

## SPECIAL MEETING

## AGENDA

July 7, 2014

### Work Session – FY 2015 City Council Work Plan & City Manager Search Set Agenda for July 14, 2014 Regular Meeting

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

**Pledge of Allegiance:** 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:

- Seth Thompson, 2 Purchase Street, said that he spoke to the Council with concerns about the recent amendment to the accessory apartment parking regulations, but was told that it would not be an issue because it was meant for blood relatives renting space in a house and creating sufficient off-street parking for that use. He said that since the amendment took effect, there has been a defacto Bed & Breakfast operating in his neighborhood that is having a negative impact on the rest of the neighborhood. He said that this issue needs to be addressed and the Code needs to be clarified as to what constitutes a single-family dwelling and what is allowed as such.

- Valerie Hooper, 181 North Main Street, thanked the Council for progress on the dog issue. She also said that a designated dog park in the City would be a welcome addition.

Hearing no other speakers, the public forum was closed.

Without objection from the Council, Mayor Pritchett suspended to Rules to allow Code Enforcement Officer John Root to address the issue of the accessory parking regulations.

Mr. Root said that he was aware of the issue and if there is a violation occurring it will be pursued. He added that the use of what is being called “Air B&Bs” (where space in a single-family home is rented out to transient lodgers on a short-term basis) is a nation-wide phenomenon that his office is trying to get a handle on. He said that the Code may need to be amended to clarify the issue.

Councilor Isganitis said anyone who is renting space, regardless of whether that space is only an air mattress (which is where the term Air B&B comes from) or not, is operating a lodging business and should be held to the same standards as other licenses lodging businesses.

Councilor Hebert asked if Mr. Root has been in contact with Mr. Thompson.

Mr. Root said that he has spoken with Mr. Thompson on this issue.

Councilor Dickerson asked if the Council should revisit the accessory apartment parking regulations.

Mr. Root said that clarification of those provisions may be helpful, but this matter does not need clarification. He said if this use is a land use violation, it will be pursued.

**Work Session – FY 2015 City Council Work Plan and City Manager Search:** The Council then went into informal session for a discussion of the creation of a City Council work plan for fiscal year 2015, and how to proceed with the search for a new City Manager. Councilors disagreed on how to proceed with the creation of a work plan, with some feeling that such a process should wait until a new City Manager is hired while others felt that it would be a useful tool in the search for a new City Manager.

The Council also began discussion on how to proceed with the City Manager search, with some Councilors supporting the hiring of a consultant to assist the Council in the process. It was determined that the Council would meet again on July 23, 2014 at 6:30 p.m. to continue discussion on both the work plan and the City Manager search.

**Set Agenda for July 14, 2014 Regular Meeting:** The Council then set the agenda for the July 14, 2014 Regular Meeting.

With the agenda set, and with no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 8:57 p.m.

A TRUE COPY.

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

**SPECIAL MEETING**

**AGENDA**

**July 14, 2014**

Executive Session pursuant to Title 36, Maine Revised Statutes, Section 841, Subsection 2(E) to hear and deliberate upon an application for a hardship tax abatement

The meeting was called to order by the Mayor at 6:30 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, City Manager Luttrell, and City Attorney Beal. Councilors Elizabeth Dickerson and Frank Isganitis arrived at 6:35 p.m.

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

**Executive Session:** Councilor Hebert moved that the City Council convene an Executive Session pursuant to Title 36, Maine Revised Statutes, Section 841, Subsection 2(E) to hear and deliberate upon an application for a hardship tax abatement.  
Vote: 3 for.

The Council entered Executive Session at 6:31 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection at 6:36 p.m.

A TRUE COPY.

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

**REGULAR MEETING**

**AGENDA**

**July 14, 2014**

- 1. Roll Call
- 2. Pledge of Allegiance to the Flag
- 3. Public Forum (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. License and Permits:
  - a. Municipal Approval for Alcohol Service on Vessel – American Cruise Lines
  - b. Municipal Approval for Alcohol Service on Vessel – Holland American Cruises
- 8. Resolves:
 

#29 Accepting Donations	City Manager
#30 Accepting Donation of Art – “Genesis”	City Council
#31 Appointment to Planning Board	Mayor Pritchett
- 9. Ordinances in Final Reading and Public Hearing:
 

#16 Chapter 19, Section 19-304 DT Zone Height Regulations	Councilor Dickerson
#17 Chapter 14, Article I Pay Per Bag Waste Disposal System	Councilor Isganitis
#18 Lease to Own CIP Equipment	City Council
- 10. Ordinances in First Reading:
 

#6 Chapter 15, Section 15-143 Snow Disposal(Postponed)	Councilor MacLellan-Ruf
#19 Chapter 8, Section 8-708 GA Max Levels of Assistance	Councilor Isganitis
#20 Authorizing Moratorium – On Site Plan Applications For New or Expanded Buildings Over 50 Feet In Portions Of The Downtown	Mayor Pritchett
- 11. Orders:
 

#56 Authorizing License Agreement – Dunkin Donuts Parking	City Manager
#57 Authorizing License Agreement – Projections Over Sidewalk	City Manager
#58 Authorizing Reconveyance – Mobile Home (108 First St)	City Manager

#59 Authorizing Reconveyance – Mobile Home (42 Fourth St)	City Manager
#60 Authorizing Bids – Sale of City Property (106 Thomaston St)	City Manager
#61 Authorizing Bids – Sale of City Property (224 Old County Rd)	City Manager
#62 Authorizing Use of Dedicated Funds – Sewer Capital Projects	City Manager
#63 Authorizing Tax Anticipation Notes (TAN)	City Manager
#64 Authorizing Transfer of Reserve Funds – Harbor Park Reserve	Councilor Hebert

12. Adjournment.

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

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

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

- Wesley Knight, 302 Broadway, spoke in opposition to the creation of a pay per bag disposal system at the City's Solid Waste Disposal Facility, saying that the voters said no to this in 2006 and that he did not like that the Council was now shoving it down the residents' throats. He said that more explanation of why this was being done was needed.

- Alan Turbin, 45 Ocean Street, spoke concerning the City Attorney's opinion to the Planning Board that the City's compatibility requirements was too vague to be enforceable, as the Planning Board was reviewing the proposed hotel at 250 Main Street. He said that he disagreed with the opinion of the City Attorney and questioned his authority to basically tell the Planning Board to ignore those standards in its review of the proposal. He said that review of this proposed project and the CMCA project earlier this year show that a moratorium is needed to give the City time to review and address these kinds of issues.

- Will Clayton, 95 Acadia Drive, spoke concerning attentiveness by Council members at Council meetings. He said he has seen evidence that Councilor Dickerson was communicating on Facebook during a City Council meeting when she should have been paying attention to what was going on in the meeting. He said behavior such as this concerns him, and that the Council should consider a policy on the proper use of electronic equipment at Council meetings. Mr. Clayton then thanked Mr. Luttrell for again stepping up and filling in as Acting City Manager, calling him the "glue that binds" the community together. He then said that he was dismayed at a recent meeting when a Councilor chastised the City Manager for expressing an opinion on a particular issue. He said that the City Manager has every right to participate in discussions and express his opinions on any issue that is before the Council. He wondered how this would be viewed by prospective candidates for the City Manager position.

Hearing no other speakers, the public forum was closed.

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

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

**Reports:**

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

- The City Manager made a general statement that if any residents have any questions about what is going on in the City, they are welcome to come in to City Hall and ask questions.

- Snow Marine Park was closed to the public on Thursday, July 10, 2014 because of high e-coli bacteria counts. He said clean-up efforts are taking place and once it rains again another series of tests will be conducted to see if the counts have decreased.

- Smoke and dye testing of the sanitary sewer system will be taking place later this month as part of the City-wide sewer and storm water system study. He said residents will be notified when testing in their area will take place.

- The Fire Department has requested, and has been given permission, to offer for sale some outdated equipment that is no longer needed or of any use to the City.
- A rendering of the mural that is going to be painted at the Recreation Center has been presented to Council.

Councilor Dickerson asked if the samples taken at Snow Marine Park were going to be tested to determine what species the bacteria is coming from.

The City Manager said that the sample would be tested to determine species, however, such testing is costly and will take some time to get the results.

Councilor Hebert asked, concerning the smoke and dye testing, is it good or bad if you see smoke.

The City Manager said that it is a bad thing if you see smoke coming from any drain in your house. If anyone sees smoke they should contact the City so that the source can be determined.

Councilor Isganitis said, with respect to notifications, that the City may want to investigate creating an email database of residents to cut down on the cost of notifications.

Councilor MacLellan-Ruf asked if the smoke and dye testing was separate from the camera work on the sewer lines that has been ongoing.

The City Manager said that the some and dye testing is separate, but if it identifies a problem, the camera will be used to try and determine what the problem is.

Councilor MacLellan-Ruf then asked if Mechanic Street was going to be a priority.

The City Manager said once the next round of testing is complete, it will indicate what the next steps will be for that area.

b. City Attorney's Report: The City Attorney said that, other than matters already reported to the Council, he had nothing else to report.

c. Other Official's Report: None.

d. Mayor's Report: Mayor Pritchett reported that the Council will be meeting on July 23, 2014 at 6:30 p.m. to continue its discussions of the creation of a FY 2015 Work Plan and the search for a new City Manager.

#### **License and Permits:**

- a. Municipal Approval for Alcohol Service on Vessel – American Cruise Lines
- b. Municipal Approval for Alcohol Service on Vessel – Holland American Cruises

A public hearing was opened. Hearing no speakers for or against either application, the public hearing was closed. Councilor Isganitis moved to grant both applications. Vote: 5 for.

#### **Resolves:**

#29 Accepting Donations

**WHEREAS**, the Friends of the Rockland Public Library donated \$422.44 for 42 books, to be receipted into the Library Revenue Donations account (#10062-03147) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003); and

**WHEREAS**, Wasses Hot Dogs, Inc. donated \$100 to the City to be uses for the purchase of a picnic table, said funds to be deposited into, and expended from, the Recreation Department Parks Maintenance Account (#63-05037); and

**WHEREAS**, Boston Financial Date Services donated \$788.24 to the City, to be deposited into the Public Works Miscellaneous Revenue Account (#10041-03295);

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

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

Sponsor: City Manager  
Originator: City Manager

Councilor Hebert moved passage.

Vote: 5 for.

#30 Accepting Donation of Sculpture – “Genesis”

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

**THAT** the City of Rockland gratefully accepts the donation from Joe Auciello of the sculpture “Genesis” currently being displayed at Ferry Terminal Park.

**AND** be it further Resolved that a letter of thanks be sent to Mr. Auciello in recognition of his generous donation.

Sponsor: City Council  
Originator: City Council

Councilor Hebert moved passage and asked that the Rules be suspended to allow Mr. Auciello to speak on this issue. Without objection from the Council, the Rules were suspended.

Mr. Auciello said that he loves this City and wanted to do something special for the City. He also said he thought the sculpture looks good at Ferry Terminal Park and hoped that it could be displayed there for a long time.

Councilor Dickerson asked Mr. Auciello what kind of maintenance the sculpture may require and if he had an estimate on what that cost might be.

Mr. Auciello said that the sculpture is made out of granite so there would be minimal maintenance required other than occasional cleaning. He also said that he wanted to install a staple to bind the two halves of the sculpture together to make it more stable.

Councilor MacLellan-Ruf said that she really enjoys this piece of artwork, but said whenever the City accepts gifts such as this there are costs involved. She said that it cost \$525 to place the sculpture where it is, so it is reasonable to expect it would cost at least that much to move it. She also said that the City needs to consider other factors such as how long it will remain at its current location, its overall fit with arts in Rockland, etc.

Mr. Auciello said that he would be willing to work with the City should it decide to move the piece.

Councilor Dickerson said that she heard the concerns being expressed, but felt that such costs could be worked out. She said this was a gracious gift from Mr. Auciello.

The Council went back into Regular Session with Councilor Hebert thanking Mr. Auciello for his generous donation, and that the piece looks great. He said that Councilor MacLellan-Ruf makes some valid points but did not believe them to be significant stumbling blocks to accepting this donation. He said that there has not need a great deal of interest expressed in displaying any other art on the available pads, and that there is not a significant cost to maintain the piece. He said he was happy to support acceptance of this donation.

Councilor MacLellan-Ruf said that she too appreciated Mr. Auciello’s donation, but added that the City needs to look at the financial aspects of such things as well.

Vote: 5 for.

#31 Appointment to Planning Board

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

**THAT** the appointment by the Mayor of Alternate Board Member Abbie Knickelbein to a Full Board Member of the Planning Board to fill the vacancy created by the resignation of Kyle Swan, is hereby confirmed. Ms. Knickelbein shall serve until that term expires in 2016.

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor Hebert moved passage and moved to amend Resolve #31, at the Mayor’s request, to read as follows:

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

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

Abbie Knickelbein, 183 Broadway, Planning Commission (2016)  
Terry Pinto, 192 Broadway, Comprehensive Planning Commission (2014)

Amy Files, 39 Pleasant Street, Comprehensive Planning Commission Alternate (2015)

Vote on amendment: 5 for.

Councilor Dickerson asked the Mayor why he chose to appoint Ms. Files as an alternate member of the COMPS Commission rather than a full member.

Mayor Pritchett said that the decisions resulted from consultation with the Commission Chairs .

Councilor Hebert said that he served on the COMPS Commission, and it was common practice that all members whether full or alternate participated fully in the meetings. He said the only thing that full members did that alternate members did not was vote.

Vote as amended: 5 for.

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

#16 Chapter 19, Section 19-304 Downtown Zone; Height Regulations

(See page 164 for text)

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

Councilor Dickerson moved passage.

Councilor Isganitis moved to postpone Ordinance Amendment #16 until the February 9, 2015 Regular Meeting. He said that this date would coincide with the proposed moratorium and give sufficient time to the COMPS Commission to adequately study the issue.

Councilor Dickerson asked if Councilor Isganitis intended to support the proposed moratorium.

Councilor Isganitis said that he did not support the moratorium.

Councilor Dickerson said that if the Councilor wanted to postpone action on this measure, it would be the better part of valor to support the moratorium so that the Commission will have time to do a thorough review of the matter. She said that recent events within the downtown zone have divided the public on what should and should not be allowed in the zone. She said that she hoped that the moratorium will bring people back together and result in a better outcome. She said that input from the public needs to be included in this process since they are the ones that will have to live with the projects. She said at times the people find themselves at odds with the Council and feel that they do not have a voice. They feel as though the Council will do whatever it wants without regard to the wishes of the public. She said that it is actions like those that make people give up on politics.

Councilor Hebert said that he was not opposed to postponing this amendment for 6 months, and that it was not an unreasonable request by the COMPS Commission to give them time to review the height standards. He also said that he was not aware of any imminent proposals coming forward for this area so there was no great harm in postponing this amendment for that period of time. He said that he did not know how he felt about this amendment and would be interested to hear from the Commission before taking action on it.

Councilor Isganitis said that he did not want to move quickly on this issue given the fact that the 65-foot height standard has been in place in this area for more than 30 years. He said that this amendment was the same one that COMPS suggested to the Council in 2010, when he was chair of the Commission, which did not make it onto the Council's agenda. He said that all it would have taken was a nod from a councilor at the time to put the measure on the agenda for consideration, and that was not done. He said that he did not understand why this has become such a big issue now. He said that he would hate to see the City miss out on an opportunity for development. He said this measure should be postponed to allow time for an appropriate review.

Councilor Dickerson said that she thought that the amendment to which Councilor Isganitis was referring to in 2010 did get put on an agenda and was voted down by the Council. She said she did not realize that it never even made it onto an agenda.

At this time, Mayor Pritchett asked Councilor Hebert to take the Chair so that he could speak on this issue.

Mayor Pritchett said that as an ex-officio member of the COMPS Commission and therefore attends most of the meeting. He said he came in without a pre-conceived notion on this issue, and the Commission spent two hours discussing the matter before it came up with a decision on what its recommendation would be. He said had the amendment passed, the height issue would have been reviewed anyway. He said it was the Commission that came up with the idea of a moratorium.

Vote: 3 for, 2 opposed.

(Dickerson, MacLellan-Ruf)

Ordinance Amendment #16 was postponed until the February 9, 2015 Regular Meeting.

#17 Chapter 14, Article I Establishing Pay Per Bag System for Disposal of Municipal Solid Waste

(See pages 165-168 for text)

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

Councilor Isganitis moved passage and explained that City was trying to control the vessel in which municipal solid waste is deposited at the facility. He said that unlike other municipal services, waste disposal is an known cost and this system will

allow people to pay for what they actually throw away and not subsidize what other users choose to throw away. He also said that this system will encourage recycling and composting since the less trash you throw away, the less it will cost you.

Councilor MacLellan-Ruf said that she has heard the concerns of the public that they feel that the power has been taken away from them. She said that she believes that this system will work in Rockland as it has in other communities, but said that the Council needs to listen to what the public is saying and involve the public in the process.

Councilor Hebert said that he supports this measure, and that it is the fairest way to pay for waste disposal where everyone pays for what they throw away. He said that previous disposal systems, ie, paying for it through taxes or by a sticker fee, did not really capture the actual costs of disposal. He said that the Council has been talking about this matter for the past two months, and that the Council is elected by the people to make decisions that are in the best interest of the City as a whole after considering all of the information. He said this proposal is not a scheme for the City to make money, rather it captures the actual costs of waste disposal. He said co-mingling revenues in the past has masked the actual costs of disposal of municipal solid waste alone. He said that waste disposal is a big problem nation-wide, and this kind of waste disposal system gives residents the most control over their actual costs. He said the more waste that you take out of the waste stream (via recycling and composting) the less it will cost to dispose of that trash.

Councilor Dickerson said that in theory Councilor Hebert is correct, but noted that the sticker fee went from \$65 to \$135. She said that the City is in the position that it is because of decision made over many years. She said that you cannot fully separate costs as the waste disposal facility as some co-mingling still exists, such as payroll, machinery, etc. She said that the public feels as though it has no control over the fees and are living in a climate where everything is out of control. She said that she feels that it is important to reduce waste as much as possible, but did not feel this was the answer. She said that she would not support this proposal and did not support the large cost increase to the stickers either.

Councilor Isganitis said that the issue is not that complicated. He said that revenues from the landfill have been subsidizing transfer station operations for several years. He said now we have to deal with the actual cost of municipal solid waste disposal. He said you cannot simply divide the cost of disposal by the number of taxpayers when usages are substantially different. He said that people will be paying for the amount of trash that they throw away. He said this is actually empowering to the public by allowing them to control their costs by the amount of trash they throw away. He said this method also encourages recycling and composting which is beneficial to the environment.

Councilor Hebert added that anyone who purchased a dump sticker prior to July 1, 2014 for \$65 does not have to purchase another sticker at \$135. He also said that anyone who did not buy a dump sticker prior to July 1<sup>st</sup> does not have to purchase the \$135 sticker, they can purchase bags instead.

Mayor Pritchett asked the City Manager what materials can be disposed of free of charge.

The City Manager said that the same materials that were free of charge before are still free, such as all recyclable materials, lawn and yard wastes, and ½ a truck load of construction and demolition debris.

Councilor Dickerson said that she was concerned that the pay per bag method was going to end up being more expensive than the current sticker fee. She said that paying \$2.25 per bag is going to end up more expensive than the \$135 sticker fee for most families.

Mayor Pritchett asked Councilor Isganitis how much trash he disposed of at his business.

Councilor Isganitis said that during the season when he has up to 18 guests, he uses about 2 bags per week. During the off-season, he said he generates only about 1 bag every two weeks. He said he calculated that he would spend about \$171 per year for trash disposal, and noted that figure included his business. He also noted that this was in line with the model created by the Solid Waste Director.

Councilor Dickerson noted that there was an additional \$6,000 in the Solid Waste Budget and asked the City Manager what these funds were for.

The City Manager said that the funds were to cover the cost of the bags.

Vote: 3 for, 2 opposed.  
(Dickerson, MacLellan-Ruf)

The amendment will become effective August 13, 2014.

#### #18 Authorizing Lease Agreement - CIP Equipment

(See pages 180 & 181 for text)

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

Councilor Hebert moved passage.

Vote: 4 for, 1 opposed.  
(Dickerson)

The amendment will become effective August 13, 2014.

#### **Ordinances in First Reading:**

#### #6 Chapter 15, Section 15-143 Snow Disposal in Rockland Harbor Prohibited (Postponed)

(See page 106 for text)

It was noted that this Ordinance Amendment had been postponed until this meeting, and had been given a motion for passage at the February 10, 2014 Regular Meeting.

Councilor Hebert asked if there was a “Storm of the Century” event and the City had no other option other than dumping snow into the Harbor, would this ordinance prohibit that.

The City Manager said that it would prohibit the dumping of snow in the Harbor, but the Council could countermand the Ordinance with an emergency ordinance if it became necessary. Vote: 5 for.

A public hearing was set for August 11, 2014 at 7:00 p.m.

#19 Chapter 8, Section 8-708 General Assistance – Maximum Levels of Assistance

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 8, General Assistance, SECTION 8-708, Maximum Levels of Assistance, BE AMENDED AS FOLLOWS:**

**Section 8-708—Basic Necessities; Maximum Levels of Assistance**

Number in Household	Monthly
1	<del>\$698</del> \$709
2	<del>\$709</del> \$719
3	<del>\$865</del> \$877
4	<del>\$1110</del> \$1124
5	<del>\$1259</del> \$1344

\*Add ~~\$68.00~~ \$69.00 a month for each additional person

Sponsor: Councilor Isganitis  
Originator: GA Administrator

Councilor Isganitis moved passage.

Vote: 5 for.

A public hearing was set for August 11, 2014 at 7:00 p.m.

