee: Cost per bill issued: \$4.20/ \$1.50 per duplicate bill

3.0 OPERATION AND MAINTENANCE FEES

Fee: Current Operations and Maintenance Fees are included in the charge based on water consumption.

4.0 SEPTAGE DISCHARGE FEES

Fee: The fee for septage discharge shall be three times the Minimum Charge for treatment of domestic wastewater, as calculated on a per gallon basis and as defined in Section 1.0. For purposes of conversion, a volume of 100 cubic feet is equivalent to 748 gallons.

Septage Discharge Fee: \$0.16 per gallon, \$160.00 per 1,000 gallons, min \$100.00.

Fees for discharge of holding tank wastewater from recreational vehicles shall be: \$25.00

Fees for discharge of holding tanks from travel/coach buses shall be \$75.00

5.0 PRIVATE SEWAGE DISPOSAL SYSTEM CONNECTION PERMIT AND INSPECTION FEE

Fee: This applies to the connection of any new on-site subsurface wastewater disposal system (i.e., septic system).
Private Sewage System Connection Permit: As per Department of Health and Human Services Subsurface Wastewater Program.

6.0 SEWER CONNECTION PERMIT AND INSPECTION FEE FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL USERS

Fee: Residential or Commercial Connection Permit: \$50.00
Industrial Connection Permit: \$50.00

7.0 INFLOW AND INFILTRATION DEVELOPMENT CHARGE

Fee: The unit cost shall be equal to \$2.64 per gallon of estimated inflow or infiltration from the new development.

8.0 RESERVE CAPACITY CHARGE

Fees: The Reserve Capacity Charge is shall be a one-time charge, due at the time of connection *or* at the time capacity is reserved, whichever comes first. This fee is \$2,400.00 per ERU as defined previously in Section 1.0.

The Monthly Reserve Capacity Maintenance Charge has been incorporated into the Minimum Charges described in Section 1.0.

9.0 INDUSTRIAL WASTEWATER DISCHARGE PERMIT APPLICATION REVIEW FEE

Fee: Fees for review of new Permit Applications shall be based on the flow requested in the application. All flows below are on a Maximum Daily basis.

- Users requesting less than 1,000 gallons: Actual Cost + 15% \$400 minimum
- Users requesting between 1,000 and 50,000 gallons: Actual Cost +15% \$750 minimum
- Users requesting between 50,000 to 150,000 gallons: Actual Cost +15% \$1,500 minimum
- Users requesting more than 150,000 gallons: Actual Cost +15% \$4,000 minimum

Appeal of Renewed Permit \$ 150.00 or Actual Cost

10.0 NEW INDUSTRIAL USER FACILITY INSPECTION FEE

Fee: Facility Inspection Fee: Actual Cost or minimum of \$150.00

11.0 DECISION APPEAL FEE

Fee: Decision Appeal Fee \$150.00

12.0 FINES AND PENALTIES

Fines and Penalties: Fines and penalties shall be issued based on the following schedule and at the discretion of the WPCF's Pretreatment Coordinator.

Type of Non-Compliance*	Fine or Penalty
Category A: Enforcement Responses Based on U.S. EPA Guidance	
A. Illegal Discharge	
1. Discharge without Permit	
a. User not aware of need; no damage to WPCF	\$150 to \$500
b. User not aware of need; damage to WPCF.	\$500 to \$7,500 Plus Actual Cost
c. Failure to apply continues after notice by WPCF.	Initial fine plus \$200 per day until application is received
2. Discharge with Expired Permit- Failure to apply for Permit renewal.	\$250 fine plus \$150 per day until application is received

B. Discharge Permit Violations	
1. Isolated exceedance, not SNC.	\$150 to \$350
2. Isolated exceedance, SNC	\$350 to \$550
3. Damage to WPCF or environment	\$7,500 plus Actual Cost
4. Frequent, not SNC.	\$450 to \$750
5. Frequent, SNC.	\$750 to \$1,500
C. Sampling, Monitoring, and Reporting Violations	
1. Reporting Violations	
= a. Report improperly signed, first offense	\$100
b. Report improperly signed, repeat offense	\$150
c. Late report; isolated and minor	\$50
d. Report more than 30 days late	\$150
e. Late report; frequent offense	\$250
f. Failure to report spill or changed discharge; no harm	\$250
g. Failure to report spill or changed discharge; harm	\$1,000 plus Actual Cost
h. Repeat failure to report spills	\$250 to \$500
i. Falsification	\$1,000
2. Failure to Monitor Correctly	
a. First offense	\$150 to \$350
b. Recurring failure to monitor	\$400 to \$600
3. Improper Sampling, evidence of Intent	
\$1,000	
4. Failure to Install Equipment	
a. Delay < 30 days	\$100 per day
b. Delay > 30 days	\$150 per day
c. Recurring; violation of Administrative Order	\$1,000 to \$1,500
5. Compliance Schedules	
a. Missed by < 30 days, will not affect final date	\$100 per day
b. Missed by >30 days, will affect final date but user shows cause	\$100 per day
c. Missed by >30 days, will affect final date, not justified	\$100 per day plus \$500 to \$1,000
d. Recurring; violation of Administrative Order	\$1,000 to \$2,500
D. Other Permit Violations	
1. Diluted Wastestream	

a. Initial violation	\$100
b. Recurring violation	\$500
2. Failure to Mitigate Noncompliance	
a. Does not result in harm	\$300 to \$500
b. Results in harm	\$5,000 plus Actual Cost
3. Failure to Properly Operate Facility	
a. Does not result in harm	\$500 to \$1,000
b. Results in harm	\$7,500 plus Actual Cost
E. Violations Discovered During Inspection	
1. Denial of Entry	\$750
2. Illegal Discharge	
a. No harm to WPCF or environment	\$1,000 to \$2,500 plus \$50 per day until corrected
b. Causes harm; evidence of intent/ neglect.	\$7,500 plus Actual Cost
c. Recurring; violation of Administrative Order	\$1,000 to \$2,500
3. Improper Sampling	
a. Unintentional wrong location	\$100 per occurrence
b. Unintentional sample type	\$100 per occurrence
c. Unintentional sample technique	\$100 per occurrence
4. Inadequate Recordkeeping	
a. Incomplete or missing	\$100 per violation
b. Recurring	\$250 per violation
5. Failure to Report Additional Monitoring	
a. Found during inspection	\$100 per violation
b. Recurring	\$250 per violation
B. Facility-Specific Enforcement Responses	
A. Illegal Discharge	
1. Intentional Discharge without Permit	\$2,500 to \$5,000 plus \$250 per day until corrected
2. Discharge with expired Permit	\$250 to 500
B. Discharge Permit Violations	
1. WPCF was informed; no damage.	\$250 to \$750
2. WPCF was informed; damage.	\$500 to \$7,500 plus Actual Cost
3. WPCF was not informed.	\$2,500 plus Actual Cost
C. Spill Incidents	
1. Single instance	\$250 per violation

2. Repeated spills by same user	\$500 per violation
Other	
Level J: Civil Action (legal action taken)	\$1,000 to \$5,000 plus Actual Cost
Level K: Criminal Action (legal action taken)	WPCF discretion plus Actual Cost

*- Types of Non-Compliance are as defined in the City’s Enforcement Response Plan.

13.0 RECOVERY OF COSTS

Fee: Actual, as defined above.

Sponsor: City Manager
 Originator: Pollution Control Director

Councilor Pritchett moved passage, and then moved to postpone Order #38 until the July 6, 2016 Special Meeting.
 Vote: 5 for.

Order #38 was postponed until the July 6, 2016 Special Meeting.

Order #39 Setting Due Dates & Interest Rate – FY 2017 Taxes

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the taxes for the fiscal year ending June 30, 2017 shall be paid in two installments of one half (½) each; and

THAT the due dates for the taxes for the fiscal year ending June 30, 2017 shall be September 23, 2016 for the first installment of such taxes, and March 3, 2017 for the second installment of such taxes; and

THAT the Director of Finance and the Tax Collector are hereby authorized and directed to charge interest at a rate of 7.00% per annum from September 23, 2016 on the first installment of such taxes remaining unpaid after that date, and from March 3, 2017 on the second installment of such taxes remaining unpaid after that date.

Active Tax Club members enrolled prior to October 1, 2016 will have until December 31, 2016 to pay their first installment of taxes before interest would be charged on any unpaid balance, and until June 30, 2017 to pay their second installment of taxes before interest would be charged on any unpaid balance. Tax Club members who have an outstanding balance after those dates shall be charged interest on that balance at the rate of 7.00% per annum retroactive to the applicable due date.

Sponsor: City Council
 Originator: Tax Collector

Councilor Geiger moved passage and moved to postpone Order #39 until the July 6, 2016 Special Meeting.
 Vote: 5 for.

Order #39 was postponed until the July 6, 2016 Special Meeting.

Order #40 Accepting Resignation of City Manager

IT IS HERREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Rockland City Council hereby accepts the resignation of James D. Chaousis II from the position of City Manager for the City of Rockland, Maine, effective June 30, 2016, and hereby releases Mr. Chaousis from any further contractual obligations to the City as of that date.

Sponsor: City Council
 Originator: City Council

Councilor Geiger moved passage.

Special Meeting, Order #40 continued:

June 27, 2016

Councilor Pritchett said that the effective date is the end of the current fiscal year. He also said that no separation agreement or severance package was included.

Councilor Clayton said that this was a hard evening, losing both the City Manager and the City Attorney. He said one of the hardest things about being a Councilor is not being able to correct people when they make mis-statements at the podium. He said that there are many misconceptions out in the public, and it is difficult when council members cannot disseminate certain information that would clear up such misconceptions because the information is confidential. He also said it is frustrating when council members have to rely on comments in the media to find out what certain people are thinking because they will not talk to you face to face. He said if people have questions of the Council, seek them out and ask. The Council is more than willing to give out whatever information that it can. He said it is time for the City to move forward.

Councilor Pritchett said it was hard to work in municipal government because of the high expectations. He said internal disagreements are not constructive to the organization; however performance issues with employees are not debatable in a public forum. He said that the public has an inherent interest in what is going on, but not all information is available to the public.
Vote: 5 for.

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 7:30 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

SPECIAL MEETING

AGENDA

July 6, 2016

Executive Session pursuant to 1 M.R.S. § 405(6)(A) which allows for discussion of employment, appointment, assignment, duties, promotions, demotions, compensation, evaluation, discipline, resignation, or dismissal of an individual or group, for discussion of a personnel matter.

The meeting was called to order by the Mayor at 5:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Valli Geiger, and Adam Ackor.
City Attorney Kevin Beal was excused from attending this meeting.

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

Public Forum: There were no speakers for the public forum.

Executive Session: Councilor Pritchett moved the enter into an Executive Session pursuant to 1 M.R.S. § 405(6)(A) which allows for discussion of employment, appointment, assignment, duties, promotions, demotions, compensation, evaluation, discipline, resignation, or dismissal of an individual or group, for discussion of a personnel matter.

Vote: 5 for.

The Council entered Executive Session at 5:01 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection from the Council, at 5:32 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

SPECIAL MEETING

AGENDA

July 6, 2016

Discussion – FY 2017 Proposed Sewer Budget

Discussion with Budget Committee – FY 2017 Municipal Budget

Resolve #29 Adopting FY 2017 Municipal Budget (Postponed from 06/27/16)

Passed as amended. Vote: 5-0. Amended to increase “Legislative” by \$10,000 (\$5,000 for St. Bernard’s Soup Kitchen and \$5,000 for AIO) Vote on amendment: 5-0.

Order #38 Amending & Adopting Pollution Control Facility Fees (Postponed from 06/27/16)

**Passed as amended. Vote: 5-0. Amended to increase the fee by another 2% to an overall increase of approximately 5%.
Vote on amendment: 5-0.**

Special Meeting continued:

July 6, 2016

Order #39 Setting Due Dates & Interest Rate – FY 17 Taxes (Postponed from 06/27/16)

Passed. Vote: 5-0. Due dates set as September 23, 2016 for the 1st half and March 3, 2017 for the 2nd half. Interest on past due balances set a 7% per annum.

Order #41 Appointment Acting City Manager

Passed as amended: Vote: 5-0. Amended to appoint Audra Caler-Bell as Acting City Manager to serve until the Council can appoint a long-term Acting City Manager. Vote on amendment: 5-0.

Set Agenda for July 11, 2016 Regular Meeting

Adjourned without objection from the Council at 8:45 p.m.

The meeting was called to order by the Mayor at 5:32 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Valli Geiger, and Adam Ackor. City Attorney Kevin Beal was excused from attending this meeting.

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:

- Doug Erickson, a commercial real estate broker with the Masiello Group, requested that the Council add an item to the next agenda that would allow Health & Fitness facilities in the Industrial Zone. He explained that he had a buyer for a property in the industrial park to move a manufacturing company into, but needed to have a tenant for the remainder of the building to make the project feasible. He said they have a prospective tenant, but need to have the allowed uses amended to include Health & Fitness facilities to allow this tenant to lease the remaining space.

- Ted Berry, 59 Crescent Street, spoke, expressing concerns over the City's nepotism policy, saying that it only applied to hiring and not transfer of promotion. He asked that the City look at strengthening this policy. He also questioned the City's Conflict of Interest policy, and suggested that policy be strengthened as well.

- Callie Black, a member of the Comprehensive Planning Commission, spoke concerning the confusion surrounding Ordinance Amendment #15 (added "Restaurants" as an allowed use in the TB-1 Zone), saying that the Commission did not receive the actual document that they were supposed to review, and had no indication that the Council addressed any of the concerns that the Commission expressed about the proposal. She added that the Commission has not taken official action on the proposal as it was adopted in First Reading.

- Steve Carroll, 526 Old County Road, spoke concerning the proposed FY 2017 City Budget, saying that he has been a vocal proponent over the years of reducing the City Budget rather than just keeping the status quo. He said that the City had a number of opportunities to lower the budget this year by not filling vacant position, but those positions were filled anyway. He also said that the City has overlooked some possible revenue streams as well that may have taken some of the burden off of the taxpayers. He said that a 64¢ increase in the mil rate is unacceptable, and the Council needs to look at reducing the overall budget by \$2 million to give the taxpayers some real tax relief.

- Hal Perry, 25 State Street, asked why the City was still spending \$213,000 for the Recreation Department when the YMCA supposedly took over the operation of that department. He also asked what the cost would be for outside legal services if the Council decided to contract for legal services rather than keep the in-house City Attorney. And, Mr. Perry asked about a rumored cut to the RSU #13 appropriation.

- John Grondin, 1 Rankin Street, spoke concerning the recent resignation of the City Attorney, and said it was sad that only one Council member spoke in support of Mr. Beal. He also said the Council should be ashamed that nothing was ever said about the confiscation of employee's computers last winter, and added that someone from outside the City must have assisted in the retrieval of the information, but nothing was ever done about that situation either. He said that the Council needs to investigate these actions.

At this time, Councilor Geiger responded to Mr. Perry's question concerning the RSU #13 appropriation. She said that the City Council has not control over the amount of the RSU #13 appropriation. She said that Mr. Perry may be confusing the

Special Meeting, Public Forum continued:

July 6, 2016

Council's amendment of the figure listed on the Resolve at the last meeting, but that amendment was simply to adjust the figure to the actual amount that was approved by the voters at the June 14, 2016 Budget Validation Referendum Election.

Hearing no other speakers, the public forum was closed.

Discussion - Proposed FY2017 Pollution Control Facility Budget: The Council went into Informal Session for a discussion of the proposed 2017 budget for the Water Pollution Control Department with Director Terry Pinto, and the Budget Review Committee, consisting of Finance Director Wanda Harvey, Assistant City Manager/Community and Economic Development Director Audra Caler-Bell, Police Chief Bruce Boucher, Assistant Fire Chief Adam Miceli, City Assessor Doreen French, and Library Director Amy Levine.

With the discussion concerning the Water Pollution Control Facility budget complete, the Council then held a general discussion of the proposed FY 2017 Municipal Budget to answer some questions raised by the Council at the June 27, 2016 Special Meeting.

With the above discussions complete, the Council went back into Special Session.

Resolve #29 Adopting FY 2017 Municipal Budget (Postponed 06/27/16)

(See pages 121 – 123 for text and amendments)

It was noted that this Resolve was postponed until this meeting after receiving a public hearing, motion for passage and amendments.

Councilor Clayton moved to amend Resolve #29 by increasing "Legislative" by \$10,000 for a new total of \$170,400. He explained that this amendment would provide funding for St. Bernard's Soup Kitchen and Area Interfaith Outreach Food Pantry at \$5,000 each.

Councilor Clayton then said that the Council continually asked people to be part of the budget process but then makes changes without input from the public. He asked that the Rules be suspended to allow anyone from the public who wished to speak to do so. Without objection from the Council, it was so ordered.

Carol Maines, 186 North Main Street, said that she was confused about what the Council planned to do with the City Attorney/City Planner situation. She said that the Finance Director informed the Council that the \$65,000 that the Council has set aside for "legal services" will only cover the expenses for Mr. Beal through September 30, 2016. She said unless the Council does something, there will be no funds for legal services after that date.

Mayor MacLellan-Ruf said that the Council has the ability to transfer monies from one budget department to another if it chooses to do so. She said that if monies are available in another department to cover legal costs, the Council could make such a transfer at any time.

Callie Black, 88 Summer Street, said that she wholeheartedly support the funding for St. Bernard's Soup Kitchen and AIO.

Hearing no other speakers, the Council went back into Special Session for a vote on Councilor Clayton's motion to amend Resolve #29.

Vote on amendment: 5 for.

Councilor Pritchett then moved to amend Resolve #29 by increasing "Legislative" by \$48,000 for a new total of \$218,400; and reducing "Community Development" by a corresponding \$48,000, for a new total of \$126,590. He his intention was to transfer \$48,000 from the Community Development "City Planner" line to the Legislative "Legal Service line to provide funding for legal services in the Legislative Budget at \$113,000, which corresponds to the amount originally proposed to fund the Legal Department. He added that this action would also leave \$17,000 in the Community Development Budget for Planning Services.