#20 Establishing Moratorium on Site Plan Applications for New and Expanded Buildings Over 50 Feet In Portions of the Downtown Zone

**WHEREAS**, new and expanded buildings may be constructed as high as 65 feet or 5 stories in the Downtown Zone, pursuant to Rockland Code, Ch. 19, Art. III, § 19-304(14)(C); and

**WHEREAS**, the Downtown Zone includes the areas south of Park Street and Park Drive, east of Union Street, and north of Pleasant Street that are in proximity to lands zoned Commercial-2, Residential-B, Transitional Business-1, Waterfront-2, and Waterfront-3, where the maximum building height is lower than 65 feet or 5 stories; and

**WHEREAS**, commercial land located in the portion of the Downtown Zone that lies east of Main Street and South of Park Drive abuts both Harbor Park and Mildred Merrill Park; and

**WHEREAS**, these two waterfront parks were acquired by the City, and have been maintained by the City, in part to provide a visual connection between Main Street and Rockland Harbor, and

**WHEREAS**, the height and design of any buildings constructed or expanded that abut these two City Parks has the potential to “wall off” the Harbor from Main Street and restrict or block current view corridors to the harbor as well as potentially impact public uses of these parks; and

**WHEREAS**, both the City’s Comprehensive Planning Commission and residents of Pleasant Street area have requested that the City evaluate the potential impacts of 65 ft. tall buildings on residential uses in and adjacent to the southernmost portion of the Downtown Zone; and

**WHEREAS**, the extent to which a tall building may shadow an adjacent building or home has long been a consideration in developing zoning height and setback standards, and

**WHEREAS**, a commercial building in the Downtown Zone may be built, or expanded, to a height that is 30 feet taller than adjacent homes in the City's Residential B zone, and

**WHEREAS**, the City Council finds these constitute valid reasons to conclude that the application of the City's existing land use and zoning ordinance standards may be inadequate to protect the public investment and current public uses of the City's waterfront parks as well as adjacent residential uses from development over 50 feet tall in the Downtown Zone south of Park Street and Park Drive and, as a result, that serious public harm may result from such development; and

**WHEREAS**, the City Council finds that, to avoid such public harm, a moratorium is needed while the City studies, drafts, and adopts one or more zoning ordinance amendments to revise the height standards and setbacks for new and expanded buildings in the Downtown Zone south of Park Street and Park Drive,

**NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT**, pursuant to Title 30-A, Maine Revised Statutes, Section 4356, a moratorium is hereby established barring the acceptance of new site plan applications for new buildings or building expansions over 50 feet tall in the portion of the Downtown Zone south of Park Street and Park Drive for 180 days; and

**THAT**, the Comprehensive Planning Commission is directed, within 90 days and in tandem with the Commission's review of the Design Standards for the Downtown Zone, to draft for City Council consideration, an ordinance revising the maximum height and related setbacks for new and expanded buildings in the Downtown Zone south of Park Street and Park Drive.

Sponsor: Mayor Pritchett

Originator: Comprehensive Planning Commission

Councilor Dickerson moved passage.

Councilor Isganitis said that a project has already been approved for this area at 65 feet, so that horse is already out of the barn. He also said that it was not likely that anyone would be starting construction in the winter, and that there not any other proposals in the pipeline that this moratorium would affect. He said that he agreed with the statement made by the Community Development Director in a memo to the Council that the imposition of a moratorium casts the City in a bad light to any possible developers. He said that he will not support this measure.

Councilor MacLellan-Ruf said that the Comprehensive Planning Commission has done an incredible amount of work on this issue, and that she would support the commission's recommendation for a moratorium.

Councilor Hebert said that he was not in favor of this proposal, and was not sure he agreed with the premises contained in the various "Whereas"s. He said that he was not sure that 50 feet vs 65 feet makes a lot of difference from a practical point of view. He also said that the "Whereas"s seem to draw the conclusion that a new ordinance amendment is necessary, not taking into account that the current regulations may be appropriate for this area. He said that COMPS should be allowed to review the matter without any preconceived notions. He also said a moratorium sends a negative message in a fragile economy. He said that it was not likely that a project in this area would be coming forward in the next six months, making this moratorium unnecessary. He said that COMPS has gotten the message that the Council wants the Downtown Zone and Tillson Avenue Area Overlay Zone regulations looked at.

Councilor Dickerson said that a moratorium does not discourage business development, rather it shows that the municipality is concerned about a particular issue and wants time to study it to make sure the regulations are appropriate. She said that the City needs to make sure that proposed projects fit in with the surrounding neighborhoods. She said that it is ok to say what the City wants from developers, adding that developers like knowing exactly what is expected from them from the start. She said this moratorium is not saying that the City does not want development, it is saying that the City wants development to fit with what's already there.

Councilor MacLellan-Ruf said that "moratorium" is a scary word to some. She said people have purchased homes in an area where they are not even aware that such development is possible. She said she doesn't like the word "moratorium" either, but the request from COMPS is a wake-up call to the City to pay attention to what is going on. She said this will allow the City to be proactive rather than re-active when development projects are proposed.

Councilor Isganitis said that Councilor Dickerson is right in saying that developers like it when they know what is expected from them, however, it is not productive to complain about what is allowed. He said that the 65-foot height allowance in the Downtown Zone has been in place for more than 30 years. He said that he was glad that this conversation was taking place, but it

should not be a knee-jerk response in a negative way. He said that after the review by COMPS, it may be determined that the existing regulations are fine. He added that one positive outcome from this is awareness on the part of the public as to what the regulations may allow. He said the City should move on from this point in a proactive way. He also said that the developer in the hotel project went above and beyond in reaching out to the public, and if the Council feels this should be the standard, it should put it into the regulations. He said that he did not want to see any possible development squelched because of a public opinion discussion. He said the City needs to decide what it wants to be and move forward, inclusive of everyone.

Councilor Hebert said that Rockland is land poor, and that the name of the game was re-development. He said the tool that guides such re-development is zoning. He said that a lot of time has been spent looking at zoning, and that there can be conflicts in various regulations. He said that is the result of how the City was developed prior to zoning laws coming into being. He said the purpose of zoning in mixed use areas is to promote commercial development while protecting residential neighborhoods. He said it may not be perfect, but it isn't that bad. He said that he was sorry that the hotel project stirred up such a controversy, and that it doesn't hurt to go back and look at the issue. However, he said he wanted to avoid a knee-jerk reaction. He said this moratorium is not necessary, and that COMPS could still look at the issue without it.

At this time, Mayor Pritchett asked Councilor Hebert to take the Chair so that he could speak on this issue.

Mayor Pritchett said that he has been involved in moratoria since 1987, and the argument against them has always been the "negative message" that it sends. He said that the "negative message" never happens, and moratoria give communities an opportunity to address public concerns while allowing appropriate development to proceed. He said this proposal affects a narrowly focused area, otherwise, he said he would not be proposing it. He said that this proposal is responsive to concerns expressed by residents, and that it was an appropriate matter for COMPS to review.

Vote: 3 for, 2 opposed.  
(Hebert, Isganitis)

A public hearing was set for August 11, 2014 at 7:00 p.m.

Councilor Hebert returned the Chair to Mayor Pritchett.

**Orders:**

#56 Authorizing License Agreement – Dunkin Donuts Parking

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

**THAT** the City Manager is hereby authorized to enter into a license agreement with Jacks Maine Real Estate, LLC, formerly known as J & W Properties, LLC, owners of 632 Main Street (Tax Map #13-D-6), to allow parking for the business located at 632 Main Street on a portion of the City-owned parcel of land adjacent to said 632 Main Street, known as Ralph Ulmer Square and identified as Tax Map #12-B-1, in substantial conformance with the license agreement attached hereto.

Sponsor: City Manager  
Originator: City Manager

**LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** by and between the **CITY OF ROCKLAND, MAINE**, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Licensor") and **JACKS MAINE REAL ESTATE LLC**, f/k/a J&W Properties, LLC, Maine business corporation with a place of business at 632 Main Street, Rockland, Maine (the "Licensee"), is effective July 15, 2014, if duly executed by each party.

**WHEREAS**, Licensee operates a Dunkin Donuts restaurant at 632 Main Street (Tax Map 13-D-6) (the "Dunkin Donuts"); and

**WHEREAS**, the City owns Ralph Ulmer Square at 1 North Main Street in Rockland (Tax Map 12-B-1) ("Ulmer Square"), adjacent to the Dunkin Donuts; and

**WHEREAS**, Ulmer Square was comprised of land conveyed to the City by deed of Anna H. Keen, dated August 28, 1889, and recorded on the Knox County Registry of Deeds in Book 77, Page 236, and of a former right-of-way benefitting, among others, the owner of the Dunkin Donuts property; and

**WHEREAS**, in or about 1971 the City and Licensee's predecessor in title entered into an oral agreement whereby Regular

Dunkin Donuts was authorized to construct seven parking spaces and to place 2 signs for Dunkin Donuts within northerly section of Ulmer Square where the right-of-way formerly was located (the "First License"); and

**WHEREAS**, the First License required the Dunkin Donuts owner and operator to install and maintain the flagpole and shrubbery in Ulmer Square, and to keep the Square free of litter; and

**WHEREAS**, on or about February 13, 1989, the City and another of Licensee's predecessors in title entered into a written license agreement, with no fixed term, authorizing Dunkin Donuts to continue to maintain seven parking spaces and two signs in their then-existing locations, and required the owner of the Dunkin Donuts property to maintain the flagpole and shrubbery in Ulmer Square and to keep the Square free of litter (the "Second License Agreement"); and

**WHEREAS**, the City and Licensee now seek to update said License Agreement, make it clearly applicable to Jacks Maine Real Estate LLC, establish a finite term, and more concisely state Dunkin Donuts' maintenance responsibilities in Ulmer Square,

**NOW, THEREFORE**, in consideration of the promises and undertakings set forth herein, the parties hereto do agree as follows:

**1. Grant of License.** The City of Rockland grants to Licensee a license to use, for Licensee's Dunkin Donuts restaurant, up to seven parking spaces and two parking signs, now existing, in the northerly section of Ulmer Square that formerly constituted the right-of-way, within 20 feet of the Licensee's property and approximately as shown in the plan attached as Exhibit A (the "License Premises"), subject to the terms and conditions set forth in this License. Licensee may not utilize the License Premises for any other purpose.

**2. Term.** This License, the permissions granted to Licensee, and the conditions and obligations set forth herein shall be effective for five years, commencing July 15, 2014, and terminating at midnight on July 14, 2019, unless lawfully terminated earlier. The City and Licensee may extend this License for one additional five year term in a writing approved and duly executed by the City Manager and an authorized representative of Licensee or its successor or assign.

**3. Consideration.** No fee shall be charged for this License Agreement, provided that Licensee perform, or cause to be performed, to the satisfaction of the City Manager, the maintenance and other responsibilities set forth in this License, including:

- A. Maintain and mow the grassed areas in Ulmer Square;
- B. Plant, maintain, or – but only with the City Tree Warden's prior approval – replace, as may be applicable, the trees, shrubs, and gardens now existing in Ulmer Square;
- C. Keep Ulmer Square and the License Premises free and clear of litter and debris; and
- D. Raise and lower the United States flag on the flagpole in Ulmer Square, in conformance with the orders for the same by the President of the United States and/or Governor of the State of Maine.

**4. Conditions.** Such license and use of Ulmer Square Park shall be subject to and conditioned upon Licensee's performance of the Consideration and other maintenance obligations imposed in this License, and additionally upon the following:

- A. Licensee shall not place or allow any third party to place or move Licensee's tables, chairs or other property to or onto Ulmer Square, and shall reasonably direct Dunkin Donuts patrons to neither consume Dunkin Donuts products or loiter in the non-licensed portion of Ulmer Square;
- B. Licensee may not place any signs in Ulmer Square other than the two parking signs authorized herein to be placed within the License Premises, and shall remove any excess signs now existing from the License Premises;
- C. Licensee may not place, and shall remove if placed by any third party, any commercial logos, promotional materials, or other advertising for Licensee's or any other business or enterprise within the non-licensed portion of Ulmer Square;

- D. Licensee, and not the City, shall be responsible for the repair of any damage that occurs within the License Premises during the term of this License Agreement;
- E. Licensee shall secure and maintain property insurance for the License Premises, and liability insurance covering occurrences within the License Premises in amounts not less than \$1,000,000/occurrence and \$3,000,000/ aggregate, and shall cause the City to be named therein as an additional insured. Licensee shall cause an original certificate of such insurance to be submitted to the City prior to Licensee's use of the License Premises. Licensee shall keep current such liability insurance coverage throughout the term of this License Agreement;
- F. License shall not make or permit any construction, reconstruction, demolition, or other activity affecting the condition of the License Premises. Any improvements to or in the License Premises by, on behalf of, or with the permission of the Licensee shall become the property of the City, without cost and free and clear of any lien or other encumbrance or claim;

**6. Costs; Maintenance.** Licensee shall be fully and solely responsible for the costs of the permanent or temporary improvement(s) and amenities authorized in this License Agreement, and the City shall have no responsibility or liability therefor. Licensee shall maintain the License Premises, and Licensee's property therein, in a safe and presentable condition throughout the Term of this License Agreement, to the satisfaction of the City Manager, and shall bear the full expense thereof;

**7. Indemnification; Hold Harmless.** Licensee hereby agrees and undertakes to indemnify Licensor, and shall protect and hold Licensor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from any event, act, or omission within the term of this Agreement in connection with any claim, loss, or damage arising from or connected with the permissions granted to Licensee herein, and/or from Licensee's acts or omissions in or relating to its use of the License Premises. Nothing herein shall be deemed a waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

**8. Termination.** The City may terminate this License Agreement prior to the expiration of the Term as follows:

- A. Either party may terminate this License Agreement by providing thirty days' prior, written notice to the other party;
- B. The City may terminate this License Agreement without notice if the City Manager finds that Licensee is in violation of any condition, term, obligation, or requirement of this License Agreement or other applicable law, regulation, or rule ("cause"). Cause shall include, but not be limited to, Licensee's service of alcohol or allowance of the consumption of alcohol within the License Premises at any time during Licensee's business hours or while Licensee or any employee or other agent of Licensee shall be present at the Dunkin Donuts restaurant.

In the event of such termination prior to the expiration of the Term of this License Agreement, the permissions granted herein to the Licensee shall cease upon the effective date of such termination; Licensee shall, with or without order or other notice to that effect, and at Licensee's sole expense, remove or cause to be removed all of Licensee's property from the License Premises; and Licensee shall immediately cease any use of such License Premises;

**9. Miscellaneous.**

- A. This License Agreement is not intended and shall not be construed as creating or conveying to Licensee, or any party, an interest in real property or right-of-way, and Licensee acknowledges for itself, its tenants, members, agents, successors, and assigns, that it or they shall have no right, title, or interest in any City property or right-of-way;
- B. The limitations, obligations, and rights granted to or imposed upon Licensee in this License Agreement shall alike extend to and be binding upon Licensee and its successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

Councilor Hebert moved passage.

Vote: 5 for.

#57 Authorizing License Agreement – ADZ Properties

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

**THAT** the City Manager is hereby authorized to enter into a license agreement with ADZ Partnership to allow decorative projections over the sidewalks on Main Street and Pleasant Street at 250 Main Street (Tax Map #5-C-9), which projections are among the architectural elements approved by the Planning Board, in substantial conformance with the license agreement attached hereto.

Sponsor: City Manager  
Originator: City Manager

**LICENSE AGREEMENT**

**THIS AGREEMENT** by and between the City of Rockland, Maine, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Licensor") and ADZ Partnership, a Maine partnership with its principal place of business in Thomaston, Maine (the "Licensee"), is effective July 15, 2014.

**WHEREAS**, on June 10, 2014, the Planning Board granted a site plan application by Cabot Lyman, d/b/a ADZ, LLC, to construct a small, boutique art hotel (the "Art Hotel") on property owned by Licensee at 250 Main Street in Rockland (Tax Map 5-C-9) (the "Property"); and

**WHEREAS**, the design of the Art Hotel included permanent projections from the Main Street and part of the Pleasant Street facades of the structure, extending between 18 and 36" over the sidewalks, including a cornice canopy to shield glazing that forms much of the fifth floor façade, window canopies on the second, third, and fourth floors, and fixed awnings shielding windows and entrances in the first floor façade, depicted to and approved by the Planning Board as follows:



and

**WHEREAS**, these canopies and awnings meet the regulations established by the City Council in Ch. 15, Art. I, Sec. 15-106 for awnings extending over sidewalks in the City of Rockland,

**NOW, THEREFORE**, the City grants to Licensee a license for canopies, awnings, and projections in substantial conformance with the site plan approved by the Planning Board, or as amended, as follows:

**1. Grant of License.** The City grants to Licensee a license to install and maintain canopies, awnings, and other permanent projections over the sidewalk as approved by the Planning Board and in conformance with the City’s regulations for awnings set forth in Ch. 15, Art. I, Sec. 15-106, and as depicted in the Main Street and Pleasant Street Profiles, attached and incorporated herein as Exhibits A and B, respectively. No such canopy, awning, or projection may be placed lower than seven feet above the sidewalk.

**2. Term.** The permissions granted to Licensee under this License Agreement shall terminate upon the substantial

rehabilitation or demolition of the Art Hotel.

**3. Construction; Maintenance; Default.** Licensee shall be fully and solely responsible for the construction and/or costs of the improvement(s) authorized in this License Agreement, and the City shall have no responsibility or liability therefor. Licensee shall maintain the projections authorized herein in a safe and presentable condition throughout the Term of this License Agreement, to the satisfaction of the Code Enforcement Officer, and shall bear the full expense thereof. In the event of any default under this Agreement by Licensee, or any failure of Licensee to comply with any other applicable code, rule, or regulation of the City, or order to correct by the Code Enforcement Officer or his designee, Licensee shall, at Licensee’s sole expense, cure such default or failure to comply within thirty (30) days. Nothing in the foregoing shall limit the City’s authority to terminate this Agreement, as set forth herein;

**4. Indemnification; Hold Harmless.** Licensee hereby agrees and undertakes to indemnify Licensor, and shall protect and hold Licensor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from any event, act, or omission within the term of this Agreement in connection with any claim, loss, or damage arising from or connected with the construction of one or more of the projections authorized herein, or their maintenance as required of Licensee herein. Nothing herein shall be deemed a

waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

**5. Miscellaneous.**

A. This License Agreement is contractual, and is not intended and shall not be construed as creating or conveying to Licensee, or any party, an interest in real property or right-of-way, and Licensee acknowledges for itself, its tenants, members, agents, successors, and assigns, that it or they shall have no right, title, or interest in any City property or right-of-way;

B. The limitations, obligations, and rights granted to or imposed upon Licensee in this License Agreement shall alike extend to and be binding upon Licensee and its successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

Councilor Isganitis moved passage.

Councilor Hebert asked if any of the proposed projections interfere with the City’s machinery for snow removal. The City Attorney said that the Code requires projections to be at least 7 feet above the surface of the sidewalk.

Vote: 4 for, 1 opposed.  
(Dickerson)

#58 Authorizing Reconveyance by Bill of Sale – 108 First Street

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

**THAT** the City Manager is hereby authorized to reconvey by bill of sale a mobile home located at 108 First Street (Tax Map #58-A-7-108), acquired by automatic foreclosure of a municipal tax lien, to the former owner Brenda Birmingham, in substantial compliance with the Reconveyance Agreement attached hereto. If said former owner fails to comply with the requirements of the Reconveyance Agreement, the City Manager is hereby authorized to solicit bids for sale of said mobile home.

Sponsor: City Manager  
Originator: City Attorney

**RECONVEYANCE AGREEMENT**  
*108 First Street (Tax Map 58-A-7-108)*

The City of Rockland (the “City”) and **Brenda Burningham** (collectively, the “Grantee”) hereby agree to the City’s

reconveyance of the Imperial mobile home located at **108 First Street** (f/k/a 280 Park Street, Lot 108) in the City of Rockland, County of Knox, and State of Maine, Rockland Tax Map 58, Block A, Lot 7-103 (the "Property"), pursuant to the City of Rockland Code of Ordinances ("Rockland Code"), Chapter 2, Article V, Section 2-509(15) as follows:

**WHEREAS**, on September 10, 2012, the City filed a Certificate of Lien on the Knox County Registry of Deeds in Book 4563, Page 102, to secure the payment of unpaid real property tax assessed on the Property for FY 2012, pursuant to 36 M.R.S. § 942;

**WHEREAS**, on March 10, 2014, any equitable right the Grantee may have had to redeem title to the Property by paying the overdue tax expired, and title to the Property passed to the City of Rockland pursuant to 36 M.R.S. § 943;

**WHEREAS**, Maine law and Section 2-509(15) of the Rockland Code authorizes the City Council to reconvey property acquired by statutory lien foreclosure;

**WHEREAS**, on July 14, 2014, the City Council authorized the City Manager to enter into this Reconveyance Agreement and to issue a bill of sale to the Grantee for the Property,

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements herein, the parties hereto agree as follows:

**1. Payment of Delinquent Real Estate Taxes.** Pursuant to Rockland Code, Chapter 2, Article V, Section 2-509(15)(F)(1), the Grantee shall, no later than **August 30, 2014** (the "Reconveyance Deadline") cause to be paid to the City of Rockland all delinquent real estate taxes on the Property, as follows:

FY 2012:	\$242.91	(including lien expenses and interest, with interest accruing thereafter at \$0.03 <i>per diem</i> )
FY 2013:	\$487.60	(including lien expenses and interest, with interest, accruing thereafter at \$0.07 <i>per diem</i> )
FY 2014:	\$410.53	(including interest, with additional interest, accruing thereafter at a rate of \$0.08 <i>per diem</i> )
Subtotal:	<b>\$1,141.04;</b>	

**2. Payment of Delinquent And New Sewer Charges.** Pursuant to Rockland Code, Chapter 2, Article V, Section 2-509(15)(F)(1), the Grantee shall, by no later than the Reconveyance Deadline cause to be paid all delinquent water and sewer charges for the Property, and associated lien and service costs, and all water and sewer charges incurred by the City for the Property, in the amount of **\$701.92 as of April 30, 2014**, with interest accruing thereon at the rate of **7% per annum**, and together with any and all additional charges incurred or billed on or after April 30, 2014;

**3. Reconveyance.** The City shall release to the Grantee or its assign the City's right, title, and interest in the Property, without warranty or covenant, upon the payment and/or performance of the charges, fees, interest, other payments, and repairs required by this Agreement within the applicable deadline(s);

**4. Extension.** The City Manager may extend the Closing Date, for cause, but for no longer than sixty (60) days;

**5. Representations; Indemnification.** The undersigned represents that it is a mortgage lien holder encumbering the Property, and that it is authorized to perform the undertakings set forth in this Agreement and to accept the City's release deed to the Property. The Grantee shall defend, indemnify, and hold the City of Rockland harmless from any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from or in connection with the occupancy, maintenance, and repair of the Property by the Grantee's guest(s), invitee(s), or permittee(s), or by any trespasser(s), during the period of the City's ownership of the Property;

**6. Remedies.**

A. City of Rockland's Remedies. In the event that the Grantee shall fail to perform any term, condition, or obligation set forth in this Agreement within the deadline imposed therefor, the City shall not be obligated to reconvey the Property to the Grantee, may sell and convey the Property to another party, and shall not be obligated to repay any payment or partial payment made by or on behalf of the Grantee to the City; provided, however, that if the City shall sell the Property within one year of the effective date of this Agreement, the City shall repay to Grantee any payment by or on behalf of the Regular

Grantee to the City for taxes, sewer charges, finance charges, insurance coverage, or document preparation to the extent the proceeds of such sale of the Property, less any real estate broker or agent fee or charge, transaction costs, and additional carrying costs incurred by the City, permit.

B. Grantee's Remedies. In the event that the Grantee shall sign this Agreement and fully perform all obligations imposed herein, and the City of Rockland shall have authorized the reconveyance but fail to release its interest in the Property for reasons other than a breach of this Agreement by the Grantee, or the destruction of the Property, the City shall either reconvey the Property to the Grantee, or pay to the Grantee any sums realized from the sale of the Property, less any amounts owed to the City pursuant to this Agreement and/or incurred by the City with respect to the Property. Notwithstanding anything to the contrary in this Agreement or in the ordinance amendment authorizing the reconveyance, the City shall not be obligated to reconvey the Property to the Grantee in the event she and/or her guest(s) engage in any criminal activity at the Property during the period of the City's ownership.

Councilor Hebert moved passage.

Vote: 5 for.

#59 Authorizing Reconveyance by Bill of Sale – 42 Fourth Street

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

**THAT** the City Manager is hereby authorized to reconvey by bill of sale a mobile home located at 42 Fourth Street (Tax Map #58-A-8-42), acquired by automatic foreclosure of a municipal tax lien, to the former owners Ken and Elena McIntyre, in substantial compliance with the Reconveyance Agreement attached hereto. If said former owners fails to comply with the requirements of the Reconveyance Agreement, the City Manager is hereby authorized to solicit bids for sale of said mobile home.

Sponsor: City Manager  
Originator: City Attorney

**RECONVEYANCE AGREEMENT**  
*42 Fourth Street (Tax Map 58-A-8-42)*

The City of Rockland (the "City") and **Kenneth McIntyre** (the "Grantee") hereby agree to the City's reconveyance of the Imperial mobile home located at **42 Fourth Street** (f/k/a 282 Park Street, Lot 42) in the City of Rockland, County of Knox, and State of Maine, Rockland Tax Map 58, Block A, Lot 8-42 (the "Property"), pursuant to the City of Rockland Code of Ordinances ("Rockland Code"), Chapter 2, Article V, Section 2-509(15) as follows:

**WHEREAS**, on September 10, 2012, the City filed a Certificate of Lien on the Knox County Registry of Deeds in Book 4563, Page 199, to secure the payment of unpaid real property tax assessed on the Property for FY 2012, pursuant to 36 M.R.S. § 942;

**WHEREAS**, on March 10, 2014, any equitable right the Grantee may have had to redeem title to the Property by paying the overdue tax expired, and title to the Property passed to the City of Rockland pursuant to 36 M.R.S. § 943;

**WHEREAS**, Maine law and Section 2-509(15) of the Rockland Code authorizes the City Council to reconvey property acquired by statutory lien foreclosure;

**WHEREAS**, on July 14, 2014, the City Council authorized the City Manager to enter into this Reconveyance Agreement and to issue a bill of sale to the Grantee for the Property,

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements herein, the parties hereto agree as follows:

**7. Payment of Delinquent Real Estate Taxes.** Pursuant to Rockland Code, Chapter 2, Article V, Section 2 509(15)(F)(1), the Grantee shall, no later than **August 30, 2014** (the "Reconveyance Deadline") cause to be paid to the City of Rockland all delinquent real estate taxes on the Property, as follows:

FY 2012:	\$396.04	(including lien expenses and interest, with interest accruing thereafter at \$0.06 <i>per diem</i> )
FY 2013:	\$380.18	(including lien expenses and interest, with interest, accruing thereafter at \$0.06 <i>per diem</i> )
FY 2014:	\$307.41	(including interest, with additional interest, accruing thereafter at a rate of \$0.06 <i>per diem</i> )
Subtotal:	<b>\$1,083.63;</b>	

**8. Repairs.** Pursuant to Rockland Code, Chapter 2, Article V, Section 2-509(15)(F)(4), and reports of inspections of the Property on April 4, 2014, the Former Owner shall effect the following repairs of Property Maintenance or other Code violations at the Property, on or before the Closing Date unless otherwise stated below:

- \* Install operational smoke detectors;

All repairs and compliance with this paragraph, and with applicable codes, are subject to inspection and approval by the Code Enforcement Officer and/or Fire Inspector. Neither this Agreement, nor compliance with this paragraph, shall relieve the Grantee and/or any subsequent owner of the obligation to repair all code issues identified by the Code Enforcement Officer on inspection, and to fully comply with the Property Maintenance Code and other codes as may be applicable following the reconveyance of the Property;

**9. Reconveyance.** The City shall release to the Grantee or its assign the City’s right, title, and interest in the Property, without warranty or covenant, upon the payment and/or performance of the charges, fees, interest, other payments, and repairs required by this Agreement within the applicable deadline(s);

**10. Extension.** The City Manager may extend the Closing Date, for cause, but for no longer than sixty (60) days;

**11. Representations; Indemnification.** The undersigned represents that it is a mortgage lien holder encumbering the Property, and that it is authorized to perform the undertakings set forth in this Agreement and to accept the City’s release deed to the Property. The Grantee shall defend, indemnify, and hold the City of Rockland harmless from any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney’s fees) of any nature arising from or in connection with the occupancy, maintenance, and repair of the Property by the Grantee’s guest(s), invitee(s), or permittee(s), or by any trespasser(s), during the period of the City’s ownership of the Property;

**12. Remedies.**

A. City of Rockland’s Remedies. In the event that the Grantee shall fail to perform any term, condition, or obligation set forth in this Agreement within the deadline imposed therefor, the City shall not be obligated to reconvey the Property to the Grantee, may sell and convey the Property to another party, and shall not be obligated to repay any payment or partial payment made by or on behalf of the Grantee to the City; provided, however, that if the City shall sell the Property within one year of the effective date of this Agreement, the City shall repay to Grantee any payment by or on behalf of the Grantee to the City for taxes, sewer charges, finance charges, insurance coverage, or document preparation to the extent the proceeds of such sale of the Property, less any real estate broker or agent fee or charge, transaction costs, and additional carrying costs incurred by the City, permit.

B. Grantee’s Remedies. In the event that the Grantee shall sign this Agreement and fully perform all obligations imposed herein, and the City of Rockland shall have authorized the reconveyance but fail to release its interest in the Property for reasons other than a breach of this Agreement by the Grantee, or the destruction of the Property, the City shall either reconvey the Property to the Grantee, or pay to the Grantee any sums realized from the sale of the Property, less any amounts owed to the City pursuant to this Agreement and/or incurred by the City with respect to the Property. Notwithstanding anything to the contrary in this Agreement or in the ordinance amendment authorizing the reconveyance, the City shall not be obligated to reconvey the Property to the Grantee in the event she and/or her guest(s) engage in any criminal activity at the Property during the period of the City’s ownership.

Councilor Hebert moved passage.

Vote: 5 for.

#60 Authorizing Bids – Sale of 106 Thomaston Street

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

**THAT** the City Manager is hereby authorized to solicit bids for the sale of a City-owned parcel of land located at 106 Thomaston Street (Tax Map #61-A-8) acquired through the automatic foreclosure of a municipal tax lien. The City reserves the right to accept or reject any and/or all bids.

Sponsor: City Manager  
Originator: City Manager

Councilor Hebert moved passage.

Vote: 5 for.

#61 Authorizing Bids – Sale of 224 Old County Road (Engine Quarry)

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

**THAT** the City Manager is hereby authorized to solicit bids for the sale of a City-owned parcel of land located at 224 Old County Road (Tax Map #80-A-3) and known as Engine Quarry. The City reserves the right to accept or reject any and/or all bids.

Sponsor: City Manager  
Originator: City Manager

Councilor Isganitis moved passage.

Vote: 5 for.

#62 Authorizing Use of Dedicated Funds – Sewer Capital Projects

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

**WHEREAS**, during Fiscal Year 2015 budget deliberations, the Waste Water Treatment Plant Director identified Sewer/ Storm Water Collection System CIP's totaling \$388,000; and

**WHEREAS**, The City has unexpended CSO/ Pump Station Funds from 2006 that can be expended for sewer/ storm water projects in the South End; and

**WHEREAS**, The Waste Water Treatment Facility has unexpended CIP Project Monies from previous facility upgrades;

**THAT** the City Manager is hereby authorized to expend funds out of the following accounts to cover the costs of any required sewer repairs discovered during inspection of the City's sewer system by the Preventative Maintenance Program:

- R.E. Reserved for CIP (Acct. #20000-02990) \$207,210
- Due CSO/Pump Station Project (Acct. #10000-01676) \$206,002

Sponsor: City Manager  
Originator: City Manager

Councilor MacLellan-Ruf moved passage.

Vote: 5 for.

#63 Authorizing Tax Anticipation Note (TAN) Borrowing

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

**VOTED:** That, pursuant to Section 5771 of Title 30-A of the Maine Revised Statutes, the Director of Finance is hereby authorized and empowered to borrow money from time to time during the fiscal year ending June 30, 2015, singly or in series, in an amount or amounts not exceeding \$1,500,000 at any one time outstanding, in anticipation of the collection of receipts from taxes, such borrowing to be evidenced by the issuance of the City's tax anticipation notes (the "Notes").

**VOTED:** That the Notes shall be issued in an amount not to exceed \$1,500,000 and that the interest rate (not to exceed 7.0% per annum), maturities, and denominations for the Notes shall be established by the Director of Finance following his solicitation of bids. Notes, and any extensions, renewals, or replacements thereof, shall be signed by the Director of Finance and countersigned by the Mayor, attested to by the Clerk, and shall be payable on or before June 1, 2015, out of money raised by taxation during the fiscal year ending June 30, 2015, and shall contain such terms and provisions, not inconsistent herewith, and be in such form as shall be approved by the officers and officials signing the same, which approval shall be conclusively evidenced by their execution thereof.

**VOTED:** That the Director of Finance be, and hereby is authorized to prepare and distribute a Notice of Sale of the City, or other suitable document for use in soliciting bids from financial institutions.

**VOTED:** That the Director of Finance be and hereby is authorized to designate the Notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

**VOTED:** That the Director of Finance be and hereby is authorized to covenant with the purchaser of the notes, on behalf of the City and for the benefit of the holders of the notes, that the City shall take whatever steps, including filing any reports and rebating any excess earnings, as may be required by federal law, and shall refrain from taking any action, as may be necessary or appropriate to ensure that interest on the notes will remain exempt from federal income taxes.

**VOTED:** That the officers executing the notes be and hereby are individually authorized to covenant, certify, and agree, on behalf of the City and for the benefit of the holders of the notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

**VOTED:** That the Director of Finance, Mayor, and Clerk be and hereby are authorized and empowered on behalf of the City to undertake all such acts and things and execute and deliver all such documents and certificates as may be necessary or convenient in connection with the issuance, sale, execution, and delivery of the notes.

**VOTED:** That if the Director of Finance, Mayor, or Clerk are for any reason unavailable to approve and execute the notes or any related 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 himself/herself performed such act.

Sponsor: City Manager  
Originator: Finance Director

Councilor Isganitis moved passage.

Vote: 5 for.

#64 Authorizing Transfer of Funds – Harbor Park Redevelopment Reserve

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

**THAT** the City Manager is hereby authorized to transfer \$12,750, calculated to be one-half of the anticipated revenues from Park Rental Fees for FY 2015, from the Harbor Port Development Reserve Account (#70000-01684) to a reserve account to be newly created that will be named the Harbor Park Re-Development Reserve Account.

Sponsor: Councilor Hebert  
Originator: Councilor Hebert

Councilor Hebert moved passage.

Councilor MacLellan-Ruf said that this proposal seemed to be redundant since there is already a Port Development account, of which the Council has control.

Councilor Hebert disagreed, saying that the Port Development account covers a broad range of projects that can be funded that do not have anything to do with Harbor Park. He said this proposal comes from a recommendation made by the Harbor Management Commission to take revenue from the rental of the parks and use them to fund improvements to Harbor Park which will benefit all users as a whole.

Vote: 2 for, 3 opposed.  
(Dickerson, MacLellan-Ruf, Pritchett)  
Motion Defeated.

Regular Meeting continued:

July 14, 2014

With no other business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:05 p.m.

A TRUE COPY.

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

## **SPECIAL MEETING**

## **AGENDA**

**July 23, 2014**

Work Session: FY 2015 City Council Work Plan & City Manager Search

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

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

**Work Session: FY 2015 City Council Work Plan and City Manager Search:** The Council went into informal session for a discussion of development of a work plan for fiscal year 2015 and on how to proceed with the search for a new City Manager. After discussion of each issue, it was decided that more discussion was needed and the Mayor would schedule meetings in the near future to continue the discussions on these issues.

With no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting adjourned at 7:44 p.m.

A TRUE COPY.

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

## **SPECIAL MEETING**

## **AGENDA**

**August 4, 2014**

Order #65 Authorizing Development of FY 2015 City Council Work Plan  
Work Session: Thorndike Parking Area Improvement Project  
Set Agenda for August 8, 2014 Regular Meeting

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

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

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

- Bethany Berry, 59 Crescent Street, spoke concerning the proposal to change to a pay per bag waste disposal system at the City's Transfer Station, saying that the citizens are angry about the proposal and have signed a petition to force a referendum vote on its repeal. She added that the pay per bag system is being touted as the "fairest" was to pay for waste disposal, but said that she didn't think it was very fair when residents would be paying a higher disposal cost than commercial haulers and out of town contractors.

- Michael Lane, 54 Waldo Avenue, also spoke concerning the pay per bag proposal, saying that more than 700 people signed the petition for repeal of the pay per bag proposal, and hoped that the Council would put it on the ballot for the November 4, 2014 election. He said he hoped that an intelligent discussion could be held between now and then on alternative disposal options. He also commented on the ad the City ran in Free Press arguing for the pay per bag proposal, saying that he hoped the City would provide the opponents with the same funds to run their own ad to state their case. He also commented on the "fairness" issue, stating that individual homeowners would be paying more to dispose of their trash under the pay per bag system than they would under the sticker system, and that the citizens would in essence be subsidizing the Commercial Haulers by paying a higher disposal fee.

With Mr. Lane's 5 minute limit reached, Councilor Dickerson moved to suspend the Rules to allow Mr. Lane to continue.

Councilor Isganitis objected to the suspension of the Rules.

Councilor Hebert said that Mr. Lane could continue his comments after all others have had a chance to speak.

Councilor MacLellan-Ruf said that the Council routinely allows people to speak more than 5 minutes, and that Mr. Lane should be allowed to continue.

Councilor Isganitis said that this was not a matter of courtesy, he said that the comments are being passed off as facts that have not been verified. He said that this can be confusing to the general public. He suggested that a work session could be held between the City and the opponents so that the true facts could be disseminated.

Councilor Hebert said that the Council should follow its Rules.

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

The Rules were suspended and Mr. Lane was allowed to continue.

Mr. Lane continued that other communities provide curb-side pick-up and other services seemingly for less than what Rockland is providing currently. He said that he was disappointed with the Council's actions on this matter.

- Steve Carroll, 326 Old County Road, said he was once again approaching the Council in an attempt to establish an agricultural market at his property on Old County Road. He said previous efforts have not been successful because of what he called on onerous and arbitrary fee associated with a Condition Zoning amendment. He said the he hoped that the Council would consider a suggestion by the Code Enforcement Officer to establish agricultural markets as a conditional use in the Residential B Zone on properties that front on Old County Road. He also mentioned that the Code Officer has been extremely helpful throughout his efforts to establish this agricultural market.

- Paul Chartrand, 45 Crescent Street, spoke concerning the impact of the various festivals on the community as a whole, saying that now is the time to talk with City staff and merchants to get a good sense of what actually takes place during these festivals, rather than waiting until the winter months and asking people to try and remember the relevant issues. Mr. Chartrand did mention one issue that should be address, that of a lack of enforcement of the over-night parking regulations in City parking lots. The City Manager said that he was not aware of any agreements in place to allow overnight parking in City parking lots, but would speak with the Police Chief on the matter.

Hearing no other speakers, the public forum was closed.

At this time, Water Pollution Control Facility Director Terry Pinto gave the Council an update on the dye and smoke testing being conducted on the City's sanitary sewer and storm water system. He said that information on the testing has been sent to residents in the areas where testing is being conducted and who they should contact if there are any issues. He said the testing will begin in the Snow Marine Park/Mechanic Street area as well as the Winter Street area.

#### **Order #65 Authorizing Development of FY 2015 City Council Work Plan**

**WHEREAS**, the City Council wishes to develop a work plan for FY 2015 that establishes priority projects and policies on which Council should focus in FY 2015; and

**WHEREAS**, Council wishes to solicit ideas from both the public and from City staff in the development of the FY 2015 Work Plan; and

**WHEREAS**, the City Council has not developed annual work plans in the past years and neither the Council nor City staff have engaged in much long range planning beyond the Comprehensive Land Use Plan; and

**WHEREAS**, the Acting City Manager has recommended the City seek outside assistance to improve the quality of the planning process and the final work plan; and

**WHEREAS**, City Council has agreed that the key steps involved in developing an FY 2015 work plan include a meeting of the Manager and the Department Heads, a public forum and a Council Work Session;

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

**THAT**, Acting City Manager Luttrell is authorized to enter into a contract with \_\_\_\_\_ to provide support to this planning effort, and

**THAT**, Acting City Manager Luttrell is authorized to expend up to \$\_\_\_\_\_ from the General Professional Services Account (#10018-05010) to fund this project.

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor Hebert moved passage.

Councilor Isganitis said this order seems to be moving forward with this process in leaps and bounds, and that he was not comfortable with the process so far. He said he would rather the Council look at using more local resources before it looks for outside assistance.

Mayor Pritchett responded that he thought the Council was ready to move forward with the proposal since it appeared that there were no local vendors available at this time to assist the Council in this matter.

Councilor Dickerson said that she understood that the Mayor misunderstood the situation. She said sending out an email on the subject is different from engaging is a public discussion of the matter. She said that she thought the Council was going to engage in a more thorough process, so she was somewhat surprised by this Order. She said that she did not think the taxpayers would be very happy about spending \$5,000 for this purpose. She said that the Council needs to slow down and look for more economic options to facilitate this process.

Mayor Pritchett responded that the amount being sought for such a facilitator is less than \$5,000. He also said that it would be fine with him if the Council wishes to delay this proposal, but he was under the impression that the Council was ready to move forward in this direction.

Councilor MacLellan-Ruf said that there is a difference between the Council developing a work plan, i.e.; who does what, when and how; and hiring a consultant to facilitate the process. She said that the Council is perfectly capable of establishing such a plan. She said maybe it would be helpful to hire someone to facilitate a public forum on the matter, but the Council can and should do the groundwork.

Councilor Hebert said that there was some consensus on the Council to move in this direction, so he was not surprised by this Order. He said that no one from the local area has stepped forward to assist the Council in this process. He said that he understands Councilor MacLellan-Ruf's point, but said he takes a different view. He said that he believed that it would be very helpful to have a consultant assist the Council for the entire process. He said he would feel more comfortable moving forward with this process with a facilitator.

Councilor Isganitis said that sometimes the public gets upset with the Council when the Council moves forward on issues such as this would first garnering input from the public. He said it would be a simple matter for the Manager to send out an RFP with a quick turn-around to give the public a chance to chime in on this subject. He said he would be more comfortable following that kind of a process.

Mayor Pritchett said that there needs to be some clear direction from the Council on how it wishes to proceed on this matter. He asked if the Council wishes to hire a facilitator or not.

Councilor Dickerson moved to postpone Order #65 until the September 8, 2014 Regular Meeting. She added that prior to that meeting, the Council should have a meeting to decide if it wishes to hire a facilitator or not. If the decision is made to hire a facilitator, the City Manager could then send out a RFP for such services.

Mayor Pritchett said that the City does not typically send out RFPs for a project of this scope.

Councilor Isganitis said that there is some agreement that the Council may be willing to pay something for some assistance with this matter, there is just an agreement on how much and for what. He said that it makes sense to have an outside facilitator so that the City employees are comfortable in speaking candidly, and would be useful for the public forum. He added that an RFP would answer a number of questions.

Councilor Hebert said that it is hard to argue with the RFP process, but it is difficult to put out an RFP with the Council as not come to a consensus on what it wants. He said putting out a multiple choice RFP is not workable and would probably end up being more expensive in the long run. He also said that he was opposed to postponing this Order, feeling that it is just kicking the matter down the road. He said that the Council needs to decide what it wants to do and how it wants to proceed with this matter.

Councilor Dickerson said this subject is already off to a shaky start, demonstrating that the Council is not on the same page on this issue. She said that the Council needs to come up with a plan on how it wants to proceed and for what pieces it wants a facilitator's assistance. She said they are not accomplishing anything by moving forward without a clear consensus on how to proceed. She said that staff is still going to be there when the Council figures out in what direction it wishes to move.

Councilor Isganitis said that the scope of work has already been identified by the Council. He said they should issue an RFP on the three issues identified, go through the public process and move forward with the plan.