Vote on amendment: 2 for, 3 opposed.

(Clayton, MacLellan-Ruf, Geiger)

Motion Defeated

It was noted that the Council would review the matter at a later date to make a determination on how to proceed with legal service.

Councilor Pritchett asked what the breakdown would be for the estimated mil rate.

The Finance Director said that of the estimated \$21.79 mil rate, \$9.13 was attributable to the City, \$11.43 RSU #13, and \$1.24 Knox County.

Councilor Geiger said that some people will not be satisfied with this budget, but said that a \$.59 increase in the mil rate is reasonable given all the needs of the City. She said that the numbers speak for themselves. She said that the City has been starved for infrastructure improvement for years and the City needs to begin addressing those improvements. She added that

the majority of the tax bill goes to the school, and a significant portion of the blame for the current tax situation goes to the State, which has not lived up to its requirements with regards to school funding and municipal revenue sharing.

Councilor Pritchett said that he agrees somewhat with Mr. Carroll about the tax burden in the City, but most understand that residents get more for their tax dollars in Rockland than in other municipalities, i.e. full-time fire and police departments, public services, etc. He said that City Council and staff have worked to try and keep any increases as low as possible. He said, given the cards that the City has been dealt, this budget is about as good as it is going to get.

Vote as amended: 5 for.

Order #38 Amending & Adopting Water Pollution Control Facility Fees (Postponed 06/27/16)

(See pages 123 – 130 for text)

It was noted that this Order had been tabled until this meeting, as had received a motion for passage at the 06/27/16 Special Meeting.

Councilor Pritchett moved to amend Order #38 by replacing the existing proposal with the following:

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Charges and Fees for the Pollution Control Facility for FY 2017 (July 1, 2016 through June 30, 2017) shall be amended and adopted as follows, and shall be effective as of July 1, 2016:

GENERAL

All references to the City of Rockland’s Sewer Use Ordinance shall be understood to mean the version of this document that has most recently been passed and adopted by the City Council of the City of Rockland, Maine. Similarly, all references to the Enforcement Response Plan shall be understood to mean the current version of this document, incorporated by reference into the most recently adopted Sewer Use Ordinance.

CHARGES AND FEES AT A GLANCE

Type of Charge	Current Value
Minimum Charge	
Residential and Commercial	Usage 1,000 cubic feet per ERU Rates First 1,000 cubic feet: \$43.93 <u>\$46.13</u> 1,001 cubic feet and above: \$5.25 <u>\$5.51</u> per 100 cubic feet
Industrial <i>Minimum Charge</i>	Usage 30% of monthly flow, BOD, and TSS in Industrial User’s current Wastewater Discharge Permit. Rates \$2.50 <u>\$2.63</u> per 1,000 gallons permitted (monthly) \$95.73 <u>\$100.52</u> per 100 pounds BOD permitted (monthly) \$129.02 <u>\$135.47</u> per 100 pounds TSS permitted (monthly)
<i>Monthly Charge</i>	Monthly charges will be based on actual flows and BOD and TSS loadings discharged.
Billing Charge	\$4.20 per bill/\$1.50 per duplicate bill
Return Check Fees	\$40.00 charged to account for handling
Septage Discharge Fee	\$160.00 per 1000 gallons minimum of \$100.00
Recreational Vehicle Dump Fee With assistance	\$25.00
Coach/Charter Bus Dump Fee	\$75.00

Private Sewage System (Septic System) Connection Permit	As per Department of Health and Human Services Subsurface Wastewater Program
Sewer Connection Permit Residential/Commercial Connection Permit Industrial Connection Permit	\$50.00 \$50.00
Inflow And Infiltration Development Charge	\$2.64 per gallon
Reserve Capacity Charge	\$2,400.00 per EDU
Sewer Lateral Televised Inspection Fee	\$140.00 per occurrence
Industrial Permit Application Fee	Less than 1,000 gallons: \$ Actual Cost + 15% minimum of \$400. Between 1,000 and 50,000 gallons: Actual Cost +15% minimum of \$750 Between 50,000 to 150,000 gallons: Actual Cost +15% minimum of \$1,500 More than 150,000 gallons Actual Cost +15% minimum of \$4,000 Appeal: \$150.00
Industrial User Inspection Fee	Actual Cost with a \$150.00 minimum charge
Decision Appeal Fee	\$150.00
Interest Charge	Same rate as set annually by Order of the City Council for past due taxes

8.0 MINIMUM CHARGE FEE

Fees

A. Residential Minimum Charge

The cost for treatment of residential wastewater shall be based on both a fixed minimum charge and on water consumption. Water consumption shall be per hundred cubic feet of water used, based on the water meter at each residential location as recorded by the Aqua Maine water company, and according to the schedule in the following table.

Typical residential unit is defined as that in which water use ranges from zero (0) to three hundred (300) gallons per day (on a maximum day basis) or zero (0) to two hundred fifty (250) gallons per day (on a maximum month basis).

Equivalent Residential Units (ERUs) are a method of defining the wastewater generated by a commercial or multi-family user location as a function of the water use in specific processes or by specific users at that location. These ERUs are developed as a ratio of the commercial or multi-family residential unit to a single-family residence. The Equivalent Residential Unit (ERU) for a single family home is 1.0. Minimum Usage shall be 1,000 cubic feet per ERU per billing quarter.

The ERU for single homes converted into apartments shall be defined as 0.5 ERU per dwelling unit. The ERU for multi-family homes (i.e., duplex) shall be defined as 1.0 ERU per dwelling unit. The ERU for a building built as an apartment complex shall be 1.0 ERU per dwelling unit. The ERU for a mobile home shall be 1.0 per unit.

Cost Per Equivalent Residential Unit	
Usage	1,000 cubic feet per ERU per billing quarter
Rates	First 1,000 cubic feet: \$43.93 <u>\$46.13</u> dollars
	1,001 cubic feet and above: \$5.25 <u>\$5.51</u> per 100 cubic feet

Any residence that does not presently have a water meter shall install one that is approved by Maine Water Company (if the residence receives public water) or by the WPCF (if the residence has a private water source [i.e., a well]).

B. Commercial Minimum Charge

The cost for treatment of commercial wastewater shall be based on both a fixed minimum charge and on water consumption. Water consumption shall be per thousand cubic feet of water used, based on the water meter at each commercial location as recorded by the Aqua Maine water company.

Minimum Usage shall be 1,000 cubic feet per ERU per billing quarter. The ERUs applicable to commercial establishments in the City of Rockland are defined in the following table. The ERU applicable shall be the Minimum ERU (as shown) or the calculated ERU, whichever is greater.

Description of Unit	Unit Measure	Equivalent Units	Minimum ERUs
Residences (Single-Family)	(Each)	(1.0)	(1.0)
Apartments (Single home, converted)	Per Apartment	0.5	2.0
Apartments (Complex, built as)	Per Apartment	1.0	2.0
Mobile Homes and Parks	Per Dwelling Unit	1.0	2.0
Motels & Hotels Without kitchen units	Per Unit	0.25	2.0
With kitchen units	Per Unit	0.35	2.0
Bed and Breakfasts and Rooming Houses w/o kitchens in the individual rooms	Per Unit Plus one full unit for kitchen	.25	2.0
Churches and Service Clubs Without kitchen	Each	-	1.0
With kitchen	Each	-	2.0
Office Use	Up to 5,000 square feet Per 1,000 square feet thereafter	1.0 0.25	2.0
Medical Office	Per exam room	0.25	2.0
Dentist Office	Per chair	1.0	2.0
Veterinary Office or Facility	Per exam room	0.25	2.0
Hospital	Per bed	0.5	2.0
Nursing Home	Per bed	0.5	2.0
Day Care	Each <i>plus</i> For first 10 children Per child thereafter	1.0 0.2 0.1	2.0
Personal Care (Beauty Salon/Barber)	Per chair	0.5	2.0
Restaurant (including Fast Food)	For every table over 10	0.1	2.0
Drive In Restaurant	Per parking space over 25	0.25	2.0
Food and Drug Retail Store	One to three water fixtures Per three water fixtures thereafter	1.0 1.0	2.0
Supermarkets (over 5,000 sq feet)	Per water fixture and drain	1.0	10.0
Bank	Up to 5,000 square feet Per 1,000 square feet thereafter	1.0 0.25	2.0
Movie Theaters	Per seat	0.05	2.0

Laundry	Per washing machine	1.0	2.0
Dry cleaner	Each	-	2.0
Car Wash	Per bay	1.0	2.0
Service Station	Each	-	2.0
Retail Sales & Service	Up to 5,000 square feet	1.0	2.0
	Per 1,000 square feet thereafter	0.25	
Bars and Cocktail Lounges (Without restaurant)	One to fifty seats	1.0	2.0
	Each additional 15 seats (or portion thereof)	1.0	
Bowling Alley	Per lane	0.4	2.0
Schools	Per 50 full-time students and faculty	1.0	2.0
	Per 100 part-time students and faculty	1.0	

In the event that a commercial establishment does not fall into one of these classifications *or* if categorization in one of these classifications would result in inequitable treatment cost, the WPCF has the discretion to determine the ERU that is most applicable.

Any commercial establishment that does not presently have a water meter shall install one that is approved by Maine Water Company (if the establishment receives public water) or by the WPCF (if the establishment has a private water source [i.e., a well]).

C. Industrial Minimum Charge and Monthly Charges

Minimum Charge

Charges for the treatment of industrial wastewater shall be based on operation and maintenance costs of the WPCF. Permitted monthly flow shall be used in conjunction with permitted Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) values (both in pounds per month) to minimum charges. “Flow” (in thousands of gallons) and “Permitted” BOD and TSS (in pounds) are as defined in the industrial user’s Permit. The formula used to calculate the industrial user’s Minimum Charge is as follows:

$$\text{Industrial Minimum Charge} = 30\% * (\text{Monthly Permitted Flow} * \text{Flow Unit Cost}) + (\text{Monthly Average Permitted BOD} * \text{BOD Unit Cost}) + (\text{Monthly Average Permitted TSS} * \text{TSS Unit Cost})$$

For permits containing only maximum daily allowances for any parameter, minimum monthly charge for that parameter shall be as follows:

Flow = fixed monthly cost allocated to flow times maximum daily flow allowance divided by PCF maximum daily design flow capacity

BOD = fixed monthly cost allocated to BOD times maximum daily BOD allowance divided by PCF maximum daily design BOD capacity

TSS = fixed monthly cost allocated to TSS times maximum daily TSS allowance divided by PCF maximum daily design TSS capacity

Where unit costs are as defined below

- Flow unit cost: ~~\$ 2.50~~ \$2.63 per 1,000 gallons permitted (monthly)
- BOD Unit Cost: ~~\$ 95.73~~ \$100.52 per 100 pounds BOD permitted (monthly)
- TSS Unit Cost: ~~\$ 129.02~~ \$135.47 per 100 pounds TSS permitted (monthly)

Domestic wastewater generated by industrial users shall be calculated according to the number of workers at the facility. Dividing total man-hours by 8-hours results in the number of domestic users at the industrial facility.

Domestic wastewater generated by the industrial facility is 30 gallons per day per domestic user. This is represented as follows:

$$\frac{\text{Total Man-hours}}{8 \text{ hours}} * \frac{30 \text{ gallons}}{\text{day} \cdot \text{user}} = \frac{\text{gallons}}{\text{day}}$$

The Minimum Charge for treatment of residential and commercial wastewater (see A and B of this section) shall be applied to gallons per day of domestic wastewater from industrial facilities, using a conversion rate of 1,000 gallons = 156 cubic feet.

Monthly Charges

All industrial users are required (by virtue of their Industrial Wastewater Discharge Permit) to install a non-settable totalizer (i.e., flowmeter) to monitor wastewater actually discharged to the Rockland WPCF. Each industrial user is required to report actual total daily and monthly flow, as measured by this device, to the Rockland WPCF on a monthly basis. Users are also required to report actual discharges of BOD and TSS to the Rockland WPCF. Treatment charges for actual flows and loadings discharged by an industrial user to the Rockland WPCF are calculated on a monthly basis as described in the following sections.

Industrial User Sulfur Fee

Industrial users (IU) shall pay a monthly sulfur fee in order to cover the cost of chemical treatment of PCF sludge. The fee shall be based on monthly total sulfur analysis carried out by the IU, and actual chemical expense for the month plus 15%. Each IU share of the cost shall be based on a mass balance ratio between individual IU sulfur loading and total sulfur loading for the month. Therefore, the individual IU monthly fee shall be calculated as follows:

$$\text{Individual IU Sulfur Fee} = \frac{\text{Individual IU Sulfur Contribution (lbs)}}{\text{Total IU Sulfur Contribution (lbs)}} * \text{Actual Treatment Chemical Expense (\$)}$$

Expense Recovery

Any discharger who discharges any waste that requires additional treatment or chemical additives, shall be liable to the City for all costs incurred by the City as a result of the discharge plus 15 percent. This includes any costs associated with additional treatment measures and chemicals that are deemed necessary to ensure continued compliance with the State and Federal discharge requirements.

Sampling and Laboratory Analysis Fee: Actual cost +15% minimum of \$250.00.

Industrial Users with Tier One Discharge Limits

The cost per pound for removal of BOD and TSS from industrial wastewaters for users holding “Tier One” Permit limits (i.e., Daily Maximum and Monthly Average loading limits) for these parameters shall be competed according to the schedule shown below:

Parameter	Unit Cost: Industrial
Flow	\$2.50 <u>\$2.63</u> per 1,000 gallons discharged
BOD	\$95.73 <u>\$100.52</u> (per 100 pounds treated)
TSS	\$129.02 <u>\$135.47</u> (per 100 pounds treated)

Industrial Users with Three-Tier Discharge Limits

The cost per pound for removal of BOD and TSS from Industrial wastewaters for users holding “three-tier” permit limits (i.e., three tiers of loading limits) for these parameters shall be competed according to the schedule shown below. The definitions of the three tiers shall be as defined in the most recent Permit issued to that user.

Parameter	Unit Cost: Industrial
Flow	\$2.50 <u>\$2.63</u> per 1,000 gallons discharged
BOD	Tier 1: \$95.73 <u>\$100.52</u> (per 100 pounds treated) Tier 2: 5% in excess of Tier 1 limit ¹ Tier 3: 5% in excess of Tier 2 limit ²
TSS	Tier 1: \$129.02 <u>\$135.47</u> (per 100 pounds treated) Tier 2: 5% in excess of Tier 1 limit ¹ Tier 3: 5% in excess of Tier 2 limit ²

Note 1- The Tier 2 surcharge shall be applied to loadings that exceed Tier 1 loading limits. The additional surcharge shall apply to each 100 pounds (or fraction thereof) of loading that exceeds the Tier 1 limits as calculated by the difference between the actual discharged loading and the permitted Tier 1 loading.

Note 2- The Tier 3 surcharge shall be applied to loadings that exceed Tier 2 loading limits. The additional surcharge shall apply to each 100 pounds (or fraction thereof) of loading that exceeds the Tier 2 limits as calculated by the difference between the actual discharged loading and the permitted Tier 2 loading.

Residential, Commercial or Industrial discharge of groundwater and/or stormwater to the Sanitary Sewer System shall be charged based on the industrial rates.

9.0 BILLING CHARGE

Fee: Cost per bill issued: \$4.20/ \$1.50 per duplicate bill

10.0 OPERATION AND MAINTENANCE FEES

Fee: Current Operations and Maintenance Fees are included in the charge based on water consumption.

11.0 SEPTAGE DISCHARGE FEES

Fee: The fee for septage discharge shall be three times the Minimum Charge for treatment of domestic wastewater, as calculated on a per gallon basis and as defined in Section 1.0. For purposes of conversion, a volume of 100 cubic feet is equivalent to 748 gallons.

Septage Discharge Fee: \$0.16 per gallon, \$160.00 per 1,000 gallons, min \$100.00.

Fees for discharge of holding tank wastewater from recreational vehicles shall be: \$25.00

Fees for discharge of holding tanks from travel/coach buses shall be \$75.00

12.0 PRIVATE SEWAGE DISPOSAL SYSTEM CONNECTION PERMIT AND INSPECTION FEE

Fee: This applies to the connection of any new on-site subsurface wastewater disposal system (i.e., septic system).
Private Sewage System Connection Permit: As per Department of Health and Human Services Subsurface Wastewater Program.

13.0 SEWER CONNECTION PERMIT AND INSPECTION FEE FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL USERS

Fee: Residential or Commercial Connection Permit: \$50.00
Industrial Connection Permit: \$50.00

14.0 INFLOW AND INFILTRATION DEVELOPMENT CHARGE

Fee: The unit cost shall be equal to **\$2.64** per gallon of estimated inflow or infiltration from the new development.

8.0 RESERVE CAPACITY CHARGE

Fees: The Reserve Capacity Charge is shall be a one-time charge, due at the time of connection *or* at the time capacity is reserved, whichever comes first. This fee is \$2,400.00 per ERU as defined previously in Section 1.0.

The Monthly Reserve Capacity Maintenance Charge has been incorporated into the Minimum Charges described in Section 1.0.

9.0 INDUSTRIAL WASTEWATER DISCHARGE PERMIT APPLICATION REVIEW FEE

Fee: Fees for review of new Permit Applications shall be based on the flow requested in the application. All flows below are on a Maximum Daily basis.