Councilor MacLellan-Ruf said that this is not a complicated issue, but the Council is complicating the issue. She said that the City Council is capable of identifying what needs to be done. She said that she agrees with Councilor Isganitis that the City should issue an RFP with a quick turn-around, but that the Council can identify what needs to be done. She said if they continue to talk about this issue, nothing will get done.

Special Meeting, Order #65 continued:

August 4, 2014

Councilor Hebert said that this discussion proves that a facilitator would be helpful.

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

Order #65 was postponed until the September 8, 2014 Regular Meeting.

Mayor Pritchett set a meeting for August 27, 2014 at 6:30 p.m. to identify the process that the Council wishes to following with regards to the development of its FY 2015 Work Plan.

**Work Session: Thorndike Parking Area Improvement Project:** The Council then went into informal session for an update to the Thorndike Parking Area Improvement Project and proposed changes to the plan previously adopted by the Council.

**Set Agenda for August 11, 2014 Regular Meeting:** The Council then set the agenda for the August 11, 2014 Regular Meeting.

With the agenda set, and with no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:05 p.m.

A TRUE COPY.

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

## SPECIAL MEETING

## AGENDA

**August 11, 2014**

Executive Session pursuant to 1 M.R.S. §405(6)(A), which allows for the discussion or consideration of employment, for the City Council to discuss the search for a new City Manager.

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, Frank Isganitis, City Manager Luttrell, and City Attorney Beal. Councilor Elizabeth Dickerson arrived at 6:15 p.m.

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

**Executive Session:** Councilor Hebert moved to enter into an Executive Session pursuant to 1 M.R.S. §405(6)(A), which allows for the discussion or consideration of employment, for the City Council to discuss the search for a new City Manager.

Vote: 4 for.

The Council entered Executive Session at 6:01 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection at 6:50 p.m.

A TRUE COPY.

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

## REGULAR MEETING

## AGENDA

**August 11, 2014**

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Public Forum (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. Lodging House License – Old Granite Inn
  - b. Lodging House License – Brunswick Rooms
  - c. Liquor, Entertainment & Amusement Device Licenses – Time Out Pub

- d. Liquor & Entertainment Licenses – American Legion
- e. License to Operate a Taxi Company – Joe’s Taxi

8. Resolves:

- #32 Commendation – Edward “Dan” Flanagan City Council
- #33 Accepting Donations City Manager

9. Ordinances in Final Reading and Public Hearing:

- # 6 Chapter 15, Section 15-143 Snow Disposal Councilor MacLellan-Ruf
- #19 Chapter 8, Section 8-708 GA Max Levels of Assistance Councilor Isganitis
- #20 Authorizing Moratorium – On Site Plan Applications For New or Expanded Buildings Over 50 Feet In Portions Of The Downtown Mayor Pritchett

10. Ordinances in First Reading:

- #21 Bond Ordinance – Repeal & Replacement – Old County Rd Mayor Pritchett
- #22 Chapter 17, Section 17-802 Tillson Avenue Parking Councilor Isganitis
- #23 Chapter 14, Art. I – Repeal of Pay Per Bag Disposal Mayor Pritchett

11. Orders:

- #49 Amendment to TIF Policy (Postponed 6/9/14) City Manager
- #55 Authorizing COLA – Clerk & Attorney (Postponed 6/30/14) City Council
- #66 Amending Downtown TIF – Banning CEAs Mayor Pritchett
- #67 Authorizing Right-Of-Way License Agreement – D. Bennett Mayor Pritchett
- #68 Declaration of Official Intent – Old County Road Bond Ord. City Manager
- #69 Adopting Post-Issuance Compliance Policy – Bonds City Manager
- #70 Authorizing Use of Surplus Funds – Police Detective Vehicle City Manager
- #71 Amending Harbor & Waterfront Fees – Cruise Ship Fee Councilor Isganitis

12. Adjournment.

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

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

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

- Dale Hayward, 162 North Main Street, spoke on issues concerning the Solid Waste Disposal Facility, saying that the shortfall of several hundred-thousand dollars is disturbing. He said that the facility is supposed to be self-sufficient and that tax dollars should not be used to pay for its operation. He also spoke in opposition to Ordinance Amendment #23, Repeal of the Pay Per Bag Waste Disposal System, saying that the citizens collected signatures to put this question on the ballot in November, and the Council should let the people decide the question.

- Colin Wentworth, 5 Lake Avenue (and owner of the Brunswick Rooms), spoke concerning the Lodging House License renewal for the Brunswick Rooms. He said that there were a number of conditions placed on the renewal of his license last year, with many issues being addressed and improvements made. He asked the Council to grant his license without conditions.

- David Myslabodski, 53 Broad Street, spoke concerning issues at the Solid Waste Disposal Facility, saying that the landfill should be saved for in-town residents only and not accept waste from out of town contractor. He also stated that pay per bag and single stream recycling have not been sufficiently vetted by the Council or the public, and that single stream recycling cannot meet what it promises. He also said that recycling is mandatory in the City of Rockland and it is not being enforced at the transfer station.

- Sandra Schramm, 16 Broad Street, also spoke concerning issues at the Solid Waste Disposal Facility, saying that the fees the Council claim are fair actually shows that the Commercial Hauler are paying \$28 per ton less than the residents, meaning that the residents are actually subsidizing the Commercial Haulers. She also said that mandatory recycling is not being enforced.

She added that the financial difficulties at the facility are not the fault of the citizens, rather they are the fault of management, and the public should not be expected to make up for past mistakes of management. She also said that 726 citizens signed a petition to force a referendum vote on the pay per bag question and the Council should let the people decide the issue.

- Adele Faber, 73 Willow Street, also spoke concerning issues at the Solid Waste Facility, saying that the increases to fees at the facility are an attempt by the City to create a new revenue stream to cover-up past mismanagement of the facility. She also commented on an ad run by the City in a local newspaper that stated the actual disposal cost of municipal solid waste was \$143 per ton. She then asked why the City then set the fee for Commercial Haulers at \$115 per ton until May 2, 2015 and then only increase it to \$125, while residential would be expected to purchase bags that would cost \$180 per ton. She said that some families are not going to be able to afford such an increase, and asked what they are supposed to do with their trash. She also said that recycling is mandatory, but Commercial Haulers are not being required to recycle the material that they bring to the facility. She also said that the City has lost hundreds of thousands of dollars on construction and demolition debris disposal contracts that did not afford the City any protections.

Hearing no other speakers, the public forum was closed.

At this time, and without objection from the Council, Mayor Pritchett took Resolve #32, Commendation for Edward "Dan" Flanagan, out of order.

**Resolve #32 Commendation – Edward "Dan" Flanagan**

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

**THAT** Edward "Dan" Flanagan is hereby commended and congratulated for 18 years of service to the City of Rockland as a member of the Recreation Department.

**AND**, be it further Resolved that a Certificate of Commendation be presented to Mr. Flanagan as a token of the City's appreciation for his years of service on the occasion of his retirement, and the City Council wishes him well in his future endeavors.

Sponsor: City Council  
Originator: City Council

Councilor Hebert moved passage and commended Mr. Flanagan for all of the work he has done over the years with the youth of the City. He said that Mr. Flanagan has been a real treasurer for this City and that he will be missed.

Councilor Dickerson echoed Councilor Hebert's comments, and said that Mr. Flanagan put the capital "C" in "Community". She said that she was grateful to raise her children in a community with such caring individuals as Mr. Flanagan.

The City Manager said that this commendation says for "18 years of service", but everyone knows that Mr. Flanagan's involvement with the children of this community goes way back and began long before he became a member of the Recreation Department staff. He thanked Mr. Flanagan for all he has done for this community over the years.

Without objection from the Council, Mayor Pritchett suspended the Rules to allow Recreation Director Rene Dorr to speak.

Mr. Dorr noted that Mr. Flanagan's history with the Recreation Center began when he was a boy and his father was Recreation Director. He said Mr. Flanagan grew up at the Recreation Center, and commended Mr. Flanagan for all the work that he has done over the years for the youth of this community. He said that Mr. Flanagan will be sorely missed and wished him well in his retirement.

Vote: 5 for.

Mayor Pritchett then presented a Plaque and a Certificate of Commendation to Mr. Flanagan in recognition of his years of service to the City.

The order of the agenda was then resumed.

**Reports:**

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

- Public Works trucks are out cleaning storm drains and culverts. Removing the same will help control surface water runoff and help the treatment plant as well.

- With regards to the smoke and dye testing that is taking place throughout the City, if anyone sees any smoke coming from interior drains they should contact Wright-Pierce or City Hall.

- Species testing of the samples from Snow Marine Park show that the pollution is not coming from dog or animal waste but rather human waste. He said that the City is investigating the source of the pollution and will correct it as soon as possible.
- The bids for #2 fuel oil have been opened with Fabian Oil the lowest bidder at \$3.13 per gallon (down from \$3.18 last year).

Councilor Dickerson asked the City Manager to elaborate on the Snow Marine Park samples.

The City Manager said that two samples were tested; the direct discharge into the ocean and the drain in the middle of the park. Both returned results as human waste.

Councilor Dickerson then said that multiple members of the public referred to a shortfall in the Solid Waste Budget, and asked the City Manager to elaborate.

The City Manager said that the City has experienced a reduction in the volume of debris being brought to the facility resulting in a revenue shortfall. He said that he is analyzing the matter and will report to the Council in September on the situation.

Councilor Dickerson asked if construction and demolition debris disposal has stopped.

The City Manager said that a facility in the northern part of the state is accepting construction and demolition debris for less than what the City is charging, so much of the material that the City was receiving is being shipped to that facility. He said that the City budgeted 30,000 tons but only about 20,000 tons came in. He said he is working with the Solid Waste Director to calculate the actual amount of the shortfall and will report to the Council in September with possible solutions.

Councilor Dickerson asked if any of the C&D contracts are still in effect.

The City Manager said that the two contracts still in effect run through June of 2015. He also said that he does not know if those contracts include performance guarantees.

Councilor Dickerson asked if it is known where the waste in Snow Marine Park is coming from.

The City Manager said that the City is trying to identify additional sources of the pollution, noting that the City has already corrected the ones that it knew about.

b. City Attorney's Report: The City Attorney said that other than matters already transmitted to the Council, he had nothing further to report.

c. Other Official's Report: Councilor Dickerson mentioned a memorandum from the City Attorney concerning the City's Pesticide and Herbicide ordinance being voided by the State, and asked the City Attorney to elaborate on whether or not the ordinance met certain state standards.

The City Attorney explained that the ordinance was voided only because it was not properly filed with the State Pesticides Control Board, not for any lack of standards.

Councilor Dickerson asked if the Ordinance could simply be re-filed with the Board.

The City Attorney said that the Ordinance for the most part controlled the use of pesticides and herbicides by the City on City property. However, he said, the City does not and has not used pesticides or herbicides for quite some time. He said that the standards that were included in the Ordinance have been incorporated into a policy that has been adopted by the City Manager. He added that the Ordinance can be brought back to the Council and, if adopted again by the Council, properly filed with the State.

Councilor Dickerson said that she would like to see more than just a policy in place for the City's use of pesticides and herbicides. She said she would like to see an educational component showing the public the dangers of using such chemicals on their own property as well.

d. Mayor's Report: Mayor Pritchett reported that all three major festivals have been held, and that there have been no negative comments received. He said there was a great deal of coordination with the organizers of these events, and thanked all involved in the success of these events.

#### **Licenses and Permits:**

- a. Lodging House License – Old Granite Inn
- b. Lodging House License – Brunswick Rooms
- c. Liquor, Entertainment & Amusement Device Licenses – Time Out Pub
- d. Liquor & Entertainment Licenses – American Legion
- e. License to Operate a Taxi Company – Joe's Taxi

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

Councilor Hebert moved to divide the question to consider the Lodging House License for the Brunswick Rooms separately. Without objection from the Council, the question was divided.

Councilor Hebert then moved to grant the licenses for the Old Granite Inn, Time Out Pub, American Legion, and Joe’s Taxi.

Vote: 5 for.

Councilor Heber then moved to grant the license for the Brunswick Rooms. He noted that last year there were a number of conditions placed on the approval of this license and asked if the same conditions were being sought for this renewal. The City Clerk indicated that no conditions were being sought on the renewal of this license. The list of conditions from last year’s approval was being provided to the Council for information purposes only.

Councilor Hebert said that there had been substantial improvement at this establishment over the past year and that he was comfortable granting this license without conditions.

Vote: 5 for.

At this time, and without objection from the Council, Mayor Pritchett took Ordinance Amendment #23, Repeal of Pay Per Bag Disposal Ordinance, out of order.

**Ordinance Amendment #23 Chapter 14, Article I Repeal of Pay Per Bag Ordinance**

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City of Rockland hereby repeals the portions of Ordinance Amendment #17 enacted July 14, 2014 establishing a Pay Per Bag Waste Disposal System for the Rockland Solid Waste Disposal Facility as follows:

**Chapter 14 Sewers, Drains and Solid Waste  
Article I Municipal Solid Waste Facility, Collection and Recycling**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 14, Sewers, Drains and Solid Waste, ARTICLE I, Municipal Solid Waste Facility, Collection, and Recycling, BE AMENDED AS FOLLOWS:**

**Sec. 14-104 Waste Disposal; Flow Control**

No person may dispose of Municipal Solid Waste, Construction and Demolition Debris, or other Acceptable Wastes in Rockland except at a licensed solid waste facility in conformance with applicable law. All municipal solid waste generated in Rockland must be disposed of at either (A) the Rockland Solid Waste Facility, or (B) the Penobscot Energy Recovery Company in Orrington, Maine (“PERC”), designated as a component of and credited to the City of Rockland’s disposals of municipal solid waste at that facility. ~~On and after May 2, 2015, any person disposing municipal solid waste other than recyclable material, yard waste, construction and demolition debris, special wastes, white goods, wood wastes, universal wastes, and hazardous wastes shall do so only (1) in disposal bags designated by the Director for use for the disposal of municipal solid waste at the Facility and purchased at an authorized retailer or other facility, or (2) at the per ton disposal fee as determined by scale or visual inspection by authorized personnel. The fees for purchasing disposal bags, disposing acceptable wastes by the ton, and for other authorized disposals at the Rockland Solid Waste Facility shall be established by Order of the City Council.~~ No person may dispose of Unacceptable Wastes in Rockland except as may be permitted by the Maine Department of Environmental Protection.

\* \* \* \*

C. Recycling Permits. Recycling Permits ~~issued prior to May 2, 2015,~~ shall ~~authorize such permittees~~ be available to Rockland residents and businesses who do not purchase a Resident or Commercial Permit but who wish to dispose of recyclable material, municipal solid waste on a pay-per-bag basis, and/or other acceptable wastes at the rates or fees for the same in the Rockland Solid Waste Facility Fee Order, ~~through May 1, 2015. Recycling Permits shall not be issued after May 1, 2015, and their use shall be entirely discontinued effective July 1, 2015.~~

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor Hebert moved passage and said that he was opposed to this proposal for two reasons; first because he supports pay per bag, and second the citizens should be given the opportunity to be heard on the question.

Councilor MacLellan-Ruf agreed with Councilor Hebert and added that more than 700 people signed the petition to put this question on the ballot and the citizens should be allowed to have their say.

Councilor Dickerson said that she feels that the Council’s work is done on this matter. It is now time for the public to have its say. She added that it is important for the public to get out and vote.

Councilor Isganitis said that he too does not support repeal of the pay per bag ordinance, but agrees that the question should go

to the voters. He said he believed that pay per bag is the solution to the problems at the Landfill/Transfer Station. He said that everyone accepts having a meter to calculate charges for water and electricity, and this is no different, with the bag acting as a "meter". He said people will pay for what they actually throw away. He said this is not being instituted as a punishment or an undue burden on anyone, while the current system puts the burden on others for what some throw away. He added that this system also encourages recycling, since the less you throw away, the less you pay. He said that his only reservation with sending this to referendum was that it was a simply yes or no vote. He said he wished there was a simple way to get a clear direction from the public on what it actually would like to see for a disposal system at the Transfer Station.

Councilor Dickerson said that she has called herself an "Environmental Politician" ever since she became involved in politics, and has been asked why she does not support pay per bag. She said it's not that she doesn't support pay per bag, it's because the numbers that the City has assigned to this program just don't add up. She said it is likely the average household will pay approximately \$180 to dispose of 1 ton of trash, while the City is saying that the cost of disposing of 1 ton of trash is \$143. At the same time, the City is charging commercial haulers \$115 (\$125 beginning 5/2/15) to dispose of 1 ton of trash. She said she did not see how this could be considered fair. She said that the Council has received clear direction from those who have spoken before them, such as enforcing the mandatory recycling laws. She said that recycling is the key, and that the City needs to get away from crisis reaction and take a step back and look for a better solution.

Councilor Hebert said that the facts speak for themselves on this issue, unfortunately not a lot of facts are being expressed.

Vote: 0 for, 5 opposed.

Motion Defeated.

At this time, and without objection from the Council, Mayor Pritchett took Order #49, Amendment to the TIF Policy (Postponed from 06/09/14), out of order.

**Order #49 Amendment to TIF Policy (Postponed from 06/09/14)**

(See pages 174-176 for text)

It was noted that this Order had been postponed until this meeting, and that the Order had been given a motion for passage at the June 9, 2014 Regular Meeting.

Councilor MacLellan-Ruf moved to amend Order #49 by replacing the original Order with the following:

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

**THAT** the City's Tax Increment Financing Policy, adopted by the City Council pursuant to Order #26-99 dated April 12, 1999, and amended by Order #1-08 dated January 8, 2008, is further amended as follows:

**CITY OF ROCKLAND  
TAX INCREMENT FINANCING POLICY**

Overview

The Legislature has authorized municipalities to implement Tax Increment Financing ("TIF") to capture and utilize rising real property tax receipts as an economic development tool. A tax increment is an increase in tax receipts that is forecast to result from development, or from ~~the gradual a~~ rise in assessed value within a designated development district. Municipalities may utilize tax increments from designated development districts to grant credit enhancements to property owners (through a Credit Enhancement Agreement); to reimburse developers for certain, specified development project costs; or to fund municipal economic development activities, including qualified public infrastructure.

Purpose

The purpose of this Tax Increment Financing Policy is to establish guidelines for applicants (developers or property owners) seeking a Credit Enhancement Agreement (CEA) for as part of a TIF Districts, and to set parameters for TIF Districts initiated by the City of Rockland for economic development purposes. Notwithstanding anything to the contrary in this policy, the Rockland City Council may entertain and ~~grant establish~~ any TIF District and Development Program application that complies with state law and that is found to be consistent with the growth and land use policies set forth in the City of Rockland Comprehensive Plan and any applicable district plan. By statute, the adoption and amendment of any TIF is subject to review and approval by the State of Maine Department of Economic Development.

TIF Districts

The City of Rockland may from time to time create one or more ~~TIF development~~ ~~Development D~~istricts for the purpose of capturing anticipated growth in the tax base within the district to fund authorized public infrastructure improvements, as follows:

1. The City Council may establish a TIF District following a public hearing and upon making a finding that the TIF District will contribute to the economic growth or well-being of the City of Rockland or to the betterment of the health, safety, or welfare of the inhabitants of Rockland;
2. The City Council shall delineate the geographic bounds of the TIF District, upon the recommendation of the Economic Development Advisory Committee; set the maximum amount by which tax increments shall be captured; and determine whether to issue one or more bonds to fund approved expenditures of the captured tax increments;
3. The City Council shall adopt a ~~development~~ ~~Development~~ ~~program~~ Program that includes a financial plan and identifies the types of improvements to be financed in whole or in part by tax increment financing generated from within the TIF District; and
4. The City Council shall establish the duration of the TIF District, which may not exceed the statutory limit.

The City Council may, following a public hearing, amend the ~~development~~ ~~Development~~ ~~program~~ Program; adjust the geographic delineation of the TIF District; amend or supplement the improvements or programs to be financed by tax increment financing generated from within the TIF District; and/or adjust the percentage and/or dollar amount by which tax increments are to be captured to fund such improvements or programs.

#### Private-TIF Credit Enhancement Application Guidelines

To the full extent authorized by law, the City of Rockland may utilize tax increment financing to facilitate private development. The following shall guide the City's review of applications for economic development assistance in the form of tax increment financing:

1. TIFs for individual developments shall be accomplished by a binding, written agreement with the owner of the property to be developed or rehabilitated (usually referred to as "Credit Enhancement Agreement" or CEA), and may be funded by credit enhancements granted to the owner, or by the proceeds of a municipal bond issued for that purpose and collateralized by the property owner's grant of a security interest to the City of Rockland. A CEA allows for a portion of new taxes generated by the increased assessed value above the established original assessed value (before the development) to be returned to the owner or developer of the property.
2. Applications for ~~TIFs~~ a CEA shall be reviewed, approved, or denied by the City Council, on a case-by-case basis. The grant or denial of a ~~TIF~~ CEA for one property owner or developer shall not serve as binding or compelling precedent for subsequent ~~CEA~~ TIF applications; City Council may require any such conditions or securities it deems appropriate in the best interest of the Citizens of Rockland on any such CEAs including, but not limited to, performance measurements regarding job generation, capital, or real estate improvements. City Council may require monitoring business performance to confirm performance or other measurements established in the CEA and the applicant will comply with any such means to allow access or provide information to measure such performance.
3. In determining the percentage of the tax increment to make available to a developer through a CEA, Council shall factor in the balance of CEAs vs. public infrastructure funds throughout the District and whether the public infrastructure funds in and future revenue to the TIF district account will be adequate to reasonably meet the development plans for the District.
4. City Council shall establish, after review of the request for a Credit Enhancement Agreement (CEA) and any necessary due diligence or negotiations warranted, the annual terms of any CEA. City Council has sole discretion on the agreed upon terms of any CEA. Annual terms in a CEA may include the reimbursement of up to 100% of new taxes paid (as a result of the new value generated by the project) to the owner of a property. The City shall not entertain an average reimbursement over the entire term of a CEA above 75% 65%.
- 3.5. The City Council shall determine the length of the Credit Enhancement Agreement, which in no event shall exceed fifteen years the maximum term allowable by law;

4. ~~6.~~ Credit Enhancement Agreements shall ordinarily require the property owner to reimburse the City of Rockland for all tax credits or reimbursements or bond payments advanced by the City in the event the property owner discontinues the use of the property for which the TIF was granted prior to the expiration of the Credit Enhancement Agreement, unless the property owner conveys the property to another party that also contracts to continue the subsidized use of the property or to compensate the City in the event of its discontinuance;
- ~~5.~~ 7. Every property owner or developer that is granted a ~~TIF~~ CEA by the City Council shall be encouraged to seek any state funding or reimbursements made available by the state for real and/or personal property tax reimbursements, job creation and training credits, or other purposes;
- ~~6.~~ 8. ~~TIF~~ CEA applicants shall reimburse the City for its legal and/or other technical review or other expenses incurred by the City in reviewing the application, whether or not the application is granted;
- ~~7.~~ 9. The City may require ~~TIF~~ CEA recipients, annually so long as the TIF continues, ~~shall to~~ pay the City a TIF administration fee that shall be the greater of \$1,000 or 1% of the TIF grant to compensate the City for its work and expenses associated with administering and assuring compliance with the Credit Enhancement Agreement;
- ~~8.~~ 10. The City Council shall consider the following approval criteria when reviewing a ~~TIF~~ CEA application, without limiting the use of additional or substitute criteria or requirements.
  - \* Whether the development proposal is consistent with, and shall advance the growth and land use policies of, the City of Rockland Comprehensive Plan and any applicable district plan;
  - \* Whether the property is located within a City of Rockland or State of Maine development district;
  - \* Whether the development will create permanent, full time jobs at living wages and with health insurance and other benefits, or will enable the retention of such jobs that will be lost but for the proposed development;
  - \* Whether the development will result in the redevelopment or rehabilitation of a blighted property;
  - \* Whether the development will result in optimal land use patterns, including multi-story, mixed use, and/or Leadership in Energy and Environmental Design (“LEED”) certified structures; on-site power generation; and/or the minimization of single-tiered surface parking;
  - \* Whether the development includes the construction or improvement of public infrastructure or other amenities (in addition to sidewalks and street trees) which have utility beyond the property to be benefited by the TIF, including but not limited to streets, parking structures, water and sewer mains, vehicular and/or pedestrian traffic signalization or other improvements, etc.;
  - \* Whether the development is not financially feasible without tax increment financing, and the grant of tax relief is justified by development costs unique to the siting of the development in Rockland that would not be experienced if the development were to be undertaken in another community in the vicinity;
  - \* **Whether and the extent the development has made use of and maximized to the extent possible private investment, owner equity, and other state or federal financing programs.**
  - \* Whether any business to be sited at the developed or rehabilitated property shall cause financial or job loss at a competing business in Rockland or in the immediate vicinity of Rockland; and
  - \* Whether the proposed development will broaden the tax base of the City and improve the general economy of the City and region;
- 11.** A ~~TIF~~ CEA applicant’s compliance with one or more of the approval criteria shall not obligate the City Council to grant the application.

9. 12. Successful **TIF CEA** applicants shall be responsible for complying fully with all applicable zoning restrictions, subdivision and/or site plan conditions of approval, and building, property maintenance, and other state and local code requirements.

**State Law Reference:** 30-A M.R.S. §§ 5221, *et seq.*

Without objection from the Council, the Rules were suspended to allow Community Development Director John Holden to answer questions on this proposal.

Councilor Dickerson noted that this proposal allows for up to 100% of new taxes to be returned to the developer, but limits the return to no more than 65% over the term of the credit enhancement agreement (CEA). She asked Mr. Holden how the amount of 65% was derived.

Mr. Holden said that the Council expressed a desire to limit the tax return in CEAs during the workshop on this issue. He said this would allow the Council to return up to 100% in any given year, but limit the total return to no more than 65% over the life of the CEA. He said the figure of 65% was the same as the City of Portland has in their TIF policy.

Councilor Dickerson then asked if this was a guideline from DECD or if the City was just shooting in the dark, and why this particular percentage was being proposed. She also asked if Mr. Holden has run any scenarios using these figures to see how they would look.

Mr. Holden said that he has done a number of CEAs that range from 10 to 30 years, depending on the financing needs of a particular project. He said that in his experience it is better for a municipality to have as much flexibility as possible. He said that this proposal gives the City some flexibility while still placing overall limits on the total amount that could be returned. He said that a number of municipalities set limits, and that it is up to the municipality to set a range that it will consider.

Councilor Isganitis said that there is an infinite number of solutions that will get the same result, as there are too many variables to consider. He asked if these were parameters between the City and DECD.

Mr. Holden said that these are parameters between the City and a developer. He said DECD only requires the City to establish a range that it is willing to consider.

Councilor Isganitis said that DECD just wants the City to establish a range, but that does not preclude this Council or a future Council from revisiting this issue at any point.

Mr. Holden said that any Council could amend this policy at any time without approval from DECD.

Councilor Isganitis said that this would allow the City to determine what it values most, such as offering more to a developer that offers to invest in infrastructure improvements as part of their project.

The Council went back into Regular Session with Councilor Hebert saying that he supported the amendment by substitution in general, as most of it is language clarification. However he said that he had some concerns about #4, limiting the CEA to only 65% over its term.

Vote on amendment: 5 for.

Councilor Hebert moved to further amendment Order #49 as follows: at #4 of "Credit Enhancement Application Guidelines" delete "~~The City shall not entertain an average reimbursement over the entire term of a CEA above 75% 65%.~~"

Councilor Hebert said that he supported the amendment by substitution, but issues expressed by other members of Council on future scenarios that may or may not be envisioned shows that the City should incorporate as much flexibility as possible into this policy. He said the first priority should be infrastructure, and job creation, etc., and his Council needs to have confidence in future councils to look at the issues of the day to make a decision on what they feel is in the best interest of the City. He said that it was important to have as much flexibility as possible rather than placing an artificial limitation on something that cannot be envisioned at this time.

Councilor Dickerson said she understood what Councilor Hebert is saying and the logic behind it, but does not feel that setting a limit negates that logic. She said that many municipalities have limits and it's an appropriate way to tell perspective developers what is available. She said that developer don't mind rules, as long as they know what is expected of them. She said having a limit says that the City is willing to work with a developer but not to the detriment of the taxpayers.

Councilor Isganitis said that he understood where both Councilor Dickerson and Councilor Hebert were coming from, but by putting a limit on the return of a CEA, it will force a longer term of the agreement. He said having a limit puts unnecessary constraints on the Council's ability to negotiate the terms of CEAs. He added that this is not a 100% tax break; rather it is only a break on new revenues produced by development. He said the taxes on the original value of the property are still paid, so the City is not "losing" any tax money. He said it is common to heavily front load such agreements to allow the business to get the development going as opposed to not doing it at all. He said he did not believe that the City should place undue restraints on its ability to negotiate and attract business development.

Councilor MacLellan-Ruf asked if the 65% limit was a guideline that gives the Council some flexibility. If so, she said it may not be necessary to delete it. She said if the Council strikes the limit, a future council at any time could say what percentage it wishes. She asked that the Rules be suspended to get clarification from Mr. Holden. Without objection from the Council, the Rules were suspended.

Mr. Holden said that without the 65% limit, the City would be able to negotiate whatever terms it felt appropriate for a given project. He said it would offer the City the most flexibility.

Mayor Pritchett added that the wording in the policy is “up to 65%”, which means that the return would need to be 65% or less over the life of the CEA. He said that if a project started with vacant land, the CEA would allow up to a 100% return on new construction.

Mr. Holden said it would depend on what the terms of the CEA actually were, but the Mayor was correct that the new value would be captured.

Councilor Isganitis asked if the original value is set before any work is done.

Mr. Holden said that the value is set at the time the CEA is negotiated.

Councilor Dickerson said that she understand captured value and that there are good and bad aspects of CEA. However, one needs to remember that the captured value is protected from the calculation of educational and welfare funding, so there is a negative impact in those areas.

Councilor Hebert said that the thing that the Council needs to remember is the City is looking for investment in the community, but the Council seems to be hung up on the terms of these CEAs. He said at the end of the day, any increases in value will eventually result in additional tax revenue. He said the name of the game is attracting investment to the community and that if a developer wants to do a project in the City, the Council can figure out how long the term needs to be to get what they need. He said the Council should have as much flexibility as possible, and that this limit is not necessary.

Councilor Isganitis said that when a TIF District is established, the value is set at that point and the new value is captured during the term of the TIF District. He said CEAs have no effect on the calculation of educational funding.

Councilor Dickerson said while that is true, the general funds still does not see those additional tax revenues.

The City Manager said that the 65% limit could be revisited by a future council at any time and is not binding on future councils.

Vote on amendment: 3 for, 2 opposed.

(Dickerson, Pritchett)

Councilor Isganitis moved to further amend Order #49 to correct an error in the text: Amend paragraph #9 as follows: “...the greater of \$1,000 or 1% of the ~~TIF grant~~ CEA to compensate...”

Vote on amendment: 5 for.

Vote as amended: 3 for, 2 opposed.

(Dickerson, Pritchett)

The order of the agenda was then resumed.

**Resolves:**

#33 Accepting Donations

**WHEREAS**, the Friends of the Rockland Public Library donated \$559.88 for 62 books, to be receipted into the Library Revenue Donations account (#10062-03147) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003); and

**WHEREAS**, the following persons donated the following books to be added to the Library’s collection:

- Jane Woodruff, Pittsfield, Maine, donated the book *Rockland Harbor Breakwater*,
- Carol Bachofner, Rockland, Maine, donated the book *Fox in the Morning*,
- Steve Seekins, Spruce Head, Maine, donated the book *Raven Stay by Me*; and

**WHEREAS**, Rockland Savings Bank, donated \$100 to the City to be uses for the purchase of a picnic table, said funds to be deposited into, and expended from, the Recreation Department Parks Maintenance Account (#63-05037); and

**WHEREAS**, the Congregation of the Adas Yoshuron Synagogue donated \$400 to the City to help offset the cost of services provided by the City, said funds to be deposited into the Payment in Lieu of Taxes account ;

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

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

Sponsor: City Manager

Originator: City Manager

Councilor Hebert moved passage and thanked all of the donors for their generous donations. He also noted that the Synagogue has made this donation every year to the City for as long as he can remember, and that this and all donations are

greatly appreciated.

Vote: 5 for.

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

# 6 Chapter 15, Section 15-147 Snow Disposal in Rockland Harbor Prohibited

(See page 106 for text)

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

Councilor MacLellan-Ruf moved passage.

Vote: 5 for.

The amendment will become effective 09/10/14.

#19 Chapter 8, Section 8-708 General Assistance - Maximum Levels of Assistance

(See page 201 for text)

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

Councilor Isganitis moved passage.

Vote: 5 for.

The amendment will become effective 09/10/14.

#20 Establishing Moratorium On Site Plan Applications for New and Expanded Buildings Over 50 Feet in Portions of the Downtown Zone

(See pages 201-202 for text)

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

Councilor Dickerson moved passage.

Councilor Hebert said that he was not in favor of this moratorium because he felt that it was not necessary in order to achieve everything listed in the amendment. He said there was no known project coming down the pike, and the word "moratorium" sends the wrong message in attracting new investments in the community. He said that the stated purpose of this moratorium can be accomplished without establishing the moratorium.

Councilor Isganitis echoed Councilor Hebert's comments and added that land available for development is scarce and that the only opportunity for growth is up. He agreed that the purposes of the moratorium can be accomplished without a moratorium. He also reminded the Council that a proposed project of 65 feet in height has already been approved for the exact area upon which the moratorium is proposed.

Councilor MacLellan-Ruf said that the moratorium was proposed by the COMPS Commission and she would support their request.

Mayor Pritchett said that this proposal originated from the COMPS Commission as well.

Vote: 3 for, 2 opposed.  
(Hebert, Isganitis)

The Ordinance will become effective 09/10/14.

**Ordinances in First Reading:**

#21 Bond Ordinance – Repeal of Bond Ordinance #9 and Replace Bond for Old County Road Repairs

**BOND ORDINANCE AUTHORIZING ISSUANCE OF THE CITY'S BONDS OR NOTES IN AN AMOUNT NOT TO EXCEED \$\_\_\_\_\_ TO ACT AS MATCHING FUNDS FOR THE MAINE DEPARTMENT OF TRANSPORTATION'S MUNICIPAL PARTNERSHIP INITIATIVE PROGRAM TO FINANCE THE COST OF RECONSTRUCTION, REPAIRS, NECESSARY STORM WATER IMPROVEMENTS AND RESURFACING OF A SECTION OF OLD COUNTY ROAD, AND SUCH OTHER ANCILLARY AND RELATED COSTS WITH RESPECT THERETO, PLUS AN AMOUNT NOT TO EXCEED 2% TO PAY THE COST OF ISSUANCE OF ANY BONDS OR NOTES WITH RESPECT THERETO.**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT BOND ORDINANCE #9 ADOPTED BY THE CITY COUNCIL IN FINAL READING ON APRIL 23, 2014, IS HEREBY REPEALED; AND**

**THE CITY OF ROCKLAND HEREBY FURTHER ORDAINS AS FOLLOWS:**

**Section 1.** Subject to Section 2 hereof, an amount not to exceed \$\_\_\_\_\_ is hereby appropriated to act as matching funds for the Maine Department of Transportation's Municipal Partnership Initiative Program to finance the cost of Reconstruction, Repairs, Necessary Storm Water Improvements and Resurfacing of a section of Old County Road, and such

other ancillary and related costs with respect thereto (the "Project"), plus an amount not to exceed 2% to pay the cost of issuance for any bonds or notes issued with respect thereto.

**Section 2.** For purposes of financing the foregoing appropriation contained in Section 1, the City is hereby authorized to issue its general obligation bonds and notes in anticipation thereof in a principal amount not exceeding \$\_\_\_\_\_.

**Section 3.** Subject to this ordinance, the City Charter, and all other applicable laws and such orders, or resolutions as may hereafter be adopted by the City Council fixing the terms and details of the bonds or notes to be issued to finance such appropriation, the Director of Finance of the City, with the approval of the Mayor, is authorized to take all steps necessary and expedient in respect to the aforesaid borrowing.

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor Hebert moved passage.

The City Manager recommended voting this amendment down and going with the original proposal of \$1.6 million as authorized by Ordinance Amendment #9 in April 2014. He said if the project is broken into two phases, Route 17 to Talbot Avenue and Talbot Avenue to Thompson Meadow Road, there would be sufficient funds to complete the entire project provided that the City receives State funding for both phases.

Councilor Hebert said that it makes some sense doing it this way. He said the maximum amount available to the City during any given year would be \$500,000 through the Municipal Partnership Initiative Program. He asked if the City would be eligible for another \$500,000 for phase two of the project.

The City Manager said that the City would be eligible for funding up to \$500,000, depending on the cost of the project. He said that the City would need to re-apply for additional funding.

Councilor Hebert then asked if the City approved the \$1.6 million all at once, would it be considered one project and preclude the City from applying for more than one grant under this program.

The City Manager said that it would not. He added, however, depending on what happens in November, DOT would award funding for phase one if there are any funds available for 2015. If there are no funds available, the City would have to wait until 2016 for funding. He said that the process could have been sped up if the City had its funding in place.

Councilor Hebert said that the Council should vote down this proposal and go with the original Bond Ordinance. He also said that the City should do the project in phases as recommended by the City Manager.

Vote: 0 for, 5 opposed,  
Motion Defeated.

#22 Chapter 17, Section 17-802 Time Limits on Parking – Tillson Avenue

**Vehicles, SECTION 17-802, Schedule II, Time Limits on Parking, BE AMENDED AS FOLLOWS:**

**Sec. 17-802 Schedule II. Time Limits on Parking**

1. General Limitation. Parking time limited between 9:00 AM and 6:00 PM on Mondays, Tuesdays, Wednesdays, and Thursdays, and between 9:00 AM and 9:00 PM on Fridays and Saturdays, with the exception of Sundays and public holidays:

Street	Area Affected
F. Fifteen-Minute Limit	
(1) Main	(a) Between Pleasant Street and Rankin Street between the hours of 2:00 A.M. and 6:00 A.M., Sundays and legal holidays excepted. Eff: 12/13/02
(2) Tillson	(a) <u>The three (3) western-most angled parking spaces on the northerly side of Tillson Avenue.</u>

Sponsor: Councilor Isganitis  
Originator: Terry Pinto

Councilor Isganitis moved passage.

Vote: 5 for.

A public hearing was set for September 8, 2015 at 7:00 p.m.

**Orders:**

#55 Authorizing Cost of Living Salary Adjustments – Attorney & Clerk

(See page 194-195 for text)

It was noted that this Order had been postponed until this meeting, and had received a motion for passage at the June 30, 2014 Special Meeting.)

Councilor Hebert said that items are usually postponed to allow time for additional information to be gathered. He said he did not know what additional information was needed in this instance. He said that the money was approved in the FY 2015 budget and is the same cost of living adjustment that all other employees received.

Councilor MacLellan-Ruf said this was a difficult decision to make with the two employees sitting in the room, but said just because the money was in the budget if doesn't mean it must be spent. She said that the City has to set guidelines to get back on track financially. She said it is not a popular decision to make, but it's necessary.

Councilor Hebert said if that is the thinking, it should be part of the next budget, not this one.

Vote: 2 for, 3 opposed.  
Motion Defeated.

#66 Barring Credit Enhancement Agreements in the Downtown TIF District

**IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF ROCKLAND, MAINE**, that the Restated Downtown Municipal Tax Increment Financing District and Downtown Omnibus Development Program **BE AMENDED AS FOLLOWS:**

City of Rockland, Maine

*Restated Downtown Omnibus Tax Increment Financing District and Development Program*

*Approved by the Rockland City Council on November 13, 2013*

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- F. Statistical Data
- G. Financial Data

III. RECORD OF MUNICIPAL APPROVALS

List of Acronyms Used

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CAV	Captured Assessed Value
<del>CEA</del>	<del>Credit Enhancement Agreement</del>
DECD	Department of Economic and Community Development
OAV	Original Assessed Value
TIF	Tax Increment Financing

**INTRODUCTION**

The City of Rockland passed an approved City of Tillson Redevelopment Tax Increment Financing District and Development Program on February 27, 2008.

This Amendment to the Tillson Redevelopment TIF District and Development Program is prompted and designed for the following reasons:

- A. To update the Development Program to include new allowable uses of municipal TIF revenues as a result of changes in State statute since the first adoption of the Program (e.g., funding of “recreation trails” that support the Downtown).
- B. To bring the Development Program up to current standards and format currently required by the Maine Department of Economic and Community Development (DECD).
- C. To update fiscal projections for the Development Program and extend the term of the Program and District to its maximum allowable number of years (30).
- D. To clarify and rename the name of this Development Program and the underlying District to: The City of Rockland Downtown and Waterfront Tax Increment Financing District and Development Program. Further this Amendment confirms this District and Development Program as a “downtown designated” TIF District and Development Program.

This Amendment is organized around the headings and outline currently required by DECD. The original Development Program is incorporated herein by reference (Attachment A). This Amendment (document) shall be the Restated Downtown Municipal Tax Increment Financing District and Downtown Omnibus Development Program.

Although Restated, this Amendment includes underlined text to clearly state changes to the previous Development Program. This Amendment does not change the designated District nor the Original Assessed Value (OAV) and thusly, this Amendment refers to the original designation and its exhibits (Attachment A).

As a matter of record and stated in the original Development Program, this Amendment continues to support community development objectives by:

- Establishing the Tillson and Main Street areas as places for community to gather, tourism to grow, and traditional waterfront activities to be sustained;
- Unifying Tillson and Main Street while capitalizing on the unique character and qualities of each; and
- Encouraging mixed-use development that blends tourism, recreation, community spaces and activities, and the working waterfront.

For clarity, within this Amendment, we refer to the District and Development Program as the Downtown District and Development Program. However, the District and Development Program (as well as the City’s “Downtown” includes much of the City’s waterfront and so-called Tillson Avenue area). See Exhibits B and C of Attachment A. The Downtown TIF and Development Program uses as guidance the Downtown Improvement Plan as approved by Council by Resolve #37, May 9, 2011 (Attachment B).

The City will be able to “shelter” the increase in municipal valuation anticipated as the downtown and waterfront are redeveloped, allowing the City to utilize the tax revenues received from investments within the district for use by the City. Without the TIF the increased valuation would reduce the City’s share of Essential Programs and Services Aid to Education, Municipal Revenue Sharing, and would increase its county tax assessments.

This amendment and the continued Downtown TIF District serves a number of public purposes, including the diversification of the municipal tax base; maintaining and increasing property tax revenues generated within the district; providing a means to pay for investment in public facilities and construction of public infrastructure needed to provide incentives for development; and creating and maintaining employment opportunities.

The amended District encompasses approximately 89.1 acres.

The Downtown TIF District and this Development Program will support additional community development objectives by:

- Addressing any blight conditions and the continued overall improvement to the look and image of the downtown;
- Improving the marketing of the downtown and exploration of new and appropriate economic potential;
- Creating a downtown that continues to expand its capacity to attract visitors and serves local residents;
- Financing public infrastructure improvements that will continue to help improve the District; and

~~This TIF District and associated Downtown Omnibus Development Program provides a range of municipal investments making use of TIF District revenues, as outlined in Table 1. Further, this Omnibus Development Program allows the City, by vote of its City Council, to enter into Credit Enhancement Agreements (“CEA”) with private enterprises to further encourage investment and development in the District (see Section II, Financial Plan, Part D.)~~

## **I. THE DEVELOPMENT PROGRAM**

### **A. Statement of Means and Objectives**

To assist in facilitating the project, the City of Rockland is designating certain contiguous properties as a Municipal Development and Tax Increment Financing (TIF) District, pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes. This amendment proposes to revise the approved 25-year term to the maximum allowable term under statute of 30 year. The majority of TIF revenues will be used for implementation of the City’s Downtown infrastructure as outlined in the plans that make up the Downtown Improvement Plan (Attachment B). ~~A portion of TIF Revenues may be used for incentive to new investment under Credit Enhancement Agreements under terms outlined in this Program. Whenever possible, TIF revenues will be used to leverage federal and state grant money. The planned improvements will make the area more attractive for private investment. Furthermore, a portion of TIF Revenues may be used for incentive to new investment under Credit Enhancement Agreements (CEA) under terms outlined in this Program.~~

TIF revenues will be made available for projects outlined in Table 1. The City is proposing to capture 100% of the “new” assessed value in real estate property within the District over the “original” assessed value for a 30 year period. However, as part of this Development Program, the City, by vote of its City Council, may capture any value less than 100% on any year of the Program. The City’s intent is to capture the value of new taxes projected at the outset of the TIF. The projections in Attachment C represent 100% capture every year for 30 years based on the values projected at the outset of the TIF.