- Users requesting less than 1,000 gallons: Actual Cost + 15% \$400 minimum
- Users requesting between 1,000 and 50,000 gallons: Actual Cost +15% \$750 minimum
- Users requesting between 50,000 to 150,000 gallons: Actual Cost +15% \$1,500 minimum
- Users requesting more than 150,000 gallons: Actual Cost +15% \$4,000 minimum

Appeal of Renewed Permit \$ 150.00 or Actual Cost

10.0 NEW INDUSTRIAL USER FACILITY INSPECTION FEE

Fee: Facility Inspection Fee: Actual Cost or minimum of \$150.00

11.0 DECISION APPEAL FEE

Fee: Decision Appeal Fee \$150.00

12.0 FINES AND PENALTIES

Fines and Penalties: Fines and penalties shall be issued based on the following schedule and at the discretion of the WPCF's Pretreatment Coordinator.

Type of Non-Compliance*	Fine or Penalty
Category A: Enforcement Responses Based on U.S. EPA Guidance	
A. Illegal Discharge	
1. Discharge without Permit	
a. User not aware of need; no damage to WPCF	\$150 to \$500
b. User not aware of need; damage to WPCF.	\$500 to \$7,500 Plus Actual Cost
c. Failure to apply continues after notice by WPCF.	Initial fine plus \$200 per day until application is received

2. Discharge with Expired Permit- Failure to apply for Permit renewal.	\$250 fine plus \$150 per day until application is received
B. Discharge Permit Violations	
1. Isolated exceedance, not SNC.	\$150 to \$350
2. Isolated exceedance, SNC	\$350 to \$550
3. Damage to WPCF or environment	\$7,500 plus Actual Cost
4. Frequent, not SNC.	\$450 to \$750
5. Frequent, SNC.	\$750 to \$1,500
C. Sampling, Monitoring, and Reporting Violations	
1. Reporting Violations	
a. Report improperly signed, first offense	\$100
b. Report improperly signed, repeat offense	\$150
c. Late report; isolated and minor	\$50
d. Report more than 30 days late	\$150
e. Late report; frequent offense	\$250
f. Failure to report spill or changed discharge; no harm	\$250
g. Failure to report spill or changed discharge; harm	\$1,000 plus Actual Cost
h. Repeat failure to report spills	\$250 to \$500
i. Falsification	\$1,000
2. Failure to Monitor Correctly	
a. First offense	\$150 to \$350
b. Recurring failure to monitor	\$400 to \$600
3. Improper Sampling, evidence of Intent	\$1,000
4. Failure to Install Equipment	
a. Delay < 30 days	\$100 per day
b. Delay > 30 days	\$150 per day
c. Recurring; violation of Administrative Order	\$1,000 to \$1,500
5. Compliance Schedules	
a. Missed by < 30 days, will not affect final date	\$100 per day
b. Missed by >30 days, will affect final date but user shows cause	\$100 per day
c. Missed by >30 days, will affect final date, not justified	\$100 per day plus \$500 to \$1,000
d. Recurring; violation of Administrative Order	\$1,000 to \$2,500

D. Other Permit Violations	
1. Diluted Wastestream	
a. Initial violation	\$100
b. Recurring violation	\$500
2. Failure to Mitigate Noncompliance	
a. Does not result in harm	\$300 to \$500
b. Results in harm	\$5,000 plus Actual Cost
3. Failure to Properly Operate Facility	
a. Does not result in harm	\$500 to \$1,000
b. Results in harm	\$7,500 plus Actual Cost
E. Violations Discovered During Inspection	
1. Denial of Entry	\$750
2. Illegal Discharge	
a. No harm to WPCF or environment	\$1,000 to \$2,500 plus \$50 per day until corrected
b. Causes harm; evidence of intent/ neglect.	\$7,500 plus Actual Cost
c. Recurring; violation of Administrative Order	\$1,000 to \$2,500
3. Improper Sampling	
a. Unintentional wrong location	\$100 per occurrence
b. Unintentional sample type	\$100 per occurrence
c. Unintentional sample technique	\$100 per occurrence
4. Inadequate Recordkeeping	
a. Incomplete or missing	\$100 per violation
b. Recurring	\$250 per violation
5. Failure to Report Additional Monitoring	
a. Found during inspection	\$100 per violation
b. Recurring	\$250 per violation

B. Facility-Specific Enforcement Responses	
A. Illegal Discharge	
1. Intentional Discharge without Permit	\$2,500 to \$5,000 plus \$250 per day until corrected
2. Discharge with expired Permit	\$250 to 500
B. Discharge Permit Violations	
1. WPCF was informed; no damage.	\$250 to \$750
2. WPCF was informed; damage.	\$500 to \$7,500 plus Actual Cost
3. WPCF was not informed.	\$2,500 plus Actual Cost

C. Spill Incidents	
1. Single instance	\$250 per violation
2. Repeated spills by same user	\$500 per violation
Other	
Level J: Civil Action (legal action taken)	\$1,000 to \$5,000 plus Actual Cost
Level K: Criminal Action (legal action taken)	WPCF discretion plus Actual Cost

*- Types of Non-Compliance are as defined in the City’s Enforcement Response Plan.

13.0 RECOVERY OF COSTS

Fee: Actual, as defined above.

Councilor Pritchett explained that this increase was the result of increase electrical rates for the facility.

Vote on amendment: 5 for.

Vote as amended: 5 for.

Order #39 Setting Due Dates & Interest Rate – FY 2017 Taxes (Postponed 06/27/16)

(See page 130 for text)

It was noted that this Order had been postponed until this meeting, and had received a motion for passage at the 06/27/16 Special Meeting.

Vote: 5 for.

Order #41 Appointment – Acting City Manager

IT IS HEREBY ORDERED BY CITY COUNCIL AS FOLLOWS:

THAT, pursuant to Article III, Section 303(b) of the City Charter, _____ is hereby appointed Acting City Manager for the City of Rockland, having all of the duties and authority of the City Manager as detailed in Rockland’s Charter and Ordinances, and shall receive the salary and benefits of the outgoing City Manager, until another City Manager is selected.

Sponsor: City Council

Originator: City Council

Councilor Pritchett moved passage and moved to amend Order #41 as follows:

Fill the blank with “Audra Caler-Bell”

Delete the phrase “...another City Manager is selected...” and replace with “...the City Council can select a long-term acting city manager...”

Councilor Pritchett said that former City Manager Chaousis’ last day was June 30, 2016. He said that the Charter requires the Council to appoint an acting City Manager to fill the position until a permanent replacement is found. He said that the Council is reviewing its options with regard to the acting city manager, and this is a bridge amendment. He said Ms. Caler-Bell has agreed to fill in until the Council selects an acting manager to fill in until a permanent manager is found.

Vote on amendment: 5 for.

Vote as amended: 5 for.

Set Agenda for July 11, 2016 Regular Meeting: The Council went back into Informal Session to set the agenda for the July 11, 2016 Regular Meeting. The following communications were addressed:

a. Letter from Rockland Yacht Club – Request to Alter Building for sign. The Council requested that an Order be placed on the 07/11/16 Regular Meeting agenda to address this request.

b. Letter from P.J. Walter – Resignation from Parking Committee. The resignation was accepted and placed on file. The Council asked that a letter of thanks be sent to Mr. Walter for his service to the City.

Special Meeting continued:

July 6, 2016

c. Petition from Oliver Street Residents – Weight Limit for Oliver Street. The Council requested that an Ordinance Amendment be placed on the 07/11/06 Regular Meeting agenda to address this request.

With the agenda set, and 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 8:45 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

REGULAR MEETING

AGENDA

July 11, 2016

1. Roll Call **All members present.**
2. Pledge of Allegiance to the Flag **All present joined in the Pledge of Allegiance.**
3. Public Forum of not more than 30 minutes (5 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 – In Good Company (Postponed)
Granted. Vote: 5-0.
 - b. Liquor & Entertainment Licenses – Rock City Café
Granted. Vote: 5-0.
 - c. Lodging House License – Old Granite Inn
Granted. Vote: 5-0.
 - d. Liquor, Entertainment & Amusement Device Licenses – Time Out Pub
Granted. Vote: 5-0.
 - e. Municipal Approval – Alcohol Service on Vessels, American Cruise Lines
Granted. Vote: 5-0.
8. Resolves:

#30 Accepting Donations – Library	City Council
Passed. Vote: 5-0.	
#31 Commendation – Russell Thompson	City Council
Passed. Vote: 5-0.	
#32 Accepting Donation – Bench	City Council
Passed. Vote: 5-0.	
9. Ordinances in Final Reading and Public Hearing:

# 7 Chapter 14, Section 14-316 Eliminating Redundant Text (Postponed)	Councilor Pritchett
Postponed until the August 8, 2016 Regular Meeting. Vote: 5-0.	
# 8 Chapter 15, Articles I & IV Street Opening Permits (Postponed)	Councilor Pritchett
Postponed until the August 8, 2016 Regular Meeting. Vote: 5-0.	
# 9 Chapter 19, Section 19-307 Driveways, Curb Cuts & Culverts (Post.)	Councilor Pritchett
Postponed until the August 8, 2016 Regular Meeting. Vote: 5-0.	
#10 Chapter 19, Article III Power Generation Facility - Zoning (Post.)	Councilor Pritchett
Passed as amended. Vote: 4-1 (Clayton). Eff Date: 08/10/16. Amended to make the ordinance retroactive to any applications received on or after June 12, 2016. Vote on amendment: 5-0. Further amended to exempt emergency backup generators from the provisions of the ordinance. Vote on amendment: 4-1 (Clayton)	

- #11 Chapter 16, Article II Power Generation Facility – Site Plan (Post.) Councilor Pritchett
Passed as amended. Vote: 4-1 (Clayton). Eff Date: 08/10/16. Amended to make the ordinance retroactive to any applications received on or after June 12, 2016. Vote on amendment: 5-0.
- #12 Chapter 2, Section 2-509 Lien-Acquired Property (Postponed) Councilor Geiger
Postponed until the August 8, 2016 Regular Meeting. Vote: 5-0.
- #15 Chapter 19, Section 19-304 TB1 Zone Regs – Restaurants Councilor Clayton
Passed as amended. Vote: 5-0. Eff. Date: 08/10/16. Amended to replace the existing language with the following: “Restaurants of not more than 1,500 square feet (including all space utilized for the eating and drinking establishment); with hours of operation limited to between 7 AM and 10 PM; that do not have drive-through service; and that do not offer live entertainment with amplified music”. Vote on amendment: 4-1 (Ackor).
- #16 Chapter 17, Section 17-809 Handicapped Parking Space – Elm St. Mayor MacLellan-Ruf
Passed. Vote: 5-0. Eff. Date: 08/10/16.

10. Ordinances in First Reading:

- #17 Chapter 4, Article II Sprinklers – Exempt Homes Less than 1200sqft Councilor Geiger
Passed as amended. Vote: 3-2 (MacLellan-Ruf, Ackor). Public Hearing Date: 08/08/16 at 6:00 p.m. Amended to read as follows:

(2) Exceptions. The exceptions to the Life Safety Code adopted by the State Fire Marshall in Title 16, Code of Maine Regulations, Part 219, Chapter 20, are hereby amended as follows:

- (a) Extinguishment Requirements in One- And Two-Family Dwellings. Section 4.3.4.1 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland; provided, however, that a sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory if all of the provisions of B(2)aIII are met and if either the provisions of B(2)aI or B(2)aII either are met:

(I) The dwelling is a single-family structure with fewer than 1,000~~1,200~~ sq. ft. of living area, or

(II) The dwelling is either a single-family structure with 1,000~~1,200~~ or more sq. ft. of living area or a two-family structure and the building, whether a single family or two family, is located within 1000 feet of a public, pressurized fire hydrant; all of the following conditions are met:

(III) A sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory for structure meeting either B(2)aI or B(2)aII above and all of the following provisions:

(i) The building shall not be utilized for any purpose other than a one-family dwelling;

(ii) The dwelling must be located within 1000 feet of a public, pressurized fire hydrant;

(iii) The entire load bearing structure of the house including but not limited to floor joist if not on a concrete slab, interior of exterior wall studs or posts, wall plates, rafters, trusses, and any load bearing beams are made of appropriately sized dimensional wood or protected steel and the load bearing structure of the house does not contain any low mass or laminated engineered wood products or unprotected steel. No floor or roof system shall be constructed of trusses, web joists, TJI joists or similar low mass engineered products, unprotected steel or unprotected engineered carrying beams such as, but not limited to LVL, Microlam, etc.;

Vote on amendment: 4-1 (Ackor)

- #18 Chapter 11, Section 11-210 Licensing B&B’s, Inns, Hotels & Motel s Councilor Clayton
Passed. Vote: 5-0. Public Hearing Date: 08/08/16 at 6:00 p.m.
- #19 Chapter 16, Section 16-203 Environmental Impact Assessment Mayor MacLellan-Ruf
Passed. Vote: 5-0. Public Hearing Date: 08/08/16 at 6:00 p.m.
- #20 Chapter 19, Sec. 19-304 Industrial Zone – Health & Fitness Facilities Councilor Clayton
Passed. Vote: 5-0. Public Hearing Date: 08/08/16 at 6:00 p.m.

Regular Meeting, Agenda continued:

July 11, 2016

#21 Chapter 17, Section 17-808 Weight Limit, Oliver Street
Passed. Vote: 5-0. Public Hearing Date: 08/08/16 at 6:00 p.m.

Councilor Ackor

11. Orders:

#42 Casting Ballot for MMA Legislative Policy Committee

City Council

Passed. Vote: 3-2 (Geiger, Pritchett). (NOTE: Councilor Geiger explained that her “no” vote was not against those running for the positions, but in protest of the procedures used by MMA to select candidates for these positions. Councilor Pritchett concurred).

#43 Authorizing Lease Financing Details – Ambulance

City Manager

Passed. Vote: 5-0.

#44 Authorizing Banner – Maine Boats, Homes & Harbors

City Council

Passed. Vote: 5-0.

#45 Authorizing Sign – Rockland Yacht Club

City Council

Passed. Vote: 5-0.

#46 Authorizing Contributions – RDNA, Soup Kitchen & AIO

City Council

Passed. Vote: 5-0.

12. Adjournment. Adjourned without objection from the Council at 8:35 p.m.

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Valli Geiger, Adam Ackor, Acting City Manager Caler-Bell, 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:

- Doug Erickson, a commercial real estate broker for the Masiello Group, thanked the Council for considering his request that an item be added to the agenda to allow Health & Fitness Facilities in the Industrial Zone. He said that this amendment would facilitate bringing a manufacturing business to the City along with the health and fitness business.

- Jeff Hamilton, Plant Manager for FMC, spoke concerning the proposed power generation ordinances (Ordinance Amendment #'s 10 & 11), expressing continued concern that these amendment would have an adverse impact on FMC's ability to compete in its global industrial market. He thanked the Council for making some changes that clarified various provisions that were of concern to FMC, but said there are others that would apply to existing businesses, such as noise reduction, screening and emergency response regulations concerning chemical storage, water usage standards, and emission standards that are more stringent than current EPA and DEP regulations. He added that given the fact that FMC just received a 30% increase in its electric rates, co-generation capability at their facility would be an attractive study for the future. He requested that the Council postpone action on these amendment until a workshop could be held to address the remaining questions.

- Ananur Forma, 79 Acadia Drive, spoke concerning the creation of a “speakers corner” in the City, such as Chapman Park, for people to get on their “soap box” and say whatever is on their minds. She said people could mull around and listen to what folks had to say and ask questions, etc. She also said she would like to do a “speakers corner” at Chapman Park on July 18th.

- Zander Shaw, 39 Pleasant Street, spoke in support of the proposed power generation ordinances, saying that the Planning Board and Energy Committee had a lengthy process to create these amendments with plenty of input from the public and various experts. He said that there has been ample opportunity for input from the public, engineers and local businesses. He said that these amendments were crafted in such a way that is positive to existing businesses while protecting the residents and the local environment.

- Nathan Davis, 10 Fulton Street, also spoke in support of the proposed power generation facility ordinances, saying that the Council should either vote them up or down, but not postpone them again. He said that the amendment have already

been changed to address the concerns expressed by FMC, and that the City will not be able to satisfy every single concern. He said that FMC has participated in the process to this point, and if problems arise in the future, those problems could be addressed at that time.

Mr. Davis then spoke in support of the proposed Environmental Impact Assessment, saying that he likes the big picture concept, but felt that the amendment lacks teeth. He said it is not clear what the Planning Board could do with the assessment once it is received.

- Ron Huber, 148 Broadway, agreed with Mr. Davis' comments on the Environmental Impact Assessment. He also spoke in support of the City taking a lead role in an upcoming sea level rise study. He said the shallow waters of Penobscot Bay are extremely important to the lobster industry as that is where young lobster grow to maturity. He said that City needs to be involved to make sure those shallows are preserved for the future.

- Graham Jefferies – 237 West Meadow Road, spoke in support of the proposal to exempt houses of less than 1,000 square feet from the sprinkler requirement. He said that he would be required to install a sprinkler system in the small house that he is building because he cannot meet the requirement to be within 1000 feet of a hydrant to be exempt. He said the cost of the sprinkler system would be nearly 15% of the total building costs. He said this policy contributes to the City's reputation of having very stringent building codes.

- David Myslabodski, 54 Broad Street, commented on the fact that the building in which Councilor Ackor has his business office was vandalized over the weekend with several windows being broken. He said he hoped this was simply a random act of senseless vandalism rather than politically motivated. He also said he hoped that the Rockland Police Department would apprehend the perpetrators.

Mr. Myslabodski then commented on the relationship between the City Council and FMC, and why it seemed that FMC was being given a free pass when it comes to the power generation facility ordinances. He said that several workshops were held on these ordinances and FMC was invited in late in the process. He asked when would the City begin to enforce the environmental laws that are already on the books when it comes to FMC, and when would it charge FMC the cost of handling its waste at the wastewater treatment plant. He said it was time for FMC to step up to the plate and show it is willing to work with the City to protect the environment. He also said that the City Council's approval rating is at 14%, and it was unfortunate that only two members will be voted out in November.