Creation of the proposed TIF district will enable a number of properties to be redeveloped, stimulate new businesses and employment opportunities, and encourage new development and infrastructure to be constructed. Redevelopment of Rockland’s downtown and waterfront will benefit residents, businesses, consumers and visitors alike. The project will also advance the City’s economic goals, as well as the State of Maine’s goals of providing new employment opportunities, broadening the tax base, and improving the State and local economy.

The intent of the District and Development Program, when created and as of this Amendment is to provide funds for continued infrastructure improvements that support development in the Downtown TIF District. Infrastructure improvements shall take priority over non-infrastructure projects.

### **B. Brief Description of Financial Plan**

The City is using the original projections and have estimated the additional five years based on those projections. Refer to the original projections as in Attachment A. TIF Revenue projection for years 25-30 are included in Attachment C. Attachment C also includes actual TIF revenues and expenditures from the date of the inception of the District and original Development Program. All projections are estimates. City projects will be financed using TIF revenues, state and federal

economic development incentives, and the issuance of general obligation bonds, when and if appropriate.

The Restated Downtown TIF District and Development Program will run from April 2008 through March 2038 (30 years).

**C. Description of Public Facilities to be Financed from Municipal TIF Revenues.**

The Downtown Improvement Plan (Attachment B) or any revised or amended Downtown Improvement Plan will continue to be a guide for selecting projects for this TIF Program. The City of Rockland anticipates using the TIF revenues for a variety of public infrastructure projects both within and outside of the designated District. Table 1, below, provides a list of municipal projects anticipated to be funded with the TIF revenues generated within the District boundaries. TIF revenues may also be used as match to generate additional sources of funding, and to fund economic development efforts that support downtown revitalization. Should the City issue general obligation bonds or incur other debt for any of these projects, TIF revenues may be used toward the financing or interest costs associated with these projects, subject to rules defined in this amended Development Programs (see page 7). In that event, the City will notify the Maine Department of Economic and Community Development.

As noted above, infrastructure projects within the District shall take priority over those outside the District and non-infrastructure projects. The “Estimated Costs” column in Table 1 is required by the State to demonstrate the need and full use of the estimated total new revenues generated within the District. These are only estimates.

The projects outlined in Table 1 are allowable projects. Funds may be expended only on those projects in Table 1. However, some projects listed may not necessarily be funded, depending on municipal priorities over the term of the TIF. Any, none, or all projects may be executed each year during the term of the TIF, following all required local review and budgetary approval processes. The funding of any such project in any year is, of course, limited to the funds within the Town’s Municipal Development Program sub-account.

Actual expenditure of TIF revenues on any allowable project shall be voted upon by Council. To demonstrate priority of infrastructure projects over non-infrastructure projects, the “Estimated Cost” for non-infrastructure projects is stated as \$1.00. Projects or language added as part of the Amendment are underlined.

**TABLE 1: Municipal Development Program Projects**

Ref #	Project	Eligibility under Title 30-A	Estimated Cost
<b>Tier 1: Costs within the District</b>			
1	Development of parking facilities, including land acquisition, and professional consultants, architects, legal advisors, etc. as needed.	§5225(1)(A)(1),(3),(4)	\$2,000,000
2	Improvements and construction or renovation of sidewalks and lighting infrastructure with priority, but not limited to, Winter Street and Tillson Avenues and the associated Tillson Avenue Overlay Zone.	§5225(1)(A)(1)	\$1,500,000
3	Directional and other signage to direct vehicular and foot traffic around the Downtown District.	§5225(1)(A)(1)	\$50,000
4	Roadway/Intersection Improvements, including but not limited to, traffic routes for Tillson Avenue and Winter and Commercial Streets, streetscape and pedestrian improvements to Park Drive, street tree planting and landscaping	§5225(1)(A)(1)	\$250,000

Ref #	Project	Eligibility under Title 30-A	Estimated Cost
5	Surface Parking Lot Improvements, including but not limited to, parking lot improvements to Winter Street, parking lot improvements to Commercial Street., improvements at Public Pier (new multi-use plaza and parking area), parking and landscaping improvements behind Main Street buildings	§5225(1)(A)(1)	\$250,000
6	Harbor Trail improvements, including but not limited to the evaluation and extension of the Harbor Trail over Lindsey Brook (via pedestrian bridge), onto the Ferry Terminal parcel, connecting with Main Street, Treatment Plant park/trail and parking improvements; access to Maritime Traditions schooner berthing, Secure access – easements, acquisition.	§5225(1)(A)(1) §5225(1)(A)(3) §5225(1)(A)(4)	\$100,000
7	Harbor Park Improvements, including but not limited to improvements to waterfront boardwalk, central area for festivals, and proposed area for amphitheater.*	§5225(1)(A)(1) §5225(1)(A)(4)	\$2,500,000
8	Public access ways and improvements to public ways into and through Main Street properties.	§5225(1)(A)(1) See footnote 5	\$150,000
9	Streetscaping and general landscaping improvements along public ways including, but not limited to plantings, trash receptacles, benches, etc.	§5225(1)(A)(1)	\$300,000
10	Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of this and any associated Omnibus Development Program(s)	§5225(1)(A)(5)	\$150,000
11	Costs for continued infrastructure improvements including but not limited to water, sewer, and telecommunications. This may include costs associated with installation and service of WiFi service, as an example.	§5225(1)(A)(1)-(2),(4)-(5)	\$500,000
12	Costs of public safety improvements to the City's public safety equipment or facilities made necessary by the establishment and Amendment of the district. Any such improvements require justified pro-ratio to be attached to the Development Program.	§5225(1)(A)	\$250,000
13	Costs of specialized or other public works equipment or facilities made necessary by the establishment and Amendment of the district. Any such costs, unless used exclusively within the District (i.e., specialized equipment) require justified pro-ratio to be attached to the Development Program	§5225(1)(A)(1)(a-d)	\$250,000
14	Professional service costs for market study for business expansion and attraction business permitted by zoning codes in the District.	§5225(1)(A)(4)	\$1
15	Costs to support the continued improvements, development and use of a public fish pier for the support of the lobster or commercial fish industry as a meaningful part of the City's economic development	§5225(1)(C)	\$500,000

Ref #	Project	Eligibility under Title 30-A	Estimated Cost
<b>Outside District but directly related or made necessary by establishment or operations in the District</b>			
16	Costs to fund Signs or other amenities on the Street that have direct impact on the operations in the District, notably but not exclusively, signs to direct vehicular or pedestrian traffic safely into and out of the Downtown.	§5225(1)(B)(1)	\$100,000
17	Costs of funding public facilities and improvements located in this Downtown designated TIF District in order to mitigate adverse impacts of any future TIF District upon the commercial activity in the Downtown district. In the event any future District has adverse economic impacts on this Downtown District, revenues from said District may be used within the Downtown District. In that case, any funds from said District will require the Town to commit the entire tax increment (100% CAV) from the Downtown District to its Development Program.	§5225(1)(B)(3) (a)(b)	\$500,000
18	That portion of the costs reasonably related to the construction, alteration or expansion of wastewater, stormwater discharge facilities not located within the District that are required due to improvements or activities within the district	§5225(1)(B)(1)	\$500,000
19	Costs to fund improvements to Harbor facilities, including, but not limited to, moorings or other infrastructure to allow boater access to the Downtown from the Harbor (as a means of “parking” boats, i.e., docks, slips, moorings, etc.). These costs shall be reasonable to the direct impact on operations (as a means to generate and provide for customer traffic) in the District.	§5225(1)(B)(1)	\$500,000
20	That portion of the costs reasonably related to the construction, alteration or expansion of public safety facilities not located within the district that are required due to improvements or activities within the district	§5225(1)(B)(1)	\$250,000
<b>City wide costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails or employment training</b>			
21	As part of the City’s economic development program to encourage redevelopment and the District as a place of business, studies (including but not limited to) demand for parking, the evaluation of traffic flow and the redesign of routes, economic development feasibility studies, etc. as needed	§5225(1)(C)(1)	\$1
22	TIF funds may be used as match to generate additional sources of funding	§5230	\$100,000
23	Establish of a permanent economic development revolving loan fund that may include investments and grants to support Downtown Business. Any grant funds must support commercial business and may only be for costs allowable under §5225(1)(A) including, but not limited to, building Improvements, facades, upper floor redevelopment, creating connections through structures, installation of common elevator(s).	§5225(1)(C)(3)	\$250,000

Ref #	Project	Eligibility under Title 30-A	Estimated Cost
24	As part of the City's economic development program, establishment and support of a Downtown Manager. This may include but is not limited to financial support of Rockland Main Street Inc. to fund staff, operations or projects, events, festivals and other promotion and marketing of Downtown as a place for business and arts.	§5225(1)(C)(1) §5225(1)(C)(3)	\$900,000
25	Costs relating to planning, design, construction, maintenance, grooming, acquisition of rights of way, and improvements to the Harbor Trail or other new or existing recreational trails with significant potential to promote economic development, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses	§5225(1)(C)(6)	\$100,000
26	Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained in the City.	§5225(1)(C)(4)	\$100,000
27	Costs to fund economic development efforts that support downtown/waterfront revitalization, including, but not limited to, the planning and implementation of TIF projects herein as well as events or marketing projects developed by the City or community organizations to market the City as a business or arts location	§5225(1)(C)(1)	\$1
28	As part of the City's economic development program, costs that may include fees or membership dues to regional or other economic development organizations.	§5225(1)(C)(1)	\$1
<b>Costs of facilities used by City or State Government specifically within the Downtown Designated District</b>			
29	Costs of constructing or improving facilities or buildings leased by the City government that are located in the Downtown TIF District.	§5225(1)(D)	\$500,000
<b>Total Estimated Project Costs</b>			<b>\$12,550,004</b>

\*Note that Harbor Park is the City's harbor side parking area, named "Harbor Park."

#### **D. Uses of Private Property**

Creation of a TIF District is a proven method for encouraging investment in the community. In order to redevelop the downtown and waterfront area, it is imperative to leverage investments that occur within the TIF District to provide for other downtown / waterfront development. The purpose of this TIF is to provide funds for the City to implement the municipal investment priorities identified in the Downtown Improvement Plan TIF funds will be used (together with federal and state grant money) to finance public infrastructure improvements that will make the area more attractive for private investment.

#### **E. Plans for Relocation of Displaced Persons**

No displacements are anticipated as a result of this Program.

#### **F. Proposed Regulations and Facilities to Improve Transportation**

Improvements being considered in the TIF District, such as roadway improvements, turning lanes, realignment of intersections or other necessary improvements found to be critical to the enhancement of the downtown and waterfront will be made in accordance with the standards for vehicular traffic of the Maine Department of Transportation. Improvements

are intended to accommodate all necessary vehicular traffic related to the project and provide capacity for development and growth in the future.

**G. Environmental Controls**

The Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements. Projects that are undertaken by private developers will need to be in compliance with applicable local and state rules and regulations. Each individual developer will be solely responsible for seeing that all applicable compliance measures are adhered to.

**H. Plan of Operation Upon Completion**

Improvements in the TIF District within the public way will at all times be owned by the City of Rockland, or its successors and assigns, which will be responsible for payments of all maintenance expenses on said improvements. Improvements made to private properties will be owned and maintained by each individual owner of record. During the life of the TIF District, the City Manager or his/her designee will be responsible for all administrative matters concerning the implementation and operation of the TIF District.

**I. Calculations of Tax Shifts**

**County Tax Shift.** In order to produce this result, information must be obtained from the Maine Revenue Services and the County government of which the District will reside in. First, the most recent County State Valuation should be obtained. The averaged Captured Assessed Value for the District for the life of the project will then be determined. The averaged Captured Assessed Value is then divided by the Current County State Valuation. To find the estimated average county tax over the life of the District, you must obtain the County Tax for the City for the last five years. The average change is then determined and projected to the middle of the districts life. This projected tax was multiplied by the factor developed above to arrive at the County Tax Shift.

$$\frac{(Captured Assessed Value)}{(Captured Assessed Value + Current County State Valuation)} \times Estimated Average Annual County Tax$$

**Revenue Sharing Shift.** The total Municipal Revenue Sharing amount was obtained for the State Treasurer in order to complete the following formula:

- Step 1:**  $\frac{Municipal Population \times Local Property Tax Levied}{State Local Valuation} = Current Factor$
- Step 2:**  $\frac{Municipal Population \times Local Property Tax Levied}{State Local Valuation + Captured Assessed Value} = Adjusted Factor$
- Step 3:**  $Current Factor = 1.X \times Adjusted Factor$
- Step 4:**  $1.X - 1.0 = .X$
- Step 5:**  $.X (Total Municipal Revenue Sharing Amount) = Revenue Sharing Shift$

**Education Tax Shift.** State law requires that an estimate be made of how much of a loss in State aid to education a community would experience had the TIF District not been created. The premise for this requirement is that if the TIF did not exist and the development still occurred, other taxing jurisdictions would benefit by the (TIF) City paying more *and receiving less*.

We are using the most recently accepted approach to generate these shifts. The shifts are shown as part of the projections in Attachment C.

**J. Duration of the Program**

The Downtown Tax Increment Financing District shall be for extended to a term of thirty (30) years commencing in tax year 2008 concluding in tax year 2038.

### **K. Physical Description of the District**

The TIF district will encompass approximately 89.14 acres of the core downtown area of Rockland, Maine, encompassing both public and private buildings and open public spaces, and is integral to the vitality of the City's overall economic development. This amendment does not change the designation of the District and reference to the original TIF District are incorporated herein (Attachment A) and maps therein.

The original assessed value of taxable real and personal property within the district boundaries is \$62,998,000 as of March 31, 2007 and not amended. The original assessed value of taxable real and personal property within the district boundaries is \$62,998,000 as of March 31, 2007 and not amended. Refer to Attachment A Exhibit B, C, and D for original maps and the assessor's certificate.

## **II. FINANCIAL PLAN**

The Development Program Fund is pledged to and charged with the payment of the project costs in the manner provided in 30-A M.R.S.A. §5227(3)(A)(1) (Supp.2004).

### **A. Estimates of Development Costs**

The City is using the original projections for TIF revenues and conservative estimates of development costs. The projections are outlined in Attachment C. The projections estimate total municipal TIF revenues of \$10,956,291 generated within the District over the 30 years.

### **B. Description of the Financing Structure and Amount of Indebtedness to be Incurred**

The City reserves the right to incur debt to facilitate, in part or in whole, any of the aforementioned projects within the Development Program.

The Development Program requires establishment of a Development Program Fund pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227 (3)(A) (Supp. 2005). Over the thirty (30) year TIF term, the Development Program provides for up to one hundred percent (100%) of the incremental tax revenues retained from the increase in assessed real property value within the TIF District to be captured by the City within this Development Program Fund, to the extent that the then current assessed value exceeds the Original Assessed Value (OAV).

The TIF District Development Fund is established consisting of (1) a project cost account ("Project Cost Account") pledged to and charged with payment of project costs outlined in the financial plan; and (2) in the event of municipal indebtedness, a development sinking fund account(s) (the "Sinking Fund Account") pledged to and charged with the payment of debt service on any municipal debt issued to finance the City improvements.

~~The Project Cost Account shall consist of one or more City cost sub-accounts (the "City Cost Sub Account") pledged to and charged with the payment of costs of the City's project costs, and one or more Developer cost sub-accounts (the "Developer Cost Sub Account") pledged to and charged with payment of the costs of reimbursement consistent with each approved Credit Enhancement Agreement, if any.~~

TIF revenues allocated to the City will be deposited into one or more Sinking Fund Accounts to finance the costs for the infrastructure improvements undertaken by the City, in the event the City issues any municipal debt, and otherwise to the City Cost Sub Account to finance such costs directly.

~~Should the City Council choose to enter into Credit Enhancement Agreements with a Developer, payments to the Developer will be made from the Developer's Cost Sub Account. The proceeds of the Council approved Credit Enhancement Agreement will be utilized by the Developer to defray the costs of the Developer's project as described in the Agreement. In any fiscal year, payments made under any Credit Enhancement Agreement will be made periodically following the payment of the associated property taxes on the Developer's project to the City. The portion of any such CEA with a Developer is further defined in Part D, below.~~

The City reserves the right to make transfers between development program fund accounts as required, provided that the

transfers do not result in a balance in the development program sinking fund account that is insufficient to cover the annual obligations of that account, consistent with 30-A M.R.S. § 5227(3)(C) (Supp. 2005).

**C. Estimates of Captured Assessed Value of the District**

Estimates of the captured assessed values for the TIF district during the life of the Development Program are list in Attachment C.

**D. Captured Assessed Values to be Applied to the Development Program**

Up to 100% of increased assessed real property values will be applied to the Development Program. Any funds not applied to the development program will be put into the general fund. If any funds that are anticipated to be applied to the development program, are instead returned to the general fund, the corresponding amount of local valuation may not be included as part of the captured (sheltered) assessed value as specified by the City.

~~As part of this Omnibus Downtown Development Program and on a case by case basis the City, through its City Council, may allocate a portion of TIF revenues generated on a parcel of land within the District under a CEA with the Developer or land owner of that project. To the extent the Council does subsequently negotiate and execute an agreement with a Developer, the City expects that such future CEAs approved by the City will allocate a percentage of the tax increment generated by the project allowable under the City's TIF Policy to the Developer for a term not to exceed the life of this Development Program and District. The actual percentage shall be negotiated on each case at the sole discretion of Council and subject to any then current City TIF Policy (Attachment E) or other requirements.~~

**E. Impact of TIF on all Taxing Jurisdictions**

The tax shifts which may result from the project during the term of the District, using information provided by the City of Rockland, the State of Maine Department of Education, and the Maine Revenue Service is also included in Attachment C and is for illustration purposes only.

**F. Statistical Data**

A Statutory Requirements and Thresholds Worksheet is attached as Attachment E to verify that (1) at least 25% of the real property within the proposed District is either a blighted area; in need of rehabilitation, redevelopment or conservation work, or is suitable for commercial or arts district uses; (2) the total area of a single development district does not exceed 2% of the total acreage of the municipality and the total area of all development districts does not exceed 5% of the total acreage of the municipality; and (3) the original assessed value of the proposed District plus the original assessed value of all existing TIF districts within the municipality does not exceed 5% of the total value of taxable property within the municipality as of April 1, 2012.

**G. Financial Data**

The Development Program requires establishment of a Development Program Fund pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227 (3)(A) (Supp. 2005). Over the extended 30 year TIF term, the Development Program provides for up to 100% of the incremental tax revenues retained from the increase in assessed real property value within the TIF District to be captured by the City within this Development Program Fund, to the extent that the then current assessed value exceeds the OAV.

The TIF District Development Fund is established consisting of (1) a project cost account ("Project Cost Account") pledged to and charged with payment of project costs outlined in the financial plan; and (2) in the event of municipal indebtedness, a development sinking fund account(s) (the "Sinking Fund Account") pledged to and charged with the payment of debt service on any municipal debt issued to finance the City improvements.

The Project Cost Account shall consist of one or more City cost sub accounts (the "City Cost Sub Account") pledged to and charged with the payment of costs of the City's project costs.

TIF revenues allocated to the City will be deposited into one or more Sub Accounts of the Project Cost Account to finance

the costs for the infrastructure improvements or other projects outlined in Table 1 undertaken by the City. In the event the City issues any municipal debt, TIF revenues shall be deposited into the Sinking Fund Account.

~~Should the City choose to enter into a Credit Enhancement Agreement with a Company or Developer, payments to the Company or Developer will be made from the Developer's Cost Sub Account. The proceeds of the Board approved Credit Enhancement Agreement will be utilized by the Company or Developer to defray the costs of the Company or Developer's project as described in the Agreement. In any fiscal year, payments made under any Credit Enhancement Agreement will be made periodically following the payment of the associated property taxes on the Company or Developer's project to the City.~~

The City reserves the right to make transfers between development program fund accounts as required, provided that the transfers do not result in a balance in the development program sinking fund account that is insufficient to cover the annual obligations of that account, consistent with 30-A M.R.S. § 5227(3)(C) (Supp. 2005).

### III. Record of Municipal Approvals

Pursuant to Maine Statute, the City of Rockland is required to hold a public hearing before submitting an application to the State of Maine Department of Economic and Community Development for the designation of the Municipal Development and Tax Increment Financing District and for approval of the Omnibus Development Program for said District. The City Council of the City of Rockland held a public hearing for these purposes on September 23, 2013 at 6:30 PM at Rockland City Hall, 270 Pleasant Street, Rockland, Maine.

Maine law also requires that notice of the public hearing be published at least 10 days prior to the hearing in a newspaper of general circulation. Attachment F is a copy of the Notice of Public Hearing which appeared in *Currier Gazette* on September 12, 2013.

A Special City Meeting was held for the City to accept the amended Rockland Downtown Tax Increment Financing District and Omnibus Development Program on September 23, 2013. A record of that meeting and vote on this District and Program are included in Attachment G.

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor MacLellan-Ruf moved passage.

Mayor Pritchett said that in light of what the Council did with Order #49, this Order should be defeated.

Vote: 1 for, 4 opposed.  
(MacLellan-Ruf)  
Motion Defeated.

#67 Authorizing Right Of Way Agreement – D. Bennett

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

**THAT** the City Manager is hereby authorized to enter into a right-of-way license agreement with Daniel Bennett, 237 West Meadow Road, in substantial compliance with the agreement attached hereto, for the use by Mr. Bennett of a portion of the West Meadow Road Right-of-Way to store his schooner *S/V Buffelhead*.