- Elizabeth Steele, 69 Oliver Street, spoke in support of the proposal to place a weight limit on Oliver Street, saying it was a residential neighborhood without sidewalks, and that the large trucks using Oliver Street as a short cut are creating a hazardous situation. She thanked the Council for its willingness to consider this issue.

Hearing no other speakers, the public forum was closed.

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

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

Reports:

a. City Manager's Report: Acting City Manager Caler-Bell said that, other than items previously conveyed to the Council, she had nothing further to report.

b. City Attorney's Report: The City Attorney reported that he has completed the closing on 55 Dodge Mountain Road, with the City receiving \$8,000 in tax revenue;

- assisted the City Assessor with an appeal hearing before the Board of Assessment Review on the tax assessment for the Barry Manor Inn. He added that the Board found in favor of the Assessor;

- completed an easement with property owners on Forrest Avenue to address drainage issues; and

- filed a claim to recoup damages to the Harbor Park Fence that resulted from a motor vehicle accident.

The City Attorney then cautioned the City Council about acquiescing to the establishment of a “Speaker’s Corner” on any public property. He said that because of 1st Amendment Rights, if the City establishes such a practice as a use, it may lose control of the property. He said that the City has a Special Event Application that people can use for such events.

c. Other Official’s Report: Councilor Clayton said in light of the tragedy in Dallas, TX, people need to focus on common courtesy. He said that every City Council member is willing to listen to anything that any member of the public has to say on any issue, whether they agree with them or not. He said it is frustrating to read comments in the local media from people who refuse to talk to the Council. He said that if the public does not like what the Council is doing, start a recall petition and get rid of them, rather than lament the fact that only two are up for re-election in November. He said the Council does listen to what the public has to say, but does not always agree with them.

d. Mayor’s Report: The Mayor said that there was some confusion concerning the City’s contribution to Rockland Main Street Inc. It was reported that the City’s contribution was 30% of RMS’s total budget, but that report was not accurate. She said that there is no breakdown of the percentage that the City contributes to RMS.

At this time, Councilor Clayton moved to take Resolve #31, Commendation for Russell Thompson, out of order. Without objection from the Council, it was so ordered.

Resolve #31 Commendation – Russell Thompson

BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

THAT Russell C. Thompson is hereby commended and congratulated for 20 years of service to the City of Rockland as a member of the Rockland Police Department.

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

Sponsor: City Council
Originator: City Council

Councilor Clayton moved passage and thanked Det. Sgt. Thompson for his service to the City. He added that all emergency personnel are greatly appreciated by everyone in the community. He said that these commendations are much more than just a formality; they are an opportunity to recognize that that work they do gives the people the freedom to do what they do. He said that the City is lucky to have him in the department. Vote: 5 for.

Mayor MacLellan-Ruf presented Det. Sgt. Thompson with a Plaque and a Certificate of Commendation as a token of the City’s appreciation for his service to the community.

At this time, Councilor Clayton moved to take Order #46, Contributions to RDNA, St. Bernard’s Soup Kitchen, and AIO, out of order. Without objection from the Council, it was so ordered.

Order #46 Authorizing Contributions – RDNA, St. Bernard’s Soup Kitchen & AIO

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT, in accordance with the FY 2017 Municipal Budget passed by the Rockland City Council on July 6, 2016, the City of Rockland hereby makes the following contributions to the following organizations to support the efforts that these organizations make on behalf of those area residents in need:

- \$20,000 to Rockland District Nursing Association
- \$ 5,000 to St. Bernard’s Soup Kitchen
- \$ 5,000 to Area Interfaith Outreach Food Pantry

Sponsor: City Council
Originator: City Council

Councilor Clayton moved passage.

Councilor Geiger thanked these organizations for the work that they do, and said that she was sorry that the contributions could not be more. She said that she hoped this would help them deliver the much needed services that they do to address needs that keep rising.

Councilor Clayton echoed Councilor Geiger’s comments and added that it would be nice not to need the services that these organizations provide, but he was happy to support these contributions. Vote: 5 for.

Mayor MacLellan-Ruf presented a ceremonial “check” to each organization to represent the contributions being made.

At this time, Councilor Clayton moved to take Ordinance Amendment #20, Industrial Zone Regulations – Health & Fitness Facilities, out of order. Without objection from the Council, it was so ordered.

Ordinance Amendment #20 Chapter 19, Section 19-304 Industrial ‘I’ Zone – Health & Fitness Facilities

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, SECTION 19-304, Zone Regulations, BE AMENDED AS FOLLOWS:

17. Industrial Zone "I" Regulations.

* * * *

- (1) Permitted Uses
 - (a) Automobile body shops;
 - (b) Banks;
 - (c) Community and civic buildings and uses for philanthropic reasons;
 - (d) Construction services;
 - (e) Distribution businesses;
 - (f) Health and Fitness Facilities

[Re-Letter remainder of section appropriately]

Sponsor: Councilor Clayton
Originator: Councilor Clayton

Councilor Clayton moved passage and said that he likes to see these kinds of proposal come before the Council to bring new businesses into the City. Vote: 5 for.

A public hearing was set for August 8, 2016 at 6:00 p.m.

At this time, Councilor Clayton moved to take Ordinance Amendment #21, Weight Limit on Oliver Street, out of order. Without objection from the Council, it was so ordered.

Ordinance Amendment #21 Chapter 17, Section 17-808 Special Traffic Restrictions – Weight Limits (Oliver St.)

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 17, Traffic and Vehicles. SECTION 17-808, Schedule VIII, Special Traffic Restrictions (2) Weight Limits, BE AMENDED AS FOLLOWS:

Sec. 17-808 Schedule VIII. Special Traffic Restrictions

* * * *

2. Weight Limits.

For the purpose of avoiding unsafe conditions or excessive damage to the affected streets, vehicular travel over the following streets shall be limited to vehicles under twenty thousand (20,000) pounds in gross registered weight, with the exception of emergency vehicles; school buses; vehicles used in the repair and maintenance of utilities, streets, and sidewalks; vehicles used in the delivery of home heating oil and operating in accordance with a permit issued by the Maine

Department of Transportation; non-commercial vehicles owned or leased by a resident of such streets; and vehicles used in the collection of municipal solid waste from, the delivery of goods to, or the construction, maintenance, or repair of buildings accessed by said streets within Rockland city limits whose drivers present to the investigating police officer or his designee a delivery order or other documentation that such vehicle or equipment is traveling to or from such a property.

- A. Luce Avenue.
- B. Crescent Street.
- C. Scott Street.
- D. Field Street. Eff: 7/14/93
- E. Pleasant Street. Pleasant Street easterly from Belvidere Street to Union Street. Eff: 7/13/94
- F. Waldo Avenue. Eff: 08/13/03
- G. Samoset Road. Eff: 06/08/05
- H. Glen Street Eff: 11/12/10
- I. Oliver Street

Sponsor: Councilor Ackor
Originator: Oliver Street Residents

Councilor Ackor moved passage.

Councilor Geiger said that she appreciated the residents speaking out about this situation and bringing it to the attention of the Council. She said that Oliver Street is a small residential street that does not have sidewalks, and believed this weight restriction was reasonable.

Vote: 5 for.

A public hearing was set for August 8, 2016 at 6:00 p.m.

The order of the agenda was then resumed.

Licenses and Permits:

- a. Liquor & Entertainment Licenses – In Good Company (Postponed)
- b. Liquor & Entertainment Licenses – Rock City Café
- c. Lodging House License – Old Granite Inn
- d. Liquor, Entertainment & Amusement Device Licenses – Time Out Pub
- e. Municipal Approval – Alcohol Service on Vessels, American Cruise Lines

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

Councilor Pritchett moved to grant the licenses.

Councilor Geiger asked that the Rule be suspended so that she could ask Code Enforcement Officer John Root a question. Without objection from the Council, the Rules were suspended.

Councilor Geiger asked Mr. Root if the recent death at the Time Out Pub, resulting in a fall from the upper deck, has been looked at, and if it was just an accident.

Mr. Root said that he did look at the files after this incident, and found that the deck was code compliant at the time of the incident.

The Council went back into Regular Session for the vote on Councilor Pritchett's motion to grant the licenses.

Vote: 5 for.

Resolves:

#30 Accepting Donations – Library

WHEREAS, the Friends of the Rockland Public Library donated \$1,277.96 to the Rockland Public Library for 108 titles, and Movie Licensing USA renewal valued at \$338, to be receipted into the Library Restricted Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003); and

WHEREAS, the Rockland Historical Society donated \$2,250, to be receipted into the Library Restricted Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003); and

WHEREAS, the Maine Humanities Council donated \$100, to be received into the Library Restricted Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003);

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

THAT the City gratefully accepts these donations and directs that a letter of thanks be sent to each donor in recognition of their generous donations.

Sponsor: City Council
Originator: City Council

Councilor Clayton moved passage.

Vote: 5 for.

#32 Accepting Donation – Bench

WHEREAS, Ernie Duggan of Owls Head, Maine, donated \$125 to the City for a bench to be placed on the Boardwalk, with permission from the property owner;

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

THAT the City gratefully accepts this donation and directs that a letter of thanks be sent to Mr. Duggan in recognition of his generous donation.

Sponsor: City Council
Originator: City Council

Councilor Geiger moved passage.

Vote: 5 for.

Ordinances in Final Reading and Public Hearing:

#7 Chapter 14, Section 14-316 Eliminating Redundant Text – Street Opening (Postponed 06/13/16)

(See page 62 for text)

It was noted that this amendment was postponed until this meeting after receiving a public hearing and a motion for final passage at the 05/09/16 meeting.

Councilor Pritchett moved to postpone Ordinance Amendment #7 until the August 8, 2016 Regular Meeting, citing concerns regarding this proposal and saying that he and Councilor Geiger will be working on some amendments to address those concerns.

Vote: 5 for.

Ordinance Amendment #7 was postponed until the August 8, 2016 Regular Meeting.

#8 Chapter 15, Articles I & IV Street Openings (Postponed 06/13/16)

(See pages 62-71 for text)

It was noted that this amendment was postponed until this meeting after receiving a public hearing and a motion for final passage at the 05/09/16 meeting.

Councilor Pritchett moved to postpone Ordinance Amendment #7 until the August 8, 2016 Regular Meeting, citing the need to clarify the responsibility of when a resident is the party that needs to open the street for a sewer lateral. He said it is clear who bears the responsibility when a utility company (CMP, telephone, water) opens that street. He said this question needs to be addressed before moving forward with this issue.

Councilor Geiger said that she appreciated staff's willingness to work with her on this matter. She said that she has a real problem with the current regulations that require a resident to be responsible for opening a public street to install a sewer lateral, and then be responsible for two years if anything associated with that street opening fails. She said that she would like to see a system where the City would contract for the street opening on behalf of the resident, as the City would know better than an individual resident who would be best to do the work.

Vote: 5 for.

Ordinance Amendment #8 was postponed until the August 8, 2016 Regular Meeting.

#9 Chapter 19, Section 19-307 Driveways, Curb Cuts & Culverts (Postponed 06/13/16)

(See pages 71 & 72 for text)

It was noted that this amendment was postponed until this meeting after receiving a public hearing and a motion for final passage at the 05/09/16 meeting.

Councilor Pritchett moved to postpone Ordinance Amendment #7 until the August 8, 2016 Regular Meeting, noting that this amendment was a companion to Ordinance Amendment #'s 7 & 8 above. Vote: 5 for.

Ordinance Amendment #9 was postponed until the August 8, 2016 Regular Meeting.

#10 Chapter 19, Article III Power Generation Facility Regulations (Postponed 06/13/16)

(See pages 47-58 for text; 99-101 and 114-115 for amendments)

It was noted that this amendment was postponed until this meeting after receiving a public hearing and a motion for final passage at the 05/09/16 meeting.

Councilor Pritchett moved to amend Ordinance Amendment #10 as follows:

Add:

Notwithstanding anything to the contrary in Title 1, Maine Revised Statutes, Section 302, this Ordinance Amendment is intended to and shall apply to any site plan or building permit application filed with the City on or after June 12, 2016.

And:

M. Exemptions.

These performance standards shall not apply to any “emergency stationary reciprocating internal combustion engine (‘RICE’)” as defined in 20 C.F.R. Part 63, Subpart ZZZZ, Sec. 63.6675.

Councilor Pritchett explained that this amendment would take care of any gap that there may be between the effective date of this ordinance and the end of the moratorium. He also said that this ordinance was never intended to apply to emergency backup generators.

Councilor Clayton asked if the definition of what constitutes an emergency backup generator or a “RICE” is contained in 20 C.F.R. Part 63, Subpart ZZZZ, Sec. 63.6675.

Councilor Pritchett said that it was.

Councilor Clayton then asked if this exemption applied to emergency backup generator only.

Councilor Pritchett responded that it did.

Councilor Clayton said that there has been a lot of “not intended” talk surrounding these ordinances lately, and it is becoming difficult to differentiate exactly what they are supposed to apply to and what they do not. He said that, not having the chance to research exactly what 20 C.F.R. etc., actually does, he was hesitant to support this amendment.

Councilor Pritchett said that 20 C.F.R et al defined what constitutes an emergency backup generation or “RICE” and how, when and for how long it can be used.

Councilor Clayton said that he was not comfortable moving forward on this part of Councilor Pritchett’s amendment without having had the change to research 20 C.F.R et al himself.

Councilor Pritchett withdrew his motion to amend, and then moved to amend Ordinance Amendment #10 by adding the following:

“Notwithstanding anything to the contrary in Title 1, Maine Revised Statutes, Section 302, this Ordinance Amendment is intended to and shall apply to any site plan or building permit application filed with the City on or after June 12, 2016.”

Vote on amendment: 5 for.

Councilor Pritchett then moved to further amend Ordinance Amendment #10 by adding the following:

“M. Exemptions.

These performance standards shall not apply to any “emergency stationary reciprocating internal combustion engine

('RICE')" as defined in 20 C.F.R. Part 63, Subpart ZZZZ, Sec. 63.6675."

Councilor Pritchett said that the intent of the federal code was to allow emergency backup generators to be used only when outside electrical power is not available.

Councilor Clayton said that he still would not support this amendment, but only because he has not had the chance to fully research it.

Councilor Geiger said that she would support this amendment. She said that it gives companies the ability to use emergency backup generators without having to meet the requirements of this ordinance, but also limits when such generators can be used. She said they cannot be run continuously as a supplemental electrical supply. Vote on amendment: 4 for 1 opposed.

(Clayton)

Mayor MacLellan-Ruf asked if Councilor Pritchett would address some of the concerns expressed by FMC.

Councilor Pritchett said that the intent of this ordinance was to be clear about power generation across the board. He said the current ordinances are a blank slate when it comes to regulations of these kinds of development. Ordinance Amendment #'s 10 & 11 attempt to clarify three kinds facilities; small systems of 5 megawatts or less (typically heating & cooling systems), mid-sized systems between 5 and 10 megawatts, and large systems 10 megawatts or greater. He said these ordinances also provide a path by which existing businesses such as FMC and Fisher Engineering can establish on-site power generation facilities for their own use with reasonable regulations. He said these ordinances are not anti-businesses, and if he felt that they would prohibit in anyway such on-site power generation facilities, he would not support the ordinances. He added that these ordinances also give the Code Office and Fire Department the capability to inspect such facilities to ensure compliance.

Councilor Geiger said that she took exception to the way the questions from FMC were phrased, saying that these ordinances were not one or the other, business vs ordinances. She said these ordinances are very reasonable and thoughtful stewardship of the area environment.

Councilor Clayton asked what amounts have been paid for the consulting services for the drafting of these ordinances.

Acting City Manager Caler-Bell said that she did not have the actual amounts paid to date, but said that \$10,000 has been allocated for each Woodard & Curan and SMRT.

Councilor Clayton then asked if the buffering and screening provisions were created specifically for these ordinances or if they existed in another section of the Code.

The City Attorney said that the buffering and screening provisions are part of the existing Performance Standards in Chapter 19.

Vote as amended: 4 for, 1 opposed.

(Clayton)

Ordinance Amendment #10, as amended, will become effective 08/10/16 and now reads as follows:

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning And Planning, ARTICLE III, Zoning Ordinance, BE AMENDED AS FOLLOWS:

Notwithstanding anything to the contrary in Title 1, Maine Revised Statutes, Section 302, this Ordinance Amendment is intended to and shall apply to any site plan or building permit application filed with the City on or after June 12, 2016.

Sec. 19-302 Words And Phrases Defined

* * *

Community-Based Renewable Energy Project. An electricity generating facility that generates electricity from an eligible renewable resource as defined in 35-A M.R.S. § 3210 at least 51% of which is owned by one or more qualifying local owners.

* * *

Distributed Power Generation Facility. Electric power generation equipment, including power generation equipment with thermal energy recovery, which is designed and will be operated to provide or to offset the base or peak power consumed at the site where the power generation equipment is located, or the base or peak power consumed at other sites either in Rockland or in an adjacent municipality that are under the same or affiliated ownership as the site where the power generation equipment is located. At least 50% of the thermal energy must be consumed at the site where the power generation equipment is located or at other sites that are under the same or affiliated ownership as the site where the power generation equipment is

located. The remainder of the thermal energy may be distributed to third parties under contract

* * *

Grid-Scale Power Generation Facility. Any electrical power generation facility that is designed or will be operated to sell either base load or the peak demand electricity generated under one or more power purchase agreement(s) or other contractual arrangements for consumption by others via the local utility and/or the ISO New England, Inc.-managed transmission and distribution systems, not including a Distributed Power Generation Facility.

* * *

Quasi-Public Uses. Those essential public services, such as, but not limited to, water, electricity, telephone, natural gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Board, the Maine Department of Transportation, or Federal Communications Board, except Grid-Scale and Distributed Power Generation Facilities.

* * *

Sec. 19-304 Zone Regulations

* * *

17. Industrial Zone "I" Regulations

A. Purpose.

The purpose of the Industrial Zone is to permit a variety of industrial developments that are compatible with other residential and non-residential uses in neighboring areas of the City and to permit more than principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302.

B. Use Regulations.

In an Industrial Zone "I" no building or land shall be used, and no buildings shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

- (a) Automobile body shops;
- (b) Banks;
- (c) Community and civic buildings and uses for philanthropic reasons;
- (d) Construction services;
- (e) Distribution businesses;
- (f) Living quarters used by watchmen or custodians for protection within the zone;

(g) Manufacturing, compounding, processing, packing, treatment, or warehousing of goods and products provided such manufacture, compounding, processing, packing, treatment, or warehousing of goods and products, meet the standards of performance herein stated, except as prohibited by Section 19-304-16(B)(2) and 19-304-17(B)(2) hereof;

(h) Offices accessory to an allowed industrial use or directly or indirectly connected with the manufacture or marketing of products which are created or traded in the zone;

- (i) Quasi-public uses;

- (j) Restaurants, accessory to and located in a structure housing an allowed use, provided that there shall be no drive-up windows or drive-throughs;
- (k) Restaurant, take out only, provided that there shall be no drive-up windows or drive throughs;
- (l) Research and development facilities;
- (m) Retail trade accessory to an allowed industrial use and restricted to those products manufactured on-site;
- (n) Storage of boats in the traditional "winter cover" manner in ground cradles and structures for the storage of incidentals such as riggings, masts, stays, spars, rope, line and sails;
- (o) Storage buildings, compartmentalized with individual cubicles less than four thousand (4,000) cubic feet per cubicle;
- (p) Transportation facilities;
- (q) Wholesale business, any generally recognized;
- (r) Accessory uses; and more than one permitted principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302. The provisions of Chapter 19, § 19-308, subparagraph 5B(2) allowing the separate sale of principal structures without each lot conforming to frontage or dimension requirements are not applicable under this subsection.

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is used. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; availability of necessary public services; and compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

(a) Grid-Scale Power Generation Facilities, fueled other than by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products, and having a setback of at least 200 feet from any property line shared with a lot on which a residential or mixed-use structure is located. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended.

(3) Prohibited Uses.

The following uses shall be prohibited:

- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, be reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;
- (b) Any use prohibited in Section 19-304-16-B-(2).

* * *

Sec. 19-309 Special Use Classes ~~Exceptions and Exemptions.~~

1. Special Classes. No building may be erected, altered, or used, and no land may be used, for any of the following special use classes in the Residential A and AA zones. In other zones, the Planning Board, applying the

procedures and standards set forth in Chapter 16, Article II, may approve such use in any zone other than Residential A or AA zones, upon application, notice, and public hearing, and upon a determination that the use will not be detrimental or injurious to the neighborhood, and that there will be provided fencing and screening adequate to provide visual and auditory barriers from other properties and public rights of way, and that the applicant has demonstrated compliance with all other applicable City ordinances. All owners of property located within 300 feet of the lot lines of the subject parcel shall be notified of the Special Class application, in writing and at least seven days prior to the public hearing, and shall be provided an opportunity to be heard at such hearing.

- A. Cemetery;
- B. Municipal use (not otherwise provided for);
- C. Public utility use (other than as provided by Section 19-304(3)(B));
- D. Stables, public; saddle horses for hire;
- E. Transformer stations;
- F. Wind power generation equipment;
- G. Temporary Buildings that house a use incidental to and reasonably required by an occupant of residential property on the same parcel for a non-commercial purpose (other than the storage or repair of a recreational or fishing vessel, or fishing equipment). Such temporary buildings shall be removed within one (1) year at the owner’s expense, unless the permit therefor shall have been extended by the Board for not more than one year. Applications for temporary building permits must be accompanied by a bond, bill of sale, or other instrument acceptable to the City Manager to guaranty the removal and disposal of the building.
- H. Distributed Power Generation Facilities having a capacity to generate electricity at the rate of 500 or more kilowatts AC. Distributed Power Generation Facilities having a capacity of less than 500 kilowatts also may be sited in any zone other than the Residential A or AA zones, but shall not require Planning Board approval. No Distributed Power Generation Facility may be fueled by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products. When sited in a residential, rural residential, or transitional business zone or in the Downtown Zone, a Distributed Power Generation Facility that is not a Community-Based Renewable Energy Project must be located either on the same lot as the use to be served by the electricity and/or thermal energy supplied by the Facility, or on an adjacent lot. For this purpose, “solid waste” shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended.

* * *

Sec. 19-316 Performance Standards

A. Dust, Fumes, Vapor, and Gases.

(1) General Provisions. Emission of dust, fly ash, fumes, vapors, smoke, or other particulate matter or gases and chemicals which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

(2) Air Pollution From Power Generation Facilities. The Planning Board or other applicable permitting authority shall condition the establishment of any new power generation facility that requires either a state or federal air emissions license or permit upon (A) the applicant’s receipt of such license(s) or permit(s), and (B) the applicant’s demonstration that the facility shall comply with the applicable emissions limitation:

- (i) A Distributed Power Generation Facility or system that will serve one or more existing commercial, industrial, institutional, municipal, and/or residential facilities shall demonstrate no net increase in the emissions discharge of regulated air pollutants as compared to the annual emissions currently generated to provide electricity and

thermal energy for the facility or facilities to be served by the Distributed Power Generation Facility or system, whether such electricity and thermal energy is currently generated on-site or purchased over the grid;

(ii) Distributed Power Generation Facilities serving one or more new or substantially expanded commercial, industrial, institutional, municipal, and/or residential facilities: a net reduction of total point source emissions discharges of regulated air pollutants by at least 10% of the air pollutants that would be emitted discharged, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, to provide such facility(ies) with electricity from the grid and on-site thermal energy in the absence of the Distributed Power Generation Facility. Such net emissions reduction shall be maintained so long as the facility remains in operation;

(iii) Grid-Scale Power Generation Facilities: a net reduction of total point source emissions discharges of regulated air pollutants shall be achieved. The excess thermal energy produced in the power generation process must be utilized to replace the thermal energy currently being produced at existing commercial, industrial, institutional, municipal and/or residential facilities in Rockland. The total air emissions from the grid scale power generation facility, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, must be 25% less than the total current permitted or modeled emissions for the facilities to which the grid scale power generation facility would provide thermal energy. If this provision cannot be directly met by utilization of the excess thermal energy, the developer of the grid-scale power generation facility can meet this provision by funding energy efficiency upgrades at buildings and commercial facilities in Rockland that would provide sufficient additional reductions to meet this requirement. Emissions reductions under this provision must be contractual. Such net emissions reduction shall be maintained so long as the facility remains in operation.

For the purposes of measuring emissions for compliance with this subparagraph 2, emissions shall be calculated and modeled as the sum of all annual emissions for all regulated parameters currently emitted by existing sources as described above, compared to the sum of the annual emissions projected for the proposed power generation system or facility. Emissions calculations for power purchased over the grid shall be based on the current emissions profile for Standard Offer power, as approved by the Maine Public Utilities Commission and in effect at the time the application is found to be complete.

Values for NO_x, SO_x, CO, CO₂, and PM and any other air emissions parameters regulated in air emissions licenses for the existing facility(ies) being offset, or of the proposed new power generation system or facility, shall be included in the analysis. The applicant shall submit data for three years under existing conditions, and the municipal review authority may designate the reference year for permitting purposes. Where air emissions data is not available for existing systems either of two methodologies may be used separately or in combination to model existing emissions. One option is to model emissions based on fuel consumption and characteristics (higher heating values (“HHV”), ash content, etc.) data acceptable to the Planning Board, assuming a system efficiency of not less than 80% for the existing system. The second option is to use EPA-accepted benchmark and reference values for the types of air emissions sources modeled. The applicant shall submit existing conditions and post-construction models to the local permitting authority.

The Code Enforcement Officer shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility’s operator to demonstrate that the applicable air pollutants emissions discharge limitation is achieved and maintained, and may revoke said certificate of occupancy following notice and the operator’s failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility’s operator shall, within three days, report to the Code Enforcement Officer the occurrence of any air emissions license exceedance, and of any notice of violation issued regarding the operation of the Grid-Scale Power Generation Facility.

(3) Cooling Process Water Vapor. The Planning Board or other applicable permitting authority shall condition the site plan approval and/or building permit, as may be applicable, for the operation of any cooling tower or other mechanism utilized to cool water utilized in any power generation or other production facility by exposing such water to the ambient air or by another open cooling process that causes the emission of water vapor upon the applicant’s demonstration that:

(a) Such cooling process employs best-available control technologies to eliminate or reduce such water vapor

emissions. Such technologies must, at a minimum, preclude the emission of water vapor and precipitation beyond the facility's boundary line in a manner or amount that constitutes a public or private nuisance;

- (b) The cooling tower is equipped with efficient drift eliminators that achieve drift reduction to a maximum of 0.002% of the recirculated water volume for counterflow towers and 0.005% of the recirculated water flow for cross-flow towers;
- (c) The cooling tower is equipped with conductivity probe(s) to automatically determine the blow-down frequency, and flow meter to measure and totalize flow;
- (d) The cooling tower shall contain a side stream filtration system or other technologies to remove solids while minimizing tower water loss;
- (e) The cooling tower shall incorporate biological and pH control measures that automatically treat the tower water when the tower is in operation;
- (f) The facility has adopted an inspection and maintenance program for the cooling process facility, including periodic disinfection of areas where pooling may occur; and
- (g) Open-system cooling towers having a capacity of under 500 tons shall be set back at least 75 feet from the property line; cooling towers having a capacity of 500 or more tons shall be set back 200 feet from the property line;

Applicant shall submit with its application a dispersion model of the anticipated water vapor plume.

(4) Fugitive Emissions; Gas Piping Safety. The Planning Board or other applicable permitting authority shall require the applicant for site plan approval and/or building permit, as may be applicable, for a power generation facility that is proposed to be fueled by natural gas, propane, or other gaseous fuel source, to demonstrate that the facility has made provisions for minimizing, to the greatest extent that is reasonably practicable, the risk that any structure, infrastructure, storage tank, equipment, or process at the facility will leak, emit, discharge, or otherwise allow to escape any natural gas, methane, propane, or other gaseous fuel into the air, whether internally or externally to the facility. Such facility shall comply with the following codes and standards in effect as of April 11, 2016, or as thereafter amended:

- (a) National Fire Protection Association ("NFPA") 54 (National Fuel Gas Code);
- (b) NFPA 52 (Vehicular Gaseous Fuel Systems Code);
- (c) NFPA 56 (Standard for Fire and Explosion Prevention);
- (d) NFPA 56PS (Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems);;
- (e) NFPA 85 (Boiler and Combustion Systems Hazards Code);
- (f) NFPA 86 (Standards for Ovens and Furnaces)
- (g) American National Standards Institute ("ANSI") Z223.1 (National Fuel Gas Code);
- (h) ANSI 380.1 (Guide for Gas Transmission and Distribution Piping Systems);
- (i) Advanced Systems Management Interface ("AMSE") B31.3 (Process Piping Standards);
- (j) ASME B31.8 (Gas Transmission and Distribution Piping Systems Code);
- (k) Title 32, Maine Revised Statutes ("M.R.S.") Ch. 130 (Propane and Natural Gas Act);
- (l) 32 M.R.S. Ch. 139 (Maine Fuel Board);
- (m) 02-658 Code of Maine Regulations (Maine Fuel Board Rules);

- (n) 35-A M.R.S. Ch. 45 (Natural Gas Pipeline Utilities); and
- (o) 35-A M.R.S. Ch. 47 (Gas Utilities).

The facility's operator shall hire a Professional Engineer to inspect and approve the contractors installation and ensure code compliance. Fuel gas supply systems shall be monitored with combustible gas monitors with remoting alarming back to the facility. The combustible gas monitors must be inspected and tested on a monthly basis as part of a preventive maintenance schedule and program.

The facility operator shall strictly adhere to the above codes and standards pertaining to operations, maintenance, and testing on an annual basis. Such maintenance procedures, inspections, and testing shall be properly documented with formal procedures, test sheets with sign-offs, and inspections by the local authority. The annual testing shall include the following tests at a minimum:

- (i) Verification of the operation of the combustible gas monitoring system;
- (ii) Pressure-testing of all natural gas or propane supply piping downstream of the gas utility demarcation point to the facility. Pressure tests shall comply with NFPA 54 or 56, based on system pressure. The pressure test shall be witnessed by the local authority and signed off. The test report shall be submitted to the City within 5 days of completing the test.

The Code Enforcement Officer and/or the Fire Chief or his designee shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility's operator to demonstrate that the applicable gas piping safety provisions are complied with, and may revoke said certificate of occupancy following notice and the operator's failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility's operator shall, within three days, report to the Code Enforcement Officer any **release of** fugitive emissions **discharge**.

B. Odors.

A. No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground level of habitable elevation. For purposes of this section, an "offensive odor" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of the Odor Committee per the Rockland City Code, Chapter 10, Article III.

B. Any proposed use which may emit odoriferous substances must include detailed plans to mitigate such to the Planning Board before the appropriate permit is granted

C. Lighting.

Statement of Purpose: Ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics.

(1) Definitions: For the purposes of this Section, terms used shall be defined as follows:

- (a) Authority having jurisdiction – The Planning Board or Code Enforcement Officer.
- (b) Direct Light – Light emitted directly from the lamp, off the reflector or reflector diffuser, through the refractor or diffuser lens, or from a luminaire.
- (c) Fixture – The assembly that houses the lamp(s), including but not limited to housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and/or a refractor or lens.
- (d) Flood or Spot Luminaire – Any luminaire that incorporates a reflector or a refractor to concentrate the light output into a directed beam.

- (e) Indirect Lighting – Direct light that has been reflected or scattered off other surfaces.
- (f) Luminaire Height – The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
- (g) Lamp – The component of a luminaire that produces light.
- (h) Lumen – A unit of luminous flux. One foot-candle is equal to one lumen per square foot. For the purposes of this section, the lumen-output values shall be the initial lumen output ratings of a lamp.
- (i) Luminaire – A complete lighting system, including lamp(s) and/or fixture(s).
- (j) Outdoor Lighting – Nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.
- (k) Temporary Outdoor Lighting – Outdoor lighting in place for less than fourteen (14) days, with at least eighty (80) days passing before being used again.

(2) Regulations: Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting installed in the City of Rockland shall comply with this section, except for the following: lighting installed and maintained for public safety by Municipal, State or Federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaires with a lamp or lamps rated at a total of 2,000 lumens or less.

- (a) No luminaire shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.
- (b) Luminaires shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaire shall emit any direct light above a its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.
- (c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.
- (d) Rather than leaving security lights on, the use of motion sensors is encouraged.
- (e) Direct or indirect illumination shall not exceed one-half (1/2) foot-candles upon abutting residential properties.
- (f) Unless otherwise approved by the authority having jurisdiction, luminaire height, including the base, shall not exceed twenty-five (25) feet in non-residential areas and fourteen (14) feet when adjacent to residential zones or neighborhoods. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(3) Existing Non-Conforming Luminaires:

- (a) The continued use of non-conforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard or in violation of any State or Federal laws.
- (b) Non-conforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section. Eff: 8/9/06

D. Noise and Vibration.

(1) Excessive noise and/or vibration at unreasonable hours shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

(2) No use in any zone may generate any ground transmitted vibration that is perceptible to the human sense of touch measured at the lot line of the complainant.

(3) The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by an activity shall be as established by the time period and type of zone listed below for all uses except Grid Scale Power Generation Facilities:

(a) For all uses other than Grid-Scale Power Generation Facilities:

Zone	7 a.m. - 9 p.m.	9 p.m. – 7 a.m.
Industrial, Business Park and WF1 thru WF5	75 <u>55</u> dBa decibels	60 dBa decibels
Rural Residential <u>1 and 2</u> , Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Downtown	75 dBa decibels	55 dBa decibels
Transitional Business 1, Transitional Business 2	65 dBa decibels	50 dBa decibels
Transitional Business 3, Transitional Business 4, Neighborhood Commercial, Resort, <u>Residential AA, A, and B</u> Zones	55 dBa decibels	45 dBa decibels

(b) Noise from Grid-Scale Power Generation Facilities and Distributed Power Generation Facilities shall be measured utilizing the Octave Band Center Frequency of Measurement, as follows:

<u>Octave Band Center Frequency of Measurement</u>	<u>Grid-Scale Power Generation Facilities</u>	
	<u>Property Line</u>	<u>Residential Zone Line¹</u>
<u>31.5</u>	<u>83 dBa</u>	<u>72 dBa</u>
<u>63</u>	<u>82 dBa</u>	<u>71 dBa</u>
<u>125</u>	<u>77 dBa</u>	<u>65 dBa</u>
<u>250</u>	<u>73 dBa</u>	<u>57 dBa</u>
<u>500</u>	<u>67 dBa</u>	<u>51 dBa</u>
<u>1000</u>	<u>61 dBa</u>	<u>45 dBa</u>
<u>2000</u>	<u>57 dBa</u>	<u>39 dBa</u>

<u>4000</u>	<u>53 dBA</u>	<u>34 dBA</u>
<u>8000</u>	<u>50 dBA</u>	<u>32 dBA</u>
<u>Single Number Equivalent</u>	<u>70 dBA</u>	<u>55 dBA</u>

¹ “Residential Zone Line” means the nearest point on the property line of the nearest parcel of land that is in a residential zone, in every direction.

Sound pressure levels shall be measured on a sound level meter at all lot lines of the site, at a height of at least four (4) feet above the ground surface. Noise shall be measured with a sound level meter and frequency weighing network meeting the standards prescribed by the American National Standards Institute. The levels specified may be exceeded by the (10) decibels (dBs) for a single period, no longer than fifteen (15) minutes, in any one (1) day.