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

### RIGHT-OF-WAY LICENSE AGREEMENT

**THIS AGREEMENT** by and between the City of Rockland, Maine, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Grantor") and Daniel J. Bennett ("Grantee"), of 237 West Meadow Road in Rockland, Maine (Tax Map 86-A-13-1) ("Grantee's Property"), but not his heirs, devisees, successors, or assigns, is effective August \_\_\_\_, 2014, in consideration of the mutual covenants and conditions of the parties hereto as follows:

**1. Grant of License.** Pursuant to City of Rockland Code of Ordinances, Ch. 15, Sec. 15-137, the City grants to Grantee a temporary, non-exclusive license to use a portion of the West Meadow Road right-of-way, namely the former location (now discontinued) of West Meadow Road located approximately north of and between West Meadow Road and Grantee's Property, and west of the driveway to the Property that crosses the City's Alms House Cemetery at 243 West Meadow Road (Tax Map 86-A-15), pursuant to City of Rockland easement dated August 10, 2004, and filed on the Knox County Registry of Deeds in Book 3350, Page 312, , approximately as shown on plan attached and incorporated herein as Exhibit A, for the sole purpose of temporarily storing Grantee's *SV Bufflehead*, a sloop otherwise berthed at the Rockland Port District's Lermond Cove Landing. Grantee's license thus to utilize a portion of the right-of-way is limited to and may not exceed the area reasonably required for said sloop, shelter accommodating the sloop and its repair and maintenance, and equipment reasonably required to access and maintain said sloop;

**2. Term.** This License Agreement shall expire, without notice, upon the earlier of: (1) midnight on May 31, 2019, or (2) in the event of Grantee's sale or lease of the *Bufflehead*, within fourteen days thereof, or (3) the termination of this Agreement pursuant to the provisions for termination set forth herein. Grantee is required to remove the sloop and related equipment and to discontinue his occupancy of the West Meadow Road right-of-way upon or before the expiration of the Term of this Agreement, or its termination;

**3. Termination.** This Agreement and the permissions granted herein shall terminate (A) in the event the City determines that Grantee's use of the West Meadow Road right of way exceeds the permitted scope of this License Agreement, and Grantee fails to correct such exceedence within ten days of notice by the City; (B) the City, at its sole discretion, terminates this Agreement by providing thirty (30) days' prior written notice; or (C) upon the expiration of the Term of this Agreement;

**4. Enforcement.** Grantees' failure to comply with this agreement or to remove the Grantees' encroachment(s) upon the right of way prior to the expiration of this License Agreement, whether or not such encroachments are temporarily authorized by this Agreement, shall constitute a land use violation, and be subject to penalties in the amount of \$100 to \$2,500 for each day the violation continues, together with the City's attorney's fees and costs incurred in collecting the same, pursuant to 30-A M.R.S. § 4452;

**5. Indemnification; Hold Harmless.** Grantee hereby agrees and contracts to indemnify, protect, and hold the City harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from or in connection with (a) any injury to, or the death of, any person, or loss or damage to property, arising from Grantee's activities in and/or encroachment upon the West Meadow Road right of way at or adjacent to the Premises. Nothing herein shall be deemed a waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

**6. Miscellaneous.**

A. Grantee acknowledges for himself, his tenants, members, agents, successors, and assigns, that they shall have no right (other than public access), title, or interest in or to City property not granted herein;

B. The limitations and obligations imposed upon Grantee in this License Agreement shall alike extend to and be binding upon Grantees and their successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

Councilor Dickerson moved passage.

Vote: 5 for.

#68 Adopting Declaration of Official Intent – Old County Road Repair Bond Ordinance

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

**THAT, WHEREAS,** the City desires to borrow up to a maximum amount of \$\_\_\_\_\_ for purposes of acting as matching funds for the Maine Department of Transportation's Municipal Partnership Initiative Program to finance the cost of reconstruction, repairs, necessary storm water improvements and resurfacing of a portion of Old County Road, and such other ancillary and related costs with respect thereto; and

**WHEREAS,** the provisions of Treasury Regulation § 1.150-2 require that the Declaration of Official Intent be adopted by the City in order for the City to reimburse itself for costs of the project with proceeds from the issuance of tax-exempt bonds;

**NOW, THEREFORE,** it is hereby

**ORDERED:** That the Declaration of Official Intent attached hereto be and hereby is adopted; and

**ORDERED:** That Bond Ordinance #22, incorporated herein by reference, be scheduled for a public hearing to be held on September 8, 2014; and

**ORDERED:** That the City Clerk be and hereby is authorized and directed to publish notice of the public hearing at least seven (7) days prior to the date of the public hearing.

Sponsor: City Manager  
Originator: City Manager

***DECLARATION OF OFFICIAL INTENT***  
**TREASURY REGULATION § 1.150-2**

**WHEREAS,** the City of Rockland, Maine (the "Issuer") currently intends to proceed with the following project (the "Project"): Old County Road Reconstruction, Repairs, Necessary Storm Water Improvements and Resurfacing, and such other ancillary and related costs with respect thereto;

**WHEREAS,** the Issuer intends to finance the costs of the Project through the issuance of bonds or notes in anticipation thereof; and

**WHEREAS,** certain of the costs of the Project may be paid by the Issuer prior to the issuance of notes or bonds and be reimbursed from the proceeds thereof; and

**WHEREAS,** Treasury Regulation § 1.150-2 requires that an Issuer declare its official intent to reimburse expenditures with proceeds of borrowings prior to the date of expenditure;

**NOW, THEREFORE,** the Issuer does hereby declare its official intent as follows:

- 1. Declaration of Intent.** The Issuer reasonably expects to reimburse expenditures made on the Project with the proceeds of bonds or notes in anticipation thereof to be issued by the Issuer in the maximum principal amount of \$\_\_\_\_\_, plus an amount not to exceed 2% for payment of the cost of issuance of bonds or notes issued with respect thereto.
- 2. General Description of Property to which Reimbursement Relates.** The description of the Project in the first recital hereto is a reasonably accurate general functional description of the type and use of the property with respect to which reimbursement will be made.
- 3. Public Availability of Official Intent.** This Declaration of Official Intent shall be maintained as a public record of the Issuer and shall be maintained and otherwise supervised by its Clerk on behalf of the Issuer.
- 4. Treasury Regulation.** This is a declaration of official intent pursuant to the requirements of Treasury Regulation § 1.150-2.

**5. Authority for Declaration.** This declaration is adopted pursuant to the following action of the Issuer: Order adopted by its City Council.

Councilor Isganitis moved passage.

It was noted that this Order went with the Bond Ordinance that the Council defeated earlier in this meeting, therefore this Order should be voted down as well.

Vote: 0 for, 5 opposed.

Motion Defeated

#69 Adopting Post Issuance Compliance Policy for Tax-Exempt Obligations

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

**THAT** the City of Rockland hereby adopts the Post-Issuance Compliance Policy for Tax-Exempt Obligations in substantial compliance with the attached policy.

Sponsor: City Manager

Originator: Finance Director

**POST-ISSUANCE COMPLIANCE POLICY FOR  
TAX-EXEMPT OBLIGATIONS**

1. Compliance Officer; Consultation and Training: The Director of Finance (the "Compliance Officer") shall be responsible for monitoring post-issuance compliance with respect to the City's Tax-exempt Obligations (as defined below).
  - a. Unless a shorter time-frame is specified below, the Compliance Officer shall annually review each of the City of Rockland's Tax-exempt Obligations to monitor for compliance with this Policy.
  - b. The Compliance Officer shall consult with the City's bond counsel and/or its financial advisor and a rebate consultant as necessary to meet the requirements of this Policy.
  - c. The Compliance Officer will be trained to implement this Policy.
2. Closing Transcripts; Form 8038-G. The Compliance Officer shall maintain a copy of the transcript of proceedings for each tax-exempt obligation issued by the City, including but not limited to all tax-exempt bonds, notes and lease-purchase contracts (referred to as "Tax-exempt Obligations").

If not included in the closing transcript, the Compliance Officer shall also maintain records required to be maintained to qualify for the safe harbor for investment contracts or defeasance escrows and to identify any qualified hedge contract on the City's books and records.

The Compliance Officer shall confirm the proper filing of an 8038-G return for each Tax-exempt Obligation issued by the City.

3. Deposit and Use of Proceeds; Arbitrage Compliance. The Compliance Officer shall:
  - a. create appropriate funds and accounts to track the deposit and use of the sale proceeds and investment proceeds of each Tax-exempt Obligation issued by the City;
  - b. maintain records of all investments and expenditures from such funds and accounts;
  - c. make a final allocation of the proceeds of any Tax-exempt Obligation to expenditures by no later than (i) 18 months after the later of the date the expenditure was made or (ii) the date the project being financed was placed in service. Notwithstanding the forgoing, the final allocation shall be made not later than the earlier of five years after the particular Tax-Exempt Obligations were issued or 60 days after the issue is retired.
  - d. determine whether each Tax-exempt Obligation meets the requirements of either the "small issuer" exception to arbitrage rebate or the semi-annual target dates for the 6-month, 18-month, or 24-month spending exception to arbitrage rebate, as applicable;
  - e. consult with bond counsel to identify and monitor any proceeds of a Tax-exempt Obligation that must be invested in yield restricted investments following the expiration of any applicable temporary period;
  - f. in the event the City fails to meet the requirements of the applicable temporary period or exception to rebate:
    - i. arrange for the timely calculation and payment of any rebate liability or yield reduction payment, if

- available and as applicable;
  - ii. ensure that if rebate is due, the first rebate installment is paid by the fifth anniversary of the issue date of the particular Tax-Exempt Obligation plus 60 days and each fifth anniversary thereafter until the final maturity date plus 60 days.
- 4. Proper Use of Bond Financed Property. The Compliance Officer shall:
  - a. maintain a record of all bond financed property and the proceeds of any Tax-exempt Obligation spent on each such bond financed property;
  - b. monitor all non-public use of any property financed with the proceeds of any Tax-exempt Obligation and confer with bond counsel as appropriate. Such non-public use may arise out of some of the following arrangements: non-qualified management or research contracts (refer to Rev. Procs. 97-13 and 97-14), leases (including leases to the Federal Government), naming rights, or the sale, disposition or other change in use of such property;
  - c. maintain copies of any non-public use arrangement; and
  - d. in the event the City takes an action which causes the private activity bond tests to be met, contact bond counsel and take all actions necessary to ensure timely remedial action under the applicable IRS Regulation.
- 5. Continuing Disclosure. The Compliance Officer shall file the annual financial statements and other financial information and operating data and shall provide notice of any material events as required by any continuing disclosure certificate delivered by the City with respect to any Tax-exempt Obligation.
- 6. Significant modification. The Compliance Officer shall evaluate all modifications to any of the City's Tax-Exempt Obligations to determine that such modifications do not result in a reissuance or, if such modifications do result in a reissuance, to take all actions necessary to maintain the tax-exempt status of the Tax-Exempt Obligations.
- 7. Retention of Records. The closing transcript for each Tax-Exempt Obligation and other records to be retained pursuant to this Policy shall be maintained until three (3) years after said Tax-exempt Obligation (or obligations issued to refund such Tax-exempt Obligation) has been retired.

If records and materials to be maintained under this Policy are kept in electronic format, the record system shall comply with the requirements of Rev. Proc. 97-22, as such may be amended, modified, superseded or replaced.

Councilor Isganitis moved passage.

Vote: 5 for.

#70 Authorizing Use of Surplus Funds – Police Department Detective Vehicle

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

**THAT** the City Manager is hereby authorized to expend \$5,259.00 from the Police Asset Forfeiture Account (#70000-01701), and add that amount to the \$12,014.00 surplus funds from the purchase of two police cruisers authorized in the FY 2015 Capital Improvement Plan, for the purchase of a Police Detective Vehicle.

Sponsor: City Manager  
Originator: City Manager

Councilor Isganitis moved passage.

Vote: 5 for.

#71 Authorizing Amendment to Harbor & Waterfront Department Fees – Cruise Ships

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

**THAT** the fee schedule for the Harbor & Waterfront Department shall be amended as follows:

**HARBOR & WATERFRONT FEES**

\* \* \* \*

**COMMERCIAL VESSEL USE OF MUNICIPAL PIERS:**

Dockage Fees:

\$50.00 per foot per season, \$200.00 deposited with application

~~Wharfage for vessels that book their use of a City facility on or before October 31, 2013, for visits to such facility on or before October 31, 2014:~~

Vessels owned by residents of Rockland: \$1.00 per passenger  
Vessels owned by non-residents shall pay \$2.00 per passenger  
Vessels requiring a USCG approved secure facility: \$3.00 per passenger; with a Port Development Fee of \$4.00 per passenger

Wharfage for vessels that book their use of a City facility on or after August 12, 2014, for visits to such facility on or after May 15, 2016:

Vessels owned by residents of Rockland: \$1.00 per passenger  
Vessels owned by non-residents shall pay \$2.00 per passenger  
Vessels requiring a USCG approved secure facility: \$4.00 per passenger; with a Port Development Fee of \$4.00 per passenger

Sponsor: Councilor Isganitis  
Originator: Harbor Management Commission

Councilor Isganitis moved passage.

Vote: 5 for.

With no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:29 p.m.

A TRUE COPY.

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

**SPECIAL MEETING**

**AGENDA**

**August 20, 2014**

Executive Session pursuant to 1 M.R.S. 405(6)(A) to interview representatives of three firms that might assist the City in the search and recruiting process for a new City Manager

(Note: Representatives of Eaton Peabody, Dacri Associates and Municipal Resources will be interviewed).

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, Frank Isganitis, and City Attorney Beal.

Councilor Elizabeth Dickerson arrived at 6:15 p.m.

City Manager Luttrell was excused from attending this meeting.

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

**Executive Session:** Councilor Hebert moved the enter an Executive Session pursuant to 1 M.R.S. 405(6)(A) to interview representatives of three firms that might assist the City in the search and recruiting process for a new City Manager. (Note: Representatives of Eaton Peabody, Dacri Associates and Municipal Resources will be interviewed).

Vote: 4 for.

The Council entered Executive Session at 6:01 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection at 8:50 p.m.

A TRUE COPY.

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

**SPECIAL MEETING**

**AGENDA**

**August 26, 2014**

1. Executive Session pursuant to 1 M.R.S. 405(6)(A) to discuss the appointment of a firm to assist the City Council with recruiting a new City Manager;
2. Order #72 Authorizing Retention of and Authorizing Funding for a Firm to Assist with the City Manager Search Process; and
3. Development of FY '15 Work Plan

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, Frank Isganitis, and City Manager Luttrell. Councilor Elizabeth Dickerson arrived at 6:07 p.m., but left the meeting at some point during the Executive Session and did not attend the public portion of the meeting. City Attorney Beal was excused from attending this meeting.

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

**Executive Session:** Councilor Hebert moved to enter into an Executive Session pursuant to 1 M.R.S. 405(6)(A) to discuss the appointment of a firm to assist the City Council with recruiting a new City Manager.

Vote: 4 for.

The Council entered Executive Session at 6:01 p.m.

The Council came out of Executive Session and began the public portion of this meeting at 6:35 p.m.

**Order #72 Authorizing Retention of Firm to Assist in the City Manager Search.**

**WHEREAS**, Rockland was served by two different City Managers in the five year period between January 2009 and December 2013; and

**WHEREAS**, consistent skilled management and good leadership over at least a seven to nine year period is important to address the complex challenges and build on the many opportunities presented in a City like Rockland; and

**WHEREAS**, the Council seeks to identify the combination of technical, fiscal, community, economic, management and leadership skills a City Manager needs to effectively serve the City and the Community; and

**WHEREAS**, the Council wants to be methodical in recruiting and screening of candidates for the position of City Manager to help ensure the next Manager will have a balance of key skills identified to drive quality and efficiency in the delivery of City services and be a good long term fit in the community; and

**WHEREAS**, Council sees significant value in having a firm with strategic planning, human resources and executive recruiting experience assist the City in the search process; and

**WHEREAS**, multiple towns and cities have been contacted about recent manager searches and the Council has interviewed representatives from three firms to possibly assist in the process;

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

**THAT**, the Council hereby authorizes retaining \_\_\_\_\_ to assist in the City Manager search process; and

**THAT**, the Council authorizes the expenditure of up to \$\_\_\_\_\_ from the General Fund Professional Services Account (#18-05010) to compensate \_\_\_\_\_ and to fund advertising and other expenses incidental to the City Manager selection process.

Sponsor: City Council  
Originator: City Council

Councilor Hebert moved passage and moved to amend Order #72 as follows: Fill the first blank with "Darci and Associates"; fill the second blank with "\$17,000"; and fill the third blank with "Darci and Associates".

Councilor Hebert said that the Council wrestled with whether it makes sense to hire a consultant, noting that costs are always forefront in these matters, and the City is not in a favorable economic position with taxes being as high as they are. However, he said that the City Council is not in a position to take on such a task by itself, and it would be a dis-service to the City to try. He said having a professional firm acting as point-man for the Council to do the background work is a much better solution than having the Council attempt to do it. He said he was sensitive to the fact that the past two processes did not work out as well as the Council had hoped, but this firm offered a more unique and in-depth process in finding candidates for this position. He said that not having steady leadership in the corner office has led to missed opportunities for the City. He said that Mr. Luttrell has done an admirable job filling in as Acting City Manager, and is also doing his job as Finance Director at that same time, but he can't do both. Hopefully this process will yield the best candidate for the position, and if that is Mr. Luttrell, assuming he decided to apply for the position, he will rise to the top.

Vote on amendment: 3 for, 1 opposed.  
(MacLellan-Ruf)

Councilor Isganitis noted that the order authorizes incidental expenses as well as hiring the consultant, and wondered if the figure of \$17,000 was correct.

The City Manager said that advertising expenses would be taken from a separate advertising account so it really does not need to be authorized here. He added, however, if there were travel expenses for a candidate that the Council wished to interview, those funds would have to be approved from other sources.

Councilor Hebert moved to further amend Order #72 as follows: delete the phrase "...and to fund advertising and other expenses incidental to..." and add the word "for" in its place, so that the last sentence would read "...to compensate Darci and Associates and to fund advertising and other expenses incidental to for the City Manager selection process."

Vote on amendment: 3 for, 1 opposed.  
(MacLellan-Ruf)

Councilor MacLellan-Ruf said that there were compelling arguments for using a consultant on previous searches, but she wished there were other options than spending \$17,000. She said that she could not support such an expense.

Councilor Isganitis said that there are two things that are being missed; that this process will not just involve the City Council but the community as a whole, in both the development of a work plan and in what the community wants in a City Manager. The second thing is that with the City Manager position open, the net impact of this expenditure will not result in an over-expenditure of the current budget. He said if some of the funds from the City Manager Payroll line are used for the search, there will still be sufficient funds to pay the salary when a new City Manager is hired. He said that he will support this proposal as amended because Rockland is worth it.

Councilor Hebert noted that the Darci and Associates proposal pointed out several deficiencies in the previous City Manager searches, and that using their services offer a unique opportunity for the City to find the best candidate for the job.

Vote as amended: 3 for, 1 opposed. (MacLellan-Ruf)

**Work Session – FY 2015 Work Plan:** The Council then went into informal session to continue discussions on creating a FY 2015 City Council Work Plan.

With the above work session completed, and with no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 8:12 p.m.

A TRUE COPY.

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

**SPECIAL MEETING**

**AGENDA**

**September 3, 2014**

Workshop: FY 2014 Year End Budget Review  
Update: Winter Street Project  
Set Agenda for September 8, 2014 Regular Meeting

The meeting was called to order by the Mayor at 6:30 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, Frank Isganitis, City Manager Luttrell, and City Attorney Beal. Councilor Elizabeth Dickerson arrived at 6:05 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:

- Steve Carroll, 326 Old County Road, spoke concerning the finances of the City, saying that the City is spending too much money on things that are not necessary. He said that there are some big ticket issues that the City is facing that are going to need to be addressed, such as sewers, roads and landfill closure, and lamented the fact that the Council continues to spend money on things such as \$17,000 for a consultant for the City Manager search. He said that the Council needs to stop spending money on things that it wants and concentrate on the things that are needed. He also said that the Council should make it a goal to cut \$2 million dollars out of next year's city budget.

- David Myslabodski, 53 Broad Street, spoke concerning the public hearing on the pay per bag ordinance repeal and the operations at the transfer station, inviting the Council and the public to visit the transfer station in the town of St. George, holding it up as a model that the City should strive to emulate. He then commented on the City Budget, noting that the Council reinstated funding for a library position that had originally been cut from the Budget. He said that the \$12 per household that it was said to cost could mean the difference of putting food on the table for some families. He also commented on the funds being expended for the city manager search consultant, City Council Work Plan, and on improvements to the Thorndike parking area that will only benefit downtown businesses, saying that the Council needs to shift its priorities to fixing infrastructure such as sewers and roads. He added that in a recent on-line poll in a local newspaper the City Council received an approval rating of only 16%.

- Barry Faber, 73 Willow Street, spoke concerning the need for City officials to take responsibility for their actions and/or inactions that have placed the City in a precarious financial situation, citing several examples that he asserted illustrated a history of poor decisions and lack of judgment, from spending \$17,000 on a City Manager search consultant when other municipalities get quality candidate for \$5,000, to a several-thousand dollar shortfall in the Solid Waste budget due in part to faulty disposal contracts approved by the Council. He also reminded the Mayor of the duties prescribed for that position in the City Charter, specifically that the Mayor shall have no administrative duties. He said that the Mayor has been overstepping his authority in many instances and needs to remember what his role is. He added that the City needs a new City Council, rather than a new City Manager, that will make better decisions.

- Dale Hayward, 162 North Main Street, spoke concerning various administrative issues, saying that he has discovered that the assessor's office failed to pick up a new garage and deck at the property of a neighbor costing the City thousands of dollars in new tax revenues of the years since the garage and deck were built. He said he wondered if there were other properties that were not paying for what they had, and said that an investigation of all building permits for the past five years to determine that the property records are correct. He also commented on the Council's decision to spend \$17,000 for a City Manager search consultant when the town of Bar Harbor hired an excellent candidate with 32 years of experience by using a consultant costing only \$5,000. He then said that the City's recycling ordinance is not being enforced and that it was up to the City Manager to make sure that the City employees are doing the jobs for which they were hired. Finally, he said that the \$400,000+ shortfall in the Solid Waste Budget is the Council's responsibility. He said that the Council needs to start acting like citizens rather than politicians.