(4) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise or vibration entering that zone.

(5) Noise or vibration created by construction and maintenance activities between 7 a.m. and 9 p.m. are exempt from the requirements of paragraphs (2) and (3) above. Construction activities on a site abutting any residential use between the hours of 9 p.m. of one day and 7 a.m. of the following day are prohibited, unless exempted pursuant to Subparagraph (7)~~shall abide by the maximum sound levels allowed for the Commercial 1 Zone.~~

(6) These noise and vibration regulations are enforceable by law enforcement officers and by the Code Enforcement Officer, who may measure noise or vibration levels and who shall report documented violations to the police. For the purposes of enforcement, sounds exceeding the limits established in this section shall be deemed to constitute "loud and unreasonable noise" under Title 17-A M.R.S. § 501-A.

(7) The following uses and activities shall also be exempt from paragraphs (2) and (3) above:

- (a) the noise or vibration of safety signals, warning devices, emergency pressure relief valves, and any other emergency device;
- (b) normal traffic noise or vibration on public streets or noise or vibration created by airplanes, railroads, and farm or timber harvesting machinery;
- (c) noise or vibration created by refuse or solid waste collection, provided that the activity is conducted between 6 a.m. and 7 p.m.;
- (d) emergency construction or repair work by public utilities, at any hour;
- (e) noise or vibration created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City including, but not limited to, parades, sporting events, concerts and firework displays;
- (f) vehicle and/or equipment involving municipal services at any hour;
- (g) road construction, reconstruction, and/or paving activities by or on behalf of the City of Rockland or the State of Maine, or as part of road restoration work following emergency construction or repair work by or on behalf of a public utility;
- ~~(hg)~~ noise and vibration created by ordinary residential maintenance activities such as lawn mowing or snow throwing between the hours of 6 a.m. and 9 p.m.

E. Refuse Disposal.

All solid and liquid wastes shall be disposed of on a timely basis and in a manner provided for by Federal, State, and local regulation. All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats, animals, or other vermin. All such wastes shall be stored so as to prevent access to or disposal by stray animals. This shall be accomplished by enclosures in containers, raising material above ground, separation of material, prevention of stagnant water, extermination procedures, or other means. Outdoor storage containers and areas shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

F. Water Quantity, Quality, and Discharge Impacts.

(1) Water Quantity: New electric power generation facilities and new processes serving existing facilities requiring a new or amended permit from the City other industrial land uses, and new processes serving existing industrial uses, that are permitted or commenced on or after April 11, 2016, shall comply with the following standards affecting the quantity of water consumed at such power generation or other industrial facility:

- (a) Cooling, steam generation, hot water distribution, and other processes or systems that utilize unprocessed water for heat transfer in Grid-Scale Power Generation Facilities, Distributed Power Generation Facilities, or Community-Based Renewable Energy projects or other mechanical, industrial, or production purposes shall be designed and engineered to recycle or reuse at least 80% of the unprocessed source water drawn from the water company, well, aquifer, or other potable water supply source serving the facility. No such minimum reuse or recycling requirement shall be imposed where the source water is processed municipal or other wastewater;
- (b) No single Community-Based Renewable Energy Project, Distributed Power Generation Facility, or Grid-Scale Power Generation Facility may draw or consume more than two hundred, fifty thousand (250,000) gallons of unprocessed source water per day for make-up water for electrical power generation; and
- (c) To assure the maintenance of sufficient flows for fire suppression and other uses throughout the year, including during periods of drought or reduced water supply, the operator of a facility located in or adjacent to the Rockland Industrial Park shall either (i) have demonstrated to the satisfaction of the permitting authority that there will be no reduction in the available supply and flows for such other uses, or (ii) provided for sufficient on-site water storage to meet the facility's requirements without reducing the water supply available for such other uses.

Operators of such facilities shall monitor, measure, and record their water usage, recycling, and discharge levels and, at least monthly, report the same to the Code Enforcement Officer.

(2) Water Quality – Materials Storage:

(a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or use nuisances, such as objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

(b) All above ground storage facilities fuel, chemical or industrial wastes, and biodegradable raw materials (excluding non-commercial compost heaps), shall be completely enclosed by an impervious dike, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a twenty-five (25) year storm, so that such liquid shall not be able to spill or seep onto the ground surrounding the paved storage area. Storage tanks for home heating oil, and diesel fuel, not exceeding two hundred and seventy-five (275) gallons in size, are exempt from this requirement in situations where neither a high seasonal water table (within fifteen (15) inches of the surface) nor rapidly permeable sandy soils are involved.

(c3) All below ground tanks must meet the standards of the Maine Department of Environmental Protection.

(3) Water Discharge: Water and wastewater discharges into any sanitary sewer must comply with the applicable national and state pretreatment standards, local discharge restrictions, and other limitations set forth in Chapter 14, Article IV. No person or entity may discharge any pollutant to any storm sewer without first obtaining a valid National Pollutant Discharge Elimination System ("NPDES") permit from the Environmental Protection Agency or Department of Environmental Protection for such discharge, and no such discharges may exceed the applicable limit(s) imposed by such NPDES permit.

G. Landscaping.

(1) General Landscape Standards

(a) Purpose. The purpose of the following landscape standards is to protect the public welfare by assuring that:

i. the landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes;

ii. landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses;

iii. plant materials are appropriate to Maine climatic conditions and the functions of the areas in which they are used;

iv. plant materials are of a size and condition that will allow them to establish themselves, mature, and survive in a healthy and attractive manner;

v. landscaping elements and the areas in which they are established are maintained in a clean, healthy, and attractive condition; and

vi. landscaping is not placed in such a way as to pose a safety hazard and plantings are designed so as not to interfere with sight distance along a right-of-way and traffic safety.

(2) Types and Uses of Landscape Elements

For the purpose of this ordinance:

(a) a canopy tree is a deciduous tree that reaches at least thirty-five (35) feet or more in height at maturity. Canopy trees are used to help create identity and establish the character of an area, to help define large spaces, and to provide shade in the hotter months of the year;

(b) an evergreen tree is a tree that reaches at least thirty-five (35) feet or more in height at maturity. Evergreen trees are used to create year-round interest with their dominant forms and color, to screen or direct views, act as windbreaks, and to provide a backdrop for other elements of a site. Where evergreen trees are installed in buffers, the installed heights should vary at a minimum from four (4) to twelve (12) feet to add greater variety and landscape interest;

(c) an understory tree reaches ten (10) feet to thirty-five (35) feet at maturity. Understory trees are used to provide eye-level landscaping features that help to scale down larger architectural and landscape elements, to define minor spaces, and to provide a variety of form, color, and accents to a site;

(d) shrubs have mature heights of two (2) to ten (10) feet. They are used to form physical and visual barriers, add seasonal interest and color, and help define the scale and location of buildings;

(e) miscellaneous plantings include ground covers, vines, perennials, annuals, bulbs, and other herbaceous material.

They are used to add seasonal color, form patterns on the ground plane, and add to the humanizing of the site.

(3) Minimum Size Standards. The plant materials defined in paragraph (2) shall meeting the following minimum size standards at time of installation, with calipers measured at diameter at four (4) feet above ground.

Canopy trees	1½" caliper
Evergreen trees	4' height
Understory trees	1½" caliper
Shrubs	18" - 24" height
Ground covers	2 year old plants

(4) Plant Selection. Plant materials shall be selected for appearance, durability, and tolerance to air pollution; native trees and shrubs shall be planted whenever possible. All plantings required under this section shall be of a type and species appropriate for soil types and climatic conditions in Rockland.

(5) Amenities and Stone Walls. Pools, sculptures, benches, and walkways may be used to complement plant materials. In cases where a traditional stone wall exists, it should be conserved or rebuilt in another location.

(6) Disturbed areas. Where buffers are not required, all disturbed areas not to be used as parking or building footprint shall be planted to lawn or left in their natural vegetated state as a minimum requirement.

(7) Maximum Slope. A maximum maintainable slope of three horizontal to one (3:1) vertical should be established for both the front and back of berms. Where room permits, a flat top area, four (4) feet in width should be provided.

(8) Fencing. Fencing materials should complement the architectural style of the buildings of the lot upon which they are erected. Fences shall not be used in locations that will obscure views of the water from public streets.

(9) Maintenance.

(a) All plantings and buffer yards shall be maintained in a good and healthy condition. The Maine Erosion and Sedimentation Control Handbook for Construction – Vegetative Measures, developed by the Maine Department of Environmental Protection shall be used as a guide. Fencing and berms shall be durable and properly maintained at all times by the owner. All landscaping elements shall be so located with respect to property boundaries to allow access for maintenance on both sides without intruding upon abutting properties.

(b) Plants required or recommended by this subsection or plants that are part of an approved Plan that die shall be replaced within one (1) growing season.

(10) Parking Areas. Landscaping shall be designed to accommodate attractive and safe pedestrian circulation patterns, and allow good visibility of oncoming pedestrians and vehicles throughout the parking area.

(a) Landscaping Within the Parking Areas.

Landscaping areas shall be provided within parking areas to provide shade and visual relief from broad expanses of pavement and to channelize and separate areas for pedestrian and vehicular circulation.

i. In addition to required perimeter landscaping, at least five (5) percent of the gross area of all parking lots with twelve (12) or more parking spaces shall be landscaped. Existing parking lots shall be exempt from this requirement although landscaping should be provided to the greatest extent possible.

ii. The recommended landscaping within the parking area should include a minimum of two (2) canopy trees, one (1) understory tree, and five (5) shrubs for every twelve (12) parking spaces or fraction thereof. For every mature canopy tree that exists on the proposed site of a parking lot prior to the parking lot's development and that is retained and integrated into the parking lot's design, the number of new canopy or understory trees may be reduced by two (2). If any such retained tree

dies within five (5) years of the date of the building use permit issued for the development, it shall be replaced with two (2) similar trees meeting the standards of this ordinance.

iii. The landscaping shall be:

(i) in planting areas at least ten (10) feet wide to accommodate canopy and/or understory trees. Planting areas should be located to demarcate the ends of parking rows, avoiding long rows of parked cars, and to channel pedestrian circulation. Planting areas should be edged with a six (6) inch continuous vertical curb or wheel stops to prevent vehicles from overhanging into planting areas and designed to allow efficient snow removal. Planting areas shall be oriented to maximize pedestrian safety and convenience;

(ii) located to break up parking areas into smaller areas of no more than fifty (50) spaces each;

(iii) designed to accommodate snow plowing and storage without damage to the plants and trees.

iv. Landscaping shall be provided except in the case of automobile drop-off loading area, or a vehicular entry in to a building, in order to enhance the appearance of the site and avoid impact to occupants from exhaust fumes and noise. The landscaped area should be no less than fifteen (15) feet deep from all buildings, except in commercial and industrial zones where the depth need be no more than four (4) feet, provided that the building footprint is less than twenty-five hundred (2,500) square feet. The area shall be landscaped with shrubs, groundcover, and trees where appropriate, and may include a walkway if the area is fifteen (15) feet deep or more.

v. To accommodate circumstances where the recommended landscaping may not fit site conditions, an applicant may submit an alternative plan for the siting of landscaped areas provided that an equal or greater amount of landscaped area is provided than would be otherwise required.

(b) Perimeter Landscaping.

Parking lots shall be landscaped adjacent to other uses and rights-of-way with trees, shrubs, fencing, and earth berming to avoid the impact of glare, headlights, parking lot lights, noise, and dust and to protect and enhance visual character as follows:

i. Abutting a public right-of-way:

(i) Where a parking area that includes six (6) or more parking spaces abuts a public right-of-way, a continuous landscaped strip shall be established between the right-of-way boundary line and the parking area and shall be maintained in good condition. It may be interrupted only by a driveway meeting the standards of this ordinance. In areas other than the Downtown, Commercial 3, Plaza Commercial, Business Park, and Rural Residential 1 zones, when the parking area abuts an arterial or collector street, the perimeter planting shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs, and six (6) evergreen trees per one hundred (100) linear feet of street frontage or fraction thereof exclusive of the width of the driveway. When it abuts any other right-of-way, it shall be at least six (6) feet wide and should be planted with at least two (2) canopy trees, two (2) understory trees, twenty (20) shrubs, and four (4) evergreen trees per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications. In the Plaza Commercial, Business Park, and Rural Residential 1 zones the landscaped strip shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, six (6) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications. The plantings shall be designed and located so as not to interfere with sight distance along the right-of-way and traffic safety.

(ii) In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and should be planted with at least three (3) canopy or evergreen trees, four (4) understory trees, and twenty (20) shrubs per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications.

ii. Where a commercial parking facility or a parking area serving a nonresidential use abuts a residential zone or a lot wholly or partially in residential use, a continuous landscaped strip shall be established between the adjoining zone or use and the parking area at least ten (10) feet wide and shall be maintained in good condition. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. The landscape strip shall be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs and six (6) evergreen trees per one hundred (100) linear feet of frontage. The number of trees for frontage less than one hundred (100) feet shall be in proportion to the above specifications. For every mature canopy or evergreen tree existing in the area prior to construction of the parking lot and preserved within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced with two (2) similar trees meeting the standard of this ordinance. As an alternative, a dense hedge or screen composed of at least 2/3 evergreen plantings four (4) feet or more in height at the time of planting of a type which will reach six (6) feet or more in height within five (5) years may be substituted. If the land is bermed to a height of two (2) feet or more, the height of the plantings may be adjusted.

H. Buffering and Screening

(1) Purpose. The following buffer standards are intended to protect the public welfare. Buffers of plantings, berms, and/or walls, fences or natural features should:

- (a) separate conflicting land uses, zones or activities from one another;
- (b) create visual barriers which obscure buildings, signs, headlights, glare, vehicles or other modifications of the landscape;
- (c) reduce the impact of noise;
- (d) reduce air pollution, wind, dust, dirt, and litter and contribute to healthy air and water quality;
- (e) help prevent undesirable access to dangerous areas; and
- (f) direct the eye to more attractive views in keeping with the planned character of the City.

(2) General Standards.

(a) Unless otherwise stated, buffer requirements shall apply to perimeter property lines of projects and along arterial and collector streets in the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Industrial, Business Park, and Rural Residential 1 zones, and in master planned developments. The perimeter property lines of projects shall be considered to be the perimeter lines of:

- i. business or industrial parks;
- ii. master planned residential, commercial, or mixed use developments;
- iii. single commercial, business, or industrial developments not associated with a subdivision or park or master planned development.

(b) Natural features shall be maintained whenever possible to meet buffer requirements. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops, do not exist or are insufficient to provide an effective buffer, landscaped buffers shall be created. Indigenous plantings shall be used whenever possible.

(c) Although this ordinance does not prohibit landscaping within a street or street right-of-way, no part of the right-of-way shall be used to satisfy buffer requirements.

(d) Landscaping and Maintenance

See Section G, above.

(3) Multifamily and Nonresidential Uses Abutting a Residential Zone.

(a) The required side and back yards of nonresidential uses that abut properties in residential zones, or of multifamily uses that abut properties in single family residential use, shall be retained in their natural vegetated state to the maximum extent possible to provide a visual screen between uses. The buffer may be part of the setback.

(b) Where natural buffering does not exist, or is not possible to be retained, or is not sufficient to achieve an effective, complete visual screen, the required side and back yards shall be landscaped to provide a visual screen between uses. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. In areas other than the Industrial, Downtown, Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least ten (10) feet wide and shall be planted with at least three (3) canopy trees and twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

For uses that are subject to site plan review in the Industrial Park, the landscaped strip at sites approved or substantially reconstructed after April 11, 2016, shall be at least ten feet wide and shall be planted with at least one evergreen tree such as Norway Spruce every ten feet to create a continuous, dense screen and maintained and not pruned so as to retain such screen from the ground to the peaks of the trees.

In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and shall be planted with at least three (3) canopy evergreen trees, four (4) understory trees and fifteen (15) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

In the Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least thirty (30) feet wide and shall be planted with at least three (3) canopy trees, twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion with the above specifications.

For every mature canopy or evergreen tree existing prior to development and retained within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced by two (2) similar trees meeting the standard of this ordinance.

(4) Front Yards of Multifamily and Nonresidential Uses. The required front yards of multifamily and nonresidential uses shall be maintained in a landscaped condition.

(5) Exposed Areas and Areas for Commercial Outdoor Storage. Exposed machinery installation, sand and gravel extraction operations, and areas for the storage and collection of discarded or uninspected vehicles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include dense evergreen hedges, four (4) feet or more in height at the time of planting, of a type that shall reach six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more, the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be provided and be maintained in good condition.

(6) Areas for Outdoor Sales and Automobile Repair in the Rural Residential 1 Zone. Areas for outdoor sales and automobile repair in the Rural Residential 1 Zone shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include a dense evergreen hedge, four (4) feet or more in height at the time of planting, of a type that will reach six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete, visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be

maintained in good condition.

I. Storage of Materials and Machinery.

(1) Bulk Storage; Junkyards. All outside storage areas, areas used for the storage or collection of discarded automobiles, auto parts, metals, and any other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area. All materials stored outdoors shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

(2) Attractive Nuisances. Where a potential safety hazard to children would likely arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and maintained in good condition.

(3) Fuels And Hazardous Materials. Above-ground fuel (including, without limitation, propane, liquefied natural gas, compressed gas, oil or other petroleum product, and biomass feedstock or products) storage, chemical storage (including without limitation ammonia, urea, or other compounds utilized for air emissions treatment, process water treatment, or cooling water treatment), hazardous materials storage areas, tanks, or other facilities serving any commercial or industrial use, and processes utilizing any hazardous materials shall be (a) adequately screened so as to prohibit public access and provide visual and safety barriers, (b) included in an emergency response plan for the facility that is reviewed and approved by the Fire Chief or his designee, and (c) subject to periodic inspection by the Fire Chief or his designee pursuant to Chapter 7, Article II or other applicable provision of law.

J. Preservation of Water Views.

Development in Transitional Business 2 and Transitional Business 3 zones shall preserve water views to the maximum extent feasible. In the Transitional Business 3 zone, a fifty (50) foot wide space between buildings at least every one hundred fifty (150) feet shall be provided to afford views of the waterfront from public rights-of-way.

K. Transportation, Traffic, and Curb Cuts.

In the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Transitional Business 1, Transitional Business 2, Transitional Business 3, Neighborhood Commercial, Business Park, and Industrial zones:

(1) development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation and traffic interface with public highways and pedestrian and bicycle safety.

The Program shall demonstrate that additional traffic generated by the project itself can be accommodated on existing public highways or that satisfactory improvements, if necessary, will be made at the developer's cost. The Planning Board may require a Traffic Impact Study also at the developer's expense. Where traffic studies indicate, deceleration lanes and/or turning lanes will be provided.

Development proposals shall discourage conventional strip development by the use of centers or clusters of development, shared accessways, and buffer zones.

(2) Whenever possible, development proposals shall use access from existing side streets where they abut the premises on secondary street frontage in cases where they will not create a hazardous nuisance to those sending streets. Where this access is not available, a single accessway or curb-cut should provide access to the entire parcel. All lots from the same original parcel should be accessed from this central point.

(3) On or after April 11, 2016, prior to permitting new land uses that are to utilize as fuel or for other purposes compressed natural gas ("CNG"), biomass (e.g., wood chips, wood pellets, sawdust, straw, or other bulk organic matter), or municipal or other solid waste transported to the site by ten or more trucks each having a gross vehicle weight rating ("GVWR") of 60,000 lbs. or more per day, the review authority shall require the applicant to prepare and submit a traffic study acceptable to such review authority that provides for the mandatory routing of such delivery trucks via routes and at

times of day that minimize their impact on neighborhoods and roads.

~~L. The above alternative Performance Standards shall be adhered to, however, proposals of exceptional merit that meet the spirit of these standards may be accepted by the Planning Board.~~

L. Inspection & Maintenance Programs. Developers or Operators of Grid-Scale or Distributed Power Generation Facilities shall prepare, obtain City of Rockland approval of, and comply with an Inspection & Maintenance Program for the facility. Each such program shall include, at minimum:

- (1) Annual inspections, and documentation of needed and completed repairs;
- (2) A maintenance schedule, identifying elements requiring routine maintenance, the maintenance to be performed, and the frequency of such maintenance activities;
- (3) Noise testing prior to and at least annually after obtaining a Certificate of Occupancy for the facility, and upon request by the Code Enforcement Officer;
- (4) Annual submittal to the Code Enforcement Officer of proof of Annual testing to assure continued compliance with federal or state air emissions license(s) or permit(s) and annual submittal of a report of the continuance of any air emissions reductions required under Subsection 19-316(A)(2), when applicable;
- (5) Cooling tower and chemical tower treatment maintenance practices;
- (6) Annual pressure testing and inspections of natural gas or propane supply piping, in the presence of the Fire Chief or his designee; and
- (7) All other testing and inspections required under Chapter 19 or applicable law or regulation.

In the event of non-compliance with any required component of the Inspection & Maintenance Program, the Code Enforcement Officer shall give notice of such default and, no sooner than ten days following such notice, may revoke the operator's certificate of occupancy upon the operator's failure to cure said non-compliance and/or seek the imposition of penalties and other remedies available under applicable law.

M. Exemptions.

These performance standards shall not apply to any "emergency stationary reciprocating internal combustion engine ('RICE')" as defined in 20 C.F.R. Part 63, Subpart ZZZZ, Sec. 63.6675.

#11 Chapter 16, Article II Power Generation Facilities (Postponed 6/13/16)

(See pages 58-60 for text, and pages 101 & 116 for amendments)

It was noted that this Ordinance Amendment was postponed until this meeting, after receiving a public hearing and motion for final passage at the 05/09/16 Regular Meeting.

Councilor Pritchett moved to amend Ordinance Amendment #11 by adding the following:

"Notwithstanding anything to the contrary in Title 1, Maine Revised Statutes, Section 302, this Ordinance Amendment is intended to and shall apply to any site plan or building permit application filed with the City on or after June 12, 2016."

Councilor Clayton said that he would not support this ordinance as there are still too many open questions that have not been fully answered. He said it feels as though these ordinances are over-reaching and are not what was originally intended. He said that he agreed with postponing these ordinances last month in the hopes of having one more workshop before taking a final vote. He said that he still has concerns about these ordinances and will not support them, but that does not mean he is not environmentally conscientious.

Vote on amendment: 5 for.

Councilor Pritchett explained that the meeting held by the Energy Committee was its regular monthly meeting and was not intended to replace the workshop on these ordinances. He said the Committee came out with two small recommendations;

the language about the ordinances being retroactive to 06/12/16, and the language in the previous ordinances exempting emergency backup generators from these regulations. He added that these regulations are in may not go far enough to protect water resources, but those provisions apply only to power generation facilities. He said that he disagreed with some of the interpretations being fostered with regard to these regulations, but they can be revisited in the future if problems arise. Councilor Clayton said that even with the passage of these ordinances, he would still like to see an additional workshop to try and address the remaining questions, and proposed that such workshop be held on July 18, 2016.

Vote as amended: 4 for, 1 opposed.
(Clayton)

Ordinance Amendment #11, as amended, will become effective 08/10/16 and now reads as follows:

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 16, Site Plan And Subdivision Review, ARTICLE II, Site Plan Review Ordinance, BE AMENDED AS FOLLOWS:

Notwithstanding anything to the contrary in Title 1, Maine Revised Statutes, Section 302, this Ordinance Amendment is intended to and shall apply to any site plan or building permit application filed with the City on or after June 12, 2016.

Sec. 16-201 Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

* * *

Notice Required. All property owners within three hundred (300) feet of the lot lines of any proposed change of use under this section shall be notified in writing at least ten (10) days prior to consideration of the change of use by the Planning Board. When the use of the lot that is the subject of a site plan application is a grid-scale power generation facility, notice of the application shall be provided to the Knox County Emergency Management Agency for distribution to municipalities and, when the lot abuts a town line, to the Selectmen and/or Manager of such adjacent town, whether or not such use constitutes a change of use. Submission deadlines shall be the same as for any Site Plan Review.

Sec. 16-201.1 Exceptions to Review Requirements

- 1. New Structures or additions or changes in use will not be reviewed under the Site Plan Review Ordinance if in any five year period the new structure or new addition or the structure within which a change of use is to be located is:
 - A. Under 600 square feet in gross floor area and does not exceed 20 feet in height, or
 - B. Located in the City of Rockland Industrial Park, except grid-scale and distributed power generation facilities.

* * *

Sec. 16-203 Elements of the Site Plan

* * *

18. Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it to such engineer, traffic professional, environmental expert, financial expert, facilities safety expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (19) below.

* * *

Sec. 16-204 Standards

A site plan shall be approved unless in the judgment of the Planning Board one or more of the following conditions are found to exist:

1. Traffic. The provisions for vehicular loading, unloading, and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public and private streets and ways will create hazards to safety, or will impose a significant burden upon public facilities. There shall be a presumption that sidewalks are required. However, in those cases where the Planning Board makes a specific finding that, due to the inadequacy or lack of connecting sidewalks adjacent to the proposed project, together with circumstances within the proposed project which render the immediate construction of sidewalks inappropriate, the Planning Board may substitute one of the following conditions:

- A. It may require a reasonable payment from the applicant to be used to link the proposed project to the City's sidewalk system when the system reaches the proximity of the project.
- B. It may waive the requirement either partially or entirely.
- C. It may make reasonable provision for the construction by the developer of sidewalks serving the project, whether or not the sidewalks are actually within the project.

2. Compatibility with Other Uses; Burden on Public Facilities. The size and location of proposed building and structures and the proposed uses thereof will be detrimental or injurious to other private or public development in the neighborhood or will impose significant burdens upon public facilities.

3. Landscaping. The provisions of on-site landscaping and screening do not provide adequate protection to neighboring properties from detrimental features of the development. The Planning Board may modify or waive the landscaping, screening, and/or buffering requirements set forth in Ch. 19, Art. III, Sec. 19-316 – Performance Standards where the Board finds that part or all of the landscaping or buffering required thereunder either (A) is impracticable due to site constraints not caused by the proposed development other than its utilization of or compliance with setback requirements; (B) is unnecessary due to the compatibility of abutting existing or proposed uses; or (C) would impede or detract from the programmatic, aesthetic, or community benefit components of a proposed development of exceptional merit. Financial burden or capacity shall not alone justify a waiver of a landscaping, screening, or buffering requirement.

4. Drainage. The site-plan fails to solve the soil and drainage problems that the development will create.

Projects within the Chickawaukie lake watershed, as defined in Section 19-304-13, shall be required to improve existing man-made drainageways flowing directly or indirectly to Chickawaukie Lake which will receive storm water from the proposed development, if such storm water is calculated to increase in volume above existing conditions. The volume of sediment or dissolved nutrients reaching Chickawaukie Lake shall not be increased.

5. Lighting. The provisions of exterior lighting create a hazard for vehicular or pedestrian traffic or safety or will unreasonably diminish the value or create a hardship to the reasonable enjoyment of adjacent property.

6. Fire Hazard. The proposed development will create fire hazard.

7. Sewer; Water; Solid Waste. The proposed development will impose an undue burden on on-site and off-site sewer and water or solid waste disposal.

8. Compatibility With Area. The proposed use and layout will be of such size or character that it will not be consistent with the appropriate and orderly development of the surrounding area.

9. Signs. If a sign is part of the application, the Planning Board does not have jurisdiction over review of this element. Standards and procedures relating to signs or other advertising devices are contained in Chapter 19 of the Rockland Code, Section 19-315, Signs.

10. Compliance With Other Ordinances. The proposed use, building, design or layout will not meet the provisions of the Zoning Ordinance or other regulations and ordinances of the City of Rockland or statutes of the State of Maine.

11. Financial Capacity. The applicant has not demonstrated that it has sufficient financial capacity to fund and complete (1) any improvements directly affecting any disturbed right-of-way or utilities or other infrastructure therein.

12. Decommissioning. The Board may require that an applicant proposing to erect a wind ~~turbine~~ or construct a ~~Grid-Scale Power Generation Facility or Community-Based Renewable Energy Project any other form of power generation equipment or facility~~ submit a Decommissioning Plan for the Board's review and approval. For these purposes, "decommissioning" may include, at the Planning Board's discretion, the physical removal of all components of the project, including, as may be applicable, wind turbines, cabling, electrical equipment, structures and associated facilities, and all materials and chemicals. The Board may accept a decommissioning plan that provides for decommissioning no later than five years following the cessation of power generation on the site so long as the operator is, during such five year period, actively seeking to achieve a repurposing of the site and facilities to be decommissioned. The decommissioning plan must include a detailed estimate of the costs of decommissioning, and a financial plan acceptable to the Board for funding such decommissioning costs. To the extent any structures or components are proposed to be omitted from the decommissioning, the plan shall provide evidence of alternative, beneficial use of such structures and components following the cessation of power generation on the site.

Sec. 16-205 Approval

1. Assignment. A successor to an applicant who has received site plan approval by the Planning Board pursuant to this Article, or other assignee of such approval, shall be bound by and must comply with the application, site plan and related materials, and representations of such applicant, and with all conditions of approval and other requirements imposed by or on behalf of the Planning Board, to the fullest extent permitted by law. Notwithstanding the foregoing, a site plan approval for a Grid-Scale Power Generation Facility may not be assigned without Planning Board approval, and shall be void in the absence thereof.

24. Completion Deadline. If an applicant has not obtained a Certificate of Occupancy from the code enforcement officer within two (2) years from the date on which the Planning Board granted its approval under Sec. 16-202.4, then the applicant shall be subject to a penalty under Sec. 16-207. The Planning Board may permit an extension of up to one (1) additional year to obtain a Certificate of Occupancy for good cause shown.

32. Violation. Failure to comply with the order of the Planning Board shall constitute a violation of this Article and shall be subject to Section 16-207.

#12 Chapter 2, Section 2-509 Disposition of Lien-Acquired Property

(See page 72 for text)

It was noted that this amendment was postponed until this meeting, after receiving a public hearing and motion for final passage at the 05/09/16 Regular Meeting.

Councilor Pritchett said that he was confused by the discussion of this proposal at the Agenda-Setting meeting on July 6th, and asked for clarification.

Acting City Manager Caler-Bell explained that there are certain provisions in this proposal that are contrary to the requirements of the City Charter. Further, the City already possesses the authority to do what this amendment intended to provide. The City could issue a request for proposals rather than a simply bid for sale of property asking for how the property would be utilized thereby making it possible to determine the highest and best use of the property rather than simply the bid price. With that said, the Acting City Manager requested that this item be defeated.

Councilor Geiger said this authority has existed but is not the procedure that has been utilized in sale of property. She asked what provisions of this proposal are contrary to the Charter.

The City Attorney said that Charter requires the sale of property to be done via the competitive bid process. He said ordinarily the City simply solicits bids for the sale of lien-acquired property that is not reconveyed to the previous owner. The Council has the authority to accept a bid that is not necessarily the highest when it considers the use of the property. Using the RFP process rather than the simple bid process would give the Council additional information in that regard.

Councilor Pritchett moved to postpone Ordinance Amendment #12 until the August 8, 2016 Regular Meeting to allow time for the development of an amendment to clarify the process to be used in the sale of property.

Councilor Geiger said that she would work with the City Attorney and Acting City Manager to come up with an appropriate amendment. She added that the highest use is always to reconvey the property to the previous owner. She said this proposal would not affect the reconveyance process that the City already has in place. Vote: 5 for.

Ordinance Amendment #12 was postponed until the August 8, 2016 Regular Meeting.

#15 Chapter 19, Section 19-304 TB-1 Zone Regulations – Restaurants

(See page 111 for text)

A public hearing was opened with Polly Saltonstall, owner of 218 Main Street, speaking in favor of the Ordinance Amendment. She said that she has tried a number of different tenants in this location and none have succeeded. She said she has a prospective tenant that would like to operate a small pizza restaurant at that location and this amendment would allow that to happen.

- Hal Perry, 25 State Street, said he lives one block behind 218 Main Street, and was concerned about parking. He said current employees of that building park on State Street and it is becoming an issue.

- Zander Shaw, 39 Pleasant Street, spoke concerning the proposal to extend liquor sales to “cocktails” rather than limiting it to beer and wine only. He said that he lives near a bar and knows the kind of “damage” that can be done in a short amount of time consuming “cocktails”. He said there is a real substance abuse problem in the City, and this alcohol question is not as black and white as it may seem.

Hearing no other speakers, the public hearing was closed.

Councilor Clayton moved passage.

Councilor Ackor asked if the Rules could be suspended so that he could ask the Code Enforcement Officer, John Root, a question. Without objection from the Council, the Rules were suspended.

Councilor Ackor asked Mr. Root about the parking situation in the area of 218 Main Street.

Mr. Root explained that 218 Main Street in the last property in the Downtown Parking District and, as such, is exempt from the parking requirements. He added that there is off-street parking at 218 Main Street.

Councilor Ackor then asked Ms. Saltonstall if she could address the parking issue.

Ms. Saltonstall said that she could not address the parking because she will not be operating the restaurant. She said she is only be leasing the property to the operator. As for current employees, she said she was not aware of any parking issues related to them.

The Council went back into Regular Session with Councilor Clayton saying he didn’t like the idea for limiting a business’s earning potential by limiting the types of alcohol it can serve, but agreed with Mr. Shaw to a point. He said he was willing to move forward with the limit on alcohol, noting that is something the Council could look at in the future if it becomes an issue. He also said that the City should look into establishing definitions of restaurants and bars.

Councilor Geiger said that she would prefer to see the amendment passed without limitation on alcohol. She said that the Council can address any issues that arise with alcohol service through the licensing process.

Councilor Pritchett moved to amend Ordinance Amendment #15 to read as follows:

“Restaurants of not more than 1,500 square feet (including all space utilized for the Restaurant); with hours of operation limited to between 7 AM and 10 PM; that do not have drive-through service; and that do not offer live entertainment with amplified music.”

Vote on amendment: 4 for, 1 opposed.

(Ackor)

Councilor Clayton said that he would work with the Mr. Perry and Ms. Saltonstall on the parking issue.

Councilor Geiger said if you look at the list of allowed uses in the TB-1 zone, it is not fair to single out this one use over parking.

Councilor Pritchett said that the alcohol issue was raised by the Comprehensive Planning Commission, concerned about allowing bars in the TB-1 Zone. He agreed that the provisions of the TB-1 Zone need to be looked at so ensure that the provisions are actually transitional.

Vote as amended: 5 for.

Ordinance Amendment #15 will become effective August 10, 2016.

#16 Chapter 17, Section 17-809 Handicapped Parking Space – Elm Street

(See page 116 for text)

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

Councilor Geiger moved passage.

Vote: 5 for.

Ordinance Amendment #16 will become effective 08/10/16.

Ordinances in First Reading:

#17 Chapter 4, Article II Sprinklers; Exemption

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 4, Buildings, Inspections & Enforcement, ARTICLE II, Fire Prevention and Life Safety, BE AMENDED AS FOLLOWS:

Sec. 4-202 Adoption of Life Safety Code; Amendments

A. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-402(B) below, the National Fire Protection Association (“NFPA”) 101, 2012 Edition, is hereby referred to and adopted as the Life Safety Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings, except one- and two-family dwellings, that protect the safety of inhabitants and firefighters in the event of a fire; and each and all of the regulations of the NFPA 101 Life Safety Code, 2012 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Life Safety Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, *et seq.*

B. Amendments.

(1) Amendment by Reference. The Rockland Life Safety Code is amended as set forth in the regulations of the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the State Fire Marshal, Chapter 20– Code For Safety To Life From Fire In Buildings And Structures.