- Suzanne Ward, 55 Masonic Street, spoke concerning her communication with the Council on the development of a dedicated dog park. She said that she would be willing to work with the City to identify an appropriate location and to raise funds for the park's establishment and maintenance.

- Susan Barbour, 645 Old County Road, spoke concerning the proposed sale of 224 Old County Road (Engine Quarry), saying that she has documentation that the City does not have title to this property and that she in fact owns at least an interest in this property. She said that the City cannot sell what it does not own, and suggested that the Ordinance Amendment selling the property be postponed until the questions of ownership can be answered.

- Vicki Gamage, a resident of Warren, spoke concerning the sale of 106 Thomaston Street, saying that her parents are the abutting property owners to this parcel and she placed a bid on this property so that it could be used for family purposes. She acknowledged that her bid was not the highest for this parcel, but hoped that the Council would consider her bid for the purposes that she outlined in a letter to the Council.

- Will Clayton, 95 Acadia Drive, said he spoke at a previous meeting concerning the inappropriate use of electronic devices and social media by Council members during City Council meetings, and said he was concerned that the matter may be escalating, with a member of Council disclosing confidential information from an Executive Session via social media. He said this disclosure went so far as to actually quote what other Councilors said in the Executive Session. He said that it was harmful to the community to have a member of the City Council disclosing confidential information, and hoped that by bringing this matter to light it will be addressed.

Hearing no other speakers, the public forum was closed.

At this time, Councilor MacLellan-Ruf said that there will be a fundraiser at St. Peter's Episcopal Church to benefit John Grondin, who, as a member of the Parks Commission, has worked tirelessly to get businesses to donate toward the acquisition of several picnic tables through the City. She said the funds raised would go toward the purchase of a translating device for Mr. Grondin, who is visually impaired, so that he could more easily review Parks Commission minutes and other documents.

**Work Shop – FY 2014 Year-End Budget Review:** The Council then went into informal session for a year-end review of the FY 2014 budget with Finance Director Tom Luttrell. Mr. Luttrell highlighted the following accounts:

**General Government - Community Development**

Explanation: The economic development line is driving the overage. This is due to Order #33 approved in May 2014 approving the transfer of \$11,000 from the Fisher TIF to be transferred into the community development account to help in economic in retaining business and attracting new business to Rockland. The overage is offset by excess revenue.

**General Government - General**

Explanation: This account is over spent due to the fact we held a safety day for the entire City last fall and includes part of the cost for flood plain review by Ransom.

**General Government - Assessing**

The computer services line is over spent as of this report. In figuring out why they were overspent, it was noticed that an FY15 service agreement was expended in FY14, this will be reversed.

**Culture and Recreation - Recreation**

Explanation: The building maintenance account is over due to the remodeling of the game room. The part time payroll line was also over due to the Rec taking over park maintenance.

**Culture and Recreation - Fish Pier**

Explanation: The fish pier is showing over expended only due to the fact that any revenue in excess of expenditure is to be put into the fish pier reserve account, we added an additional \$50,000 this year.

**Public Safety - Public Works**

Explanation: The driving force for the overage is in the public works project account. This account was expended for the Union Street sidewalks.

**Health and Welfare - General Assistance**

Explanation: The assistance line is over by \$6,666.

**Debt Service**

Explanation: At the time of this report, the lease payment account is showing an over expenditure of \$63,000 and this will be balanced out with a journal entry as we are awaiting for funds to be received by leasing company.

**Update – Winter Street Project:** The Council then received an update on the Winter Street project from Project Manager and Water Pollution Control Director Terry Pinto, the architect for the streetscape designs, and the engineers for the sewer and storm water separation on this project. It was noted that the City did not receive the streetscape grant for this project, so there were insufficient funds to do the streetscape portion of the project at this time. However, the Council was being asked to decide on which proposed design it would like to adopt because that will be a determining factor in the final engineering of the sewer and storm water separation portion of the project that has been funded.

**Set Agenda for September 8, 2014 Regular Meeting:** The Council then set the agenda for the September 8, 2014 Regular Meeting. The following communications were addressed:

- a. Letter from Suzanne Ward – Establish a Dog Park. The letter was accepted and Councilors MacLellan-Ruf and Isganitis offered to work with Ms. Ward on this issue.
- b. Letter from Kathryn Fogg – Dog Waste and Registration. The letter was accepted by the Council.

Special Meeting continued:

September 3, 2014

With the agenda set, and with no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 9:05 p.m.

A TRUE COPY.

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

## SPECIAL MEETING

## AGENDA

September 8, 2014

Executive Session pursuant to 1 M.R.S. §405(6)(E) for consultation with the City Attorney on a contract matter.

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

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

**Executive Session:** Councilor Hebert moved to enter into an Executive Session pursuant to 1 M.R.S. §405(6)(E) for consultation with the City Attorney on a contract matter. Vote: 5 for.

The Council entered Executive Session at 6:31 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned at 6:55 p.m.

A TRUE COPY.

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

## REGULAR MEETING

## AGENDA

September 8, 2014

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Public Forum (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 – Waterworks Restaurant
  - b. Lodging House License – Trade Winds Motor Inn
  - c. Taxi License – Schooner Bay Limo & Taxi
8. Resolves:
  - #34 Accepting Donations – Library
  - #35 Commendation – Linda Barnes
  - #36 Appointment – Warden & Ward Clerk for 11/4/14 Election
9. Ordinances in Final Reading & Public Hearing:
  - #10 Ch. 19, Secs. 19-302 & 19-309 Container Restaurants (Postponed)
  - #22 Ch. 17, Sec. 17-802 Tillson Ave Parking (Bathrooms)
10. Ordinances in First Reading:
  - #24 Revisions to Ch. 14/Creation of New Ch. 20 – Sewer Ordinance
  - #25 Quit Claim Deed – Sale of 106 Thomaston Street

City Manager  
City Council  
Mayor Pritchett

Councilor MacLellan-Ruf  
Councilor Isganitis

Mayor Pritchett  
City Council

Regular Meeting, Agenda continued:

September 8, 2014

#26 Quit Claim Deed – 224 Old County Road (Engine Quarry)	City Council
#27 Ch. 19, Sec. 19-304 Res B Zone Regs – Ag. Markets OC Rd	Councilor MacLellan-Ruf
#28 Ch. 19, Sec. 19-304 DT Zone Regs – Residential Uses	Councilor Isganitis
#29 Ch. 3, Sec. 3-203 Dogs Prohibited in Certain Parks	Councilor Hebert
#30 Ch. 13, Art. IV Pesticide/Herbicide Use in the City	Councilor Dickerson

11. Orders:

#65 Authorizing Development - 2015 Work Plan (Post. 8/4/14)	Mayor Pritchett
#73 Public Hearing/Accepting Pay Per Bag Repeal Petition	City Council
#74 Placing Question On Ballot – Pay Per Bag Repeal Ref (11/4/14)	City Council
#75 Authorizing License Agreement – CMP – 385 Main St	City Manager
#76 Authorizing License Agreement – CMP – 435 Main St	City Manager
#77 Authorizing Funding for Gas Collection System – Solid Waste	City Manager
#78 Authorizing Transfer of Appropriations – Coast Guard City Com.	Councilor Isganitis
#79 Authorizing Thorndike Parking Area Improvement Plan	City Manager
#80 Transfer of Appropriations – City Manager Search Consultant	City Manager

12. Adjournment.

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

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

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

- Bethany Berry, 59 Crescent Street, spoke in support of Ordinance Amendment #29, prohibiting dogs in certain parks. She then commented on the Solid Waste Facility saying that the landfill is an asset that should be protected for use of the residents, and that the residents do not want a pay per bag disposal system and will vote it down in November.

- Barry Faber, 73 Willow Street, said that he attended the last meeting and asked a number of questions that have gone unanswered and that he would like to have answers to them at this meeting. He said he would ask the same questions again in hopes that someone would answer them. He asked why the City is paying three times as much as Bar Harbor paid for a consultant to assist in the City Manager search. He asked who was responsible for the landfill contracts that have resulted in a \$400,000 shortfall in the landfill account this year, and why the contracts did not include performance bonds. He again noted the duties of the Mayor as prescribed by Charter and said that the Mayor needs to conform to those requirements.

- Sandra Schramm, 16 Broad Street, spoke concerning issues at the Solid Waste Facility, noting that the City's recycling ordinance is not being enforced, that the City is not adequately funding the landfill closure account, and that there are still noxious emissions coming from the landfill. She also said that the City's current arrangement for waste disposal by shipping it to PERC to be burned is not the appropriate way to address waste disposal as it creates toxic fumes and ash. She also said that the City's plan to enter into an agreement with Casella Waste for single-stream recycling at the facility is not a good idea, adding that Casella does not have a great history on environmental issues and has had difficulty living up to its promises in a number of other municipalities throughout the State. She said that the City should consider adopting a "zero waste" plan, much the same as the facility in St. George does. She said St. George has one of the highest percentages of recycling in the State, something that the City should strive for. She said single-stream recycling is not the answer for Rockland.

- Valerie Hooper, 181 North Main Street, spoke concerning the dog waste issue, asking that the people who refuse to clean up after their dogs to stop harassing her. She said that she simply saw a health issue and tried to address it. She also said that people want to know where they can walk their dogs now that Snow Marine Park is closed. She said any property where it is not prohibited is still open for people to walk their dog, but she pleaded with them to clean up after their dogs. She also said that a dog park might satisfy the majority of dog owners, and that she would be happy to assist in moving that process along. She said that she will continue to work to get people to clean up after their dogs, and thanked those dog owners who already do.

- David Myslabodski, 53 Broad Street, spoke concerning Solid Waste issues, saying that the City should emulate the operation at St. George. He said this was the most efficient and profitable operation in the State, and that the City should adopt

the philosophy of "Reduce-Reuse-Recycle" to become a "Green Town". He said the City's current policies do not reflect this philosophy, and that the City needs to adopt clean and enforceable regulations that will lead to the City becoming a "Green Town". He invited the Commercial Haulers to become part of the solution rather than part of the problem.

- Patrick O'Brien, owner of Fiore Olive Oils at 503 Main Street, said that he informed the City some time ago that the street light outside his business was out and was still waiting for it to be repaired. He asked what he needed to do to get CMP to fix the light. He said it is getting dark sooner and it is becoming a safety issue for his employees.

- Adele Faber, 73 Willow Street, spoke concerning issues at the Solid Waste Facility, saying that the \$436,000 shortfall in landfill revenues did not have to happen, and that the Council failed to learn its lesson from previous failed C&D contracts. She asked why the City continues to rush into these contracts without performance guarantees, noting that the only current contract with a performance bond only covers 25% of the contracted amount. She added that the contracts are so vague that they would be voided by a court, but the Council voted 4-1 to approve these contracts after they have been warned repeated of the dangers. She said now those warnings have come to fruition; and the City is lucky that the shortfall isn't more. She noted that even in light of this shortfall, the City is still budgeting \$400,000 in landfill revenues for FY 2015, and asked if this was why the Council was looking to create a new revenue stream with the pay per bag proposal. She said that the public does not want pay per bag and will vote it down in November. She also stated that the Solid Waste Department cannot be considered an enterprise funds until it demonstrates that it can stand on its own.

- Dale Hayward, 162 North Main Street, said that he has had a long history with the City Council and felt that he was being singled out because he has been outspoken and critical of the City Council. He said that he has been and continues to be harassed by the Code Office and at the Transfer Station/Landfill, and that he was tired of this treatment. He also said that he was tired of the selective enforcement of the ordinance that goes on, especially as it refers to him. He said that the recycling ordinance isn't worth the paper that it's printed on if it isn't enforced on all people equally. He also commented on a neighbor's house where the assessor failed to pick up a new garage and deck, and called for an investigation of all building permits issued for the last five years to see what other new construction that has been missed. He said that the City should be more willing to help its taxpayers rather than stick it to them as they have been doing for the past several years. He said that the Council needs to change its attitude and the way it handles itself.

- Susan Barbour, 645 Old County Road, spoke concerning the proposal to issue a quit claim deed for 224 Old County Road, claiming that she has an interest in this property and therefore the City cannot sell it. She claimed to have documentation of that fact, and asked for a copy of a memorandum that the City Attorney sent to the Council on this issue, which she had been told was confidential and only the Council could release it. She said that Ordinance Amendment #26 should be voted down until the title issues on this property are resolved.

- Linda Athearn, 422 Broadway, spoke concerning the dog waste issue, saying that she has been threatened because of her efforts to get people to clean up after their dogs. She said that she wants the City to be aware that she will protect herself if necessary.

Hearing no other speakers, the public forum was closed.

At this time, Mayor Pritchett asked the City Attorney to respond to the claims that C&D contracts with the City are currently in default.

The City Attorney said that none of the three current C&D contracts are in default. He said that two of the three contracts are place and pay contracts where the contractor pays prior to disposing of material, and the third contract has a \$20,000 performance bond and at no time has exceeded that amount. He added that none of the contracts have volume requirements. He continued, saying that two former contracts still have outstanding balances, with one out of business and the other restructuring under bankruptcy laws. The one that went out of business, the City was able to collect approximately 50% of what was owed before it went out of business, and the one under bankruptcy has an agreement to make payments on its outstanding debt. He said that the City has not received the amounts stated in the plan, but the plan is in place.

Mayor Pritchett then asked the City Manager to respond to the question of the shortfall in the Solid Waste Budget.

The City Manager said that he is currently working with the Solid Waste Director to nail down the exact figures and will come back to the Council with suggestions on how to address the shortfall in October.

Councilor Isganitis asked if the shortfall was related to unrealized volume of materials.

The City Manager said that was correct, that the facility did not receive the volume of material that was anticipated therefore the revenue projection was not met.

Councilor Isganitis added that the capacity at the landfill was not adversely affected by this. He said that space remains.

The City Attorney added that the City had a “put and pay” contract with ARC that would have guaranteed amounts of C&D. In 2012, ARC proposed increasing that amount considerably thereby increasing the revenues at the landfill considerably, however, that contract was opposed by the Fabers and other, so ARC decided not to pursue it and ultimately took their waste to another facility.

Mayor Pritchett then asked the City Manager to address the street light issue.

The City Manager said that it was he that told Mr. O’Brien that the light would be fixed on Sunday. He said that was what he was told by CMP but apparently that did not happen. He said he would be contacting CMP in the morning to see what happened and how soon the light can be fixed.

Mayor Pritchett then asked the City Manager to address the question of whether the City had malpractice insurance for City Officials.

The City Manager said that the City does not have malpractice insurance, but it does have Public Entity Management Liability insurance that covers public official when acting in their official capacities.

Mayor Pritchett then asked the City Attorney to address the matter of ownership of the Engine Quarry land.

The City Attorney said that the City has had clear title to a portion of the property since the automatic foreclosure of a municipal tax lien on December 1, 1982. He said the foreclosure of another municipal tax lien in 1985 gave the City title to the other parcel that makes up this property. He said that the Statute of Repose expired on the second lien in 1997 with no entity filing a notice that they believe that the lien procedure was flawed. He added that Mrs. Barbour received a release deed from the Rockland Rockport Lime Company that released any interest that the company may have had in any of its properties, but did not contain the foreclosure on these parcels. He said that the City has sufficient title to this property to issue a quit claim deed to a buyer.

Councilor Isganitis asked the City Attorney to explain the quit claim procedures.

The City Attorney said that the City only conveys property by the issuance of a quit claim deed, rather than a warrant deed, simply giving up any interest on the property that the City may have. He said that any other title issues with the property become the responsibility of the buyer, and that fact is transmitted to any potential buyer.

Councilor Isganitis then asked if state law requires the foreclosure of a tax lien.

The City Attorney said that foreclosure of a municipal tax lien is automatic, and briefly explained the tax lien procedure. He added that City staff makes every effort to contact property owners in danger of losing their property to a lien foreclosure.

Mayor Pritchett, without objection from the Council, then suspended the Rules to allow members of the public to once again address the Council.

Susan Barbour, 645 Old County Road, reiterated her claim that she owns the property that the City is proposing to sell, and asked for copies of the information that the City Attorney has provided to the Council.

Dale Hayward, 162 North Main Street, said that the Solid Waste budget is touted as an enterprise fund, but it is still part of the City’s General Fund and the taxpayers are still responsible for any shortfalls.

Barry Faber, 73 Willow Street, said that there has obviously been a misunderstanding of what constitutes a “shortfall”. He said that a shortfall results with income does not meet projections. He said that if waste disposal contracts do not contain guaranteed amounts you cannot put figures in the budget based on those contracts.

Hearing no other speakers, the Council went back into Regular Session and continued with the agenda.

## **Reports:**

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

- The City met with representatives from MDOT to discuss parking issues at the Ferry Terminal. MDOT will be conducting a survey next summer to determine what the parking issues are for users of the facility.

- Snow Marine Park is still closed, but the City believes that the sources of the pollution have been corrected. After the next rain, the City will test the water again and hopefully will be able to re-open the park.

- It has been suggested repeatedly that the City use the salvaged cobblestones from Main Street for the parking area at Sandy Beach. He said the City has received estimates and the cost to use those cobblestones for that purpose would run in excess of \$10,000. He added that there are no funds available for this kind of work.

Councilor Isganitis asked about the parking issues at the Ferry Terminal, whether it is a matter of the lot being full or that people don’t want to pay the fee for parking in that lot.

The City Manager said that is what the survey is designed to determine.

Councilor Isganitis said that the City is taking on the parking issue by default, with people choosing to park on various side streets. He asked if this could be turned into a revenue source for the City.

The City Manager said that they will be looking at this matter over the winter.

b. City Attorney's Report: The City Attorney said that other than matters already transmitted to the Council, he had nothing else to report.

c. Other Official's Report: Councilor Dickerson said that she contacted Maine Municipal Association about city manager searches, and was told that MMA does them all the time and would be interested in assisting the City with its search if the City were so included. She added that the cost would have been \$5,000.

d. Mayor's Report: The Mayor replied to Councilor Dickerson's comments by saying that he had contacted MMA in July to speak with Mr. Bennett, but he was not available. He said the information received by the City on MMA's services in a city manager search was not different from the last time the Council went through this process, and that the Council already has that information. He said that MMA's proposal was given the same consideration as the other companies that submitted proposals.

**Licenses and Permits:**

- a. Liquor & Entertainment Licenses – Waterworks Restaurant
- b. Lodging House License – Trade Winds Motor Inn
- c. Taxi License – Schooner Bay Limo & Taxi

A public hearing was opened with Bethany Berry speaking in favor of the granting of all of the licenses. Hearing no other speakers, the public hearing was closed.

Councilor Hebert moved to grant all of the above licenses.

Vote: 5 for.

**Resolves:**

#34 Accepting Donations – Library

**WHEREAS**, the Friends of the Rockland Public Library donated \$413.92 for 43 children's books, to be receipted into the Library Revenue Donations account (#10062-03147) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003); and

**WHEREAS**, the Rockland Public Library Endowment Association made the following donations to the Rockland Public Library:

- \$4,000 to be receipted into the Library Restricted Revenue Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003), and shall be used only for the purchase of books;
- \$2,000 to be receipted into the Library Revenue Donations account (#10062-03147); and
- An Oil Painting on linen, *Sanctuary*, by Alison Rector (depicting the interior of the Library) valued at \$4,500, provided that the painting shall hang exclusively in the Rockland Public Library, and it shall not be sold; should the City wish to deaccession the painting, it shall be returned to the Rockland Public Library Endowment Association;

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

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

Sponsor: City Manager  
Originator: City Manager

Councilor Isganitis moved passage.

Vote: 5 for.

#35 Commendation – Linda Barnes

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

**THAT** Linda Barnes is hereby commended and congratulated for 24 years of service to the City of Rockland with

the Rockland Public Library.

**AND**, be it further Resolved that a Plaque and a Certificate of Commendation be presented to Mrs. Barnes as a token of the City's appreciation for her years of service on the occasion of her retirement, and the City Council wishes her well in her future endeavors.

Sponsor: City Council  
Originator: City Council

Councilor Isganitis moved passage.

Councilor Hebert said that he doesn't know as much about the Library as he probably should, but said that it is very well run due in part to the service that Mrs. Barnes has rendered over the years. He congratulated her on a job well done and wished her well in the future.

Councilor Dickerson thanked Mrs. Barnes for her service and added that she has always enjoyed the Library very much.

Without objection from the Council, Mayor Pritchett suspended the Rules to allow Library Director Amy Levine to speak, who praised Mr. Barnes for her dedication to the Library and thanked her for her service.

The Council went back into Regular Session for a vote on Councilor Isganitis' motion for passage.

Vote: 5 for.

Mayor Pritchett then presented a Certificate of Commendation and a Plaque to Mrs. Barnes as a token of the City's appreciation for her service.

At this time, and without objection from the Council, Mayor Pritchett took Order #73, Public Hearing on the Pay Per Bag Ordinance Repeal Petition, out of order.

#### **Order #73 Public Hearing/Acceptance of Petition – Pay Per Bag Ordinance Repeal**

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

**THAT**, pursuant to Article IV of the City Charter, and Chapter 6 of the Rockland Code, and after due notice and hearing being held on September 8, 2014, the City Council hereby accepts the "Pay Per Bag Ordinance" repeal petition (re-printed below) is accepted as complete and sufficient to put the questions to the voters of the City of Rockland at the Annual Municipal Election to be held November 4, 2014.

#### **Petition to the Rockland City Council For Referendum**

For the Submission to the People of the Question:

"Shall the relevant portions of the ordinance entitled "**Establishing Pay-Per-Bag System for Disposal of Municipal Solid Waste**" (as reprinted below) be repealed?"

We, the undersigned, under oath, depose, and say: That we are duly qualified voters of the City of Rockland residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the above question to the voters of the City of Rockland.

#### **Chapter 14 Sewers, Drains and Solid Waste Article I Municipal Solid Waste