(2) Exceptions. The exceptions to the Life Safety Code adopted by the State Fire Marshall in Title 16, Code of Maine Regulations, Part 219, Chapter 20, are hereby amended as follows:

(a) Extinguishment Requirements in One- And Two-Family Dwellings. Section 4.3.4.1 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland; provided, however, that a sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory if either:

(I) The dwelling is a single-family structure with fewer than 1,200 sq. ft. of living area, or

(II) The dwelling is either a single-family structure with 1,200 or more sq. ft. of living area or a two-family structure and all of the following conditions are met:

(i) The building shall not be utilized for any purpose other than a one-family dwelling;

(ii) The dwelling must be located within 1000 feet of a public, pressurized fire hydrant;

(iii) No floor or roof system shall be constructed of trusses, web joists, TJI-joists or similar low-mass engineered products, unprotected steel or unprotected engineered carrying beams such as, but not limited to LVL, Microlam, etc.;

(iv) In new one-family dwellings and in existing buildings, the use of which is changed to a one-family dwelling, operational smoke alarms shall be required outside each separate sleeping area in the immediate vicinity of bedrooms; in each room used for sleeping purposes, and on each story including the basement. Smoke alarms shall be photoelectric type, where required, and shall be hard-wired with battery back-up. Smoke alarms must be interconnected such that activation of one alarm within the building shall activate all smoke alarms within the dwelling;

- (v) At least one carbon monoxide detector shall be located in each area within, or giving access to, any bedroom in the dwelling. Carbon monoxide detectors shall be powered by the electrical service and shall have battery back-up; and
 - (vi) Building plans shall be reviewed by the Fire Department and the benefits of residential sprinkler systems shall be concisely presented to the property owner, at which time the property owner shall explicitly opt out of the NFPA 101 Life Safety Code requirements for installation of a residential sprinkler system.
- (b) Building Rehabilitation. Chapter 43 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland.

Sponsor: Councilor Geiger
 Originator: Councilor Geiger

Councilor Geiger moved passage and moved to amend Ordinance Amendment #17 by replacing the existing language with the following:

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 4, Buildings, Inspections & Enforcement, ARTICLE II, Fire Prevention and Life Safety, BE AMENDED AS FOLLOWS:

Sec. 4-202 Adoption of Life Safety Code; Amendments

A. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-402(B) below, the National Fire Protection Association (“NFPA”) 101, 2012 Edition, is hereby referred to and adopted as the Life Safety Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings, except one- and two-family dwellings, that protect the safety of inhabitants and firefighters in the event of a fire; and each and all of the regulations of the NFPA 101 Life Safety Code, 2012 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Life Safety Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, *et seq.*

B. Amendments.

(1) Amendment by Reference. The Rockland Life Safety Code is amended as set forth in the regulations of the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the State Fire Marshal, Chapter 20– Code For Safety To Life From Fire In Buildings And Structures.

(2) Exceptions. The exceptions to the Life Safety Code adopted by the State Fire Marshall in Title 16, Code of Maine Regulations, Part 219, Chapter 20, are hereby amended as follows:

- (a) Extinguishment Requirements in One- And Two-Family Dwellings. Section 4.3.4.1 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland; provided, however, that a sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory if all of the provisions of B(2)aIII are met and if either the provisions of B(2)aI or B(2)aII either are met:
 - (I) The dwelling is a single-family structure with fewer than 1,000+200 sq. ft. of living area, or
 - (II) The dwelling is either a single-family structure with 1,000+200 or more sq. ft. of living area or a two-family structure and the building, whether a single family or two family, is located within 1000 feet of a public, pressurized fire hydrant; all of the following conditions are met:
 - (III) A sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory for structure

meeting either B(2)aI or B(2)aII above and all of the following provisions:

- (i) The building shall not be utilized for any purpose other than a one-family dwelling;
 - ~~(ii) The dwelling must be located within 1000 feet of a public, pressurized fire hydrant;~~
 - ~~(ii) The entire load bearing structure of the house including but not limited to floor joist if not on a concrete slab, interior of exterior wall studs or posts, wall plates, rafters, trusses, and any load bearing beams are made of appropriately sized dimensional wood or protected steel and the load bearing structure of the house does not contain any low mass or laminated engineered wood products or unprotected steel. No floor or roof system shall be constructed of trusses, web joists, TJI joists or similar low mass engineered products, unprotected steel or unprotected engineered carrying beams such as, but not limited to LVL, Microlam, etc.;~~
 - (iii) In new one-family dwellings and in existing buildings, the use of which is changed to a one-family dwelling, operational smoke alarms shall be required outside each separate sleeping area in the immediate vicinity of bedrooms; in each room used for sleeping purposes, and on each story including the basement. Smoke alarms shall be photoelectric type, where required, and shall be hard-wired with battery back-up. Smoke alarms must be interconnected such that activation of one alarm within the building shall activate all smoke alarms within the dwelling;
 - (iv) At least one carbon monoxide detector shall be located in each area within, or giving access to, any bedroom in the dwelling. Carbon monoxide detectors shall be powered by the electrical service and shall have battery back-up; and
 - (v) Building plans shall be reviewed by the Fire Department and the benefits of residential sprinkler systems shall be concisely presented to the property owner, at which time the property owner shall explicitly opt out of the NFPA 101 Life Safety Code requirements for installation of a residential sprinkler system.
- (b) Building Rehabilitation. Chapter 43 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland.

Councilor Geiger said that this amendment would allow for the exemption of small houses from the onerous requirement of installing a residential sprinkler system, as long as the entire load bearing structure of the house including but not limited to floor joist if not on a concrete slab, interior of exterior wall studs or posts, wall plates, rafters, trusses, and any load bearing beams are made of appropriately sized dimensional wood or protected steel and the load bearing structure of the house does not contain any low mass or laminated engineered wood products or unprotected steel.

Councilor Pritchett added that if an applicant does not meet all of these requirements they cannot be exempted from the sprinkler requirement.

Councilor Ackor said that he was uncomfortable implementing ordinances that consider means or size, especially where safety is concerned. He also said requiring certain types of building materials can be a slippery slope. He said he would rather see the ordinance remain as it is. He said there may be instances where someone might not qualify for an exemption, but so be it.

Councilor Geiger asked if she could ask a question of the Code Enforcement Officer. Without objection from the Council, the Rules were suspended to allow question of the Code Officer.

Councilor Geiger asked Mr. Root how many people building a new house take advantage of the existing exemption provisions.

Mr. Root said that he does not have an exact number, but most that are eligible do take the exemption. He said that the only one that comes to mind that would have qualified for the exemption that did not take it was a home built by Habitat for Humanity.

Asst. Fire Chief Adam Miceli said that the heart of the matter is life safety. He said that limiting the size of the structure does not make the structure any safer. He said that the Codes are all about occupant safety, and pushing for residential sprinklers makes structures safer for the occupants.

The Council went back into Regular Session with Councilor Pritchett saying he was somewhat skeptical when this ordinance was originally proposed, but there is no meaning exception as written for residents of West Meadow Road and Bog Road due to the lack of pressurized fire hydrants. He said between first and second reading he would like to see some recommendations to

make this proposal better.

Councilor Ackor said that if you have a 2,000 sq. ft. home on one lot, and a 600 sq. ft. home on the next lot, and one is exempted and the other isn't, that creates an inequity in the same neighborhood.

Councilor Geiger said that the current exemption requires that the structure be within 1,000 feet of a pressurized fire hydrant does not change any of the concerns. She said this proposal gives some exemption options to those who do not live within that distance. She said it was going to far to require residential sprinklers, as it create a hardship for the homeowners.

Vote on amendment: 4 for, 1 opposed.
(Ackor)

Councilor Pritchett said that the logic on using size as the determining factor is that larger homes are more likely to use man-made materials, where smaller homes are more likely to use dimensional lumber.

Councilor Ackor said that requiring sprinklers is not going too far. He said that they should be proud that the City has a rigorous building code. He said it is progressive and ensures safe housing. He said that the City is at the forefront of what he believes will be commonplace in the near future. He said that the bottom line was that sprinklers save lives, and to roll back the existing sprinkler ordinance seems like a defeat for the City rather than sound policy.

Councilor Pritchett said that he would support this proposal in first reading, but would be willing to entertain amendments to this proposal in final reading.

Councilor Clayton said he too would support this proposal to move it forward, but said that the issue needs more discussion.

Vote as amended: 3 for, 2 opposed.
(MacLellan-Ruf, Ackor)

A public hearing was set for August 8, 2016 at 6:00 p.m.

#18 Chapter 18, Section 18-210 Licensing of B&B's, Inns, Hotels & Motels

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 11, Licenses, Permits, And Franchises, ARTICLE II, Licenses, When Required, SECTION 11-210, Lodging Houses and Short-Term Rentals, BE AMENDED AS FOLLOWS:

Sec. 11-210 Lodging Houses And Short-Term Rentals

1. Lodging House License.

A. License Required. No person shall operate a Lodging House, Bed and Breakfast Establishment, Inn, Motel, or Hotel without first obtaining annually a one-year license therefor from the City Council.

B. Definitions. For the purposes of this subsection¹

“Lodging house” means a building other than a single-, two-, or multi-family structure in which a licensed operator provides, for a fee, sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals served to occupants only, but without separate kitchen facilities for individual occupants; provided, however, that the building may include a separate, additional dwelling unit occupied by the owner or manager that includes kitchen facilities for such owner or manager’s personal use.

Sponsor: Councilor Clayton
Originator: City Clerk

Councilor Clayton moved passage.

Vote: 5 for.

A public hearing was set for August 8, 2016 at 6:00 p.m.

#19 Chapter 16, Section 16-203 Elements of Site Plan; Environmental Impact Assessment

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 16, Subdivision and Site Plan Review, ARTICLE II, Site Plan Review Ordinance, SECTION 16-203 Elements of the Site Plan, BE AMENDED AS FOLLOWS:

Sec. 16-203 Elements of the Site Plan

* * * *

16. Environmental Impact Assessment (EIA). When deemed necessary by the Planning Board, applicants for the construction of any industrial development, or any development of land five acres or more in area, or more than three structures with a combined footprint of 10,000 square feet or more, shall pay for an EIA performed by the City. All approvals of such applications will be subject to the results of the EIA. For the purposes of this section, Environmental Impact Assessment (AIE) shall mean a process of evaluating the likely environmental impact of a proposed project or development, taking into account inter-related socio-economic, cultural and human health-related impacts, both beneficial and adverse.

[Re-number remainder of Section accordingly]

Sponsor: Mayor MacLellan-Ruf
Originator: Mayor MacLellan-Ruf

Councilor Clayton moved passage.

Vote: 5 for.

The City Attorney suggested that because this was an amendment to the Site Plan Review Ordinance, the Planning Board be asked to review the proposal and make its recommendations to the Council. Without objection from the Council, it was so ordered.

A public hearing was set for August 8, 2016 at 6:00 p.m.

Orders:

#42 Casting Ballot for MMA Legislative Policy Committee

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is hereby authorized, on behalf of the Rockland City Council, to cast votes for the following MMA Legislative Policy Committee members:

VOTE FOR TWO:

William Chapman, Select Board Chair, Town of Rockport
Jay Feyler, Manager, Town of Union

Sponsor: City Council
Originator: City Council

Councilor Pritchett moved passage.

Councilor Geiger said that she was going to abstain from voting on this measure not because she has anything against either of the candidates but rather she objects to the way the candidates are chosen. She said that people to run for these positions are practically hand-picked, and she did not see the process as fair and open to all interested parties.

Councilor Geiger was informed that the City Code requires Councilor to vote on all matter with which they do not have a conflict or personal interest. Therefore, Councilor Geiger said that she would be voting no on this Order, but not because she had anything against either of the candidates.

Councilor Pritchett said that he does not disagree with Councilor Geiger’s position, but noted that this ballot was for filling positions on the MMA Legislative Policy Committee, not the Executive Committee.

Councilor Clayton said many times there are not that many people who wish to serve on these committees.

Vote: 3 for, 2 opposed.
(Geiger, Pritchett)

#43 Determining Lease Financing – Ambulance

WHEREAS, on September 14, 2015, the Rockland City Council adopted Bond Ordinance Amendment #25 which, *inter alia*, authorized an ambulance lease purchase financing in the amount of \$190,000 for a term of no more than five (5) years;

and

WHEREAS, the City Council desires to establish certain details of said lease financing;

NOW, THEREFORE, it is hereby Ordered by the City Council as follows:

- ORDERED:** That the City enter into an ambulance lease financing arrangement with Androscoggin Bank in an amount not to exceed \$190,000, bearing interest at the rate of 2.54% per annum, and with a term of no more than five (5) years and five (5) annual payments (which shall be subject to annual appropriation by the City) (the "Lease").
- ORDERED:** The Lease shall be executed in the name of and on behalf of the City by its Director of Finance and shall bear the corporate seal of the City of Rockland, Maine attested by its Clerk.
- ORDERED:** That the Director of Finance be and hereby is authorized to designate such Lease as a qualified tax exempt obligation for purposes of Section 265(b) of the Code.
- ORDERED:** That the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that the City will not take any action which would cause such Lease to be a "private activity bond or an "arbitrage bond" within the meaning of Section 141 and 148, respectively, of the Internal Revenue Code of 1986, as amended.
- ORDERED:** That the Director of Finance be and hereby is authorized and empowered to do all such acts and things, and to execute, deliver, file, approve, and record all such assignments, certificates, certificates of title, and other financing documents, as may be necessary or advisable, with the advice of counsel for the City, to carry out the provisions of these Resolutions and the execution and delivery by the City of the Lease (the "Lease Documents").
- ORDERED:** That if the Director of Finance of the City of the City is for any reason unavailable to execute the Lease or any of the Lease Documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

Sponsor: City Manager
Originator: Finance Director

Councilor Clayton moved passage.

#44 Authorizing Banner – Maine Boats, Homes & Harbors

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT Maine Boats, Homes & Harbors is hereby authorized to hang a banner across Main Street near the intersection with Limerock Street from August 1, 2016 through August 14, 2016 to promote the 14th Annual Maine Boats, Homes & Harbors Show schedule for August 12-14, 2016. Any costs associated with the hanging of said banner shall be borne by Maine Boats, Homes & Harbors, and shall provide proof of liability insurance to the City naming the City as an additionally insured.

Sponsor: City Council
Originator: Maine Boats, Homes & Harbors

Councilor Geiger moved passage.

Vote: 5 for.

#45 Authorizing Sign – Rockland Yacht Club

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Rockland Yacht Club is hereby authorized to install a sign on the City-owned building at Harbor Park in which the Yacht Club leases space, in substantial conformance with the application on file with the Rockland Code Office. Any costs associated with the installation and/or maintenance of said sign shall be the responsibility of the Yacht Club.

Sponsor: City Council
Originator: Rockland Yacht Club

Councilor Pritchett 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 8:35 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

SPECIAL MEETING

AGENDA

July 18, 2016

Workshop – Power Generation Facility Ordinances
Discussion – City Manager Search Procedure

The meeting was called to order by the Mayor at 5:30 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, Adam Ackor, Acting City Manager Caler-Bell, and City Attorney Beal.

Councilor Valli Geiger arrived at 5:40 p.m.

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:

- Dale Hayward, 162 North Main Street, spoke concerning the Code Office and Legal Department, saying that he has no faith in either department given their harassment of him for item that he stores at his home for later sale. He said that the City continually harasses him about the condition of his property but allows similar conditions on its own property at City Hall, Public Services Garage, and the Fish Pier.

- Gwen Sylvester, 28 Front Street, spoke concerning some LED lighting at the commercial development across the street from her residence. She said that these unshielded LED lights are very disruptive to the residents and asked that the City’s Lighting Ordinance be amended to require such lighting to be shielded so as not to disturb area residences.

- Frank Isganitis, 96 Limerock Street, spoke concerning the alleged “culture of secrecy” that seemingly surrounds the City Council and City government, saying that State law allows municipal officers to meet in executive session to discuss things such as personnel issues and negotiations when premature disclosure of information would harm the City’s bargaining position, among other things. He said in these instances, the public has no right of access to that information. He said that he recently attended a Rotary International function where he learned a 4-question test that he thought might be helpful when considering issues before the City:

- is it the truth
- is it fair to all concerned
- does it foster good will
- is it beneficial to all concerned.

He said if these questions are asked when considering any issues, what a great place this community would become again.

- David Myslabodski, 54 Broad Street, spoke concerning the perception that Rockland is anti-business. He said that Rockland is not anti-business, but is business-friendly only for certain businesses. He cited examples of what he called “corporate welfare” given to FMC by the City over the years, including breaks of solid waste disposal fees and wastewater

Special Meeting continued:

July 11, 2016

treatment. He said it was not fair to expect the taxpayer and rate payers of the City to subsidize a multi-billion dollar corporation, and that FMC should be required to play by the same rules as everyone else.

Hearing no other speakers, the public forum was closed.

Workshop – Power Generation Facility Ordinance: The Council went into informal session for a workshop on the Power Generation Facility Ordinances adopted, as amended, by the City Council at its July 11, 2016 Regular Meeting (see pages 147-162 for text, as amended, of Ordinance Amendment #'s 10 & 11). Participating in the workshop were members of the Planning Board, Energy Committee, FMC and other interest parties.

Discussion – City Manager Search Procedures: With the above workshop complete, the Council then held a discussion of the procedures it wishes to follow in its search for a new City Manager. The Council agreed to include the City's Personnel Advisory Board for advertising, accepting and initial screening of any applications received. The Council also suggested that a professional consultant may be necessary for required background and references checks when the Council gets to that stage of the process.

With the above discussion complete, and with no further business to come before the City Council, the meeting was adjourned without objection from the Council at 8:19 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk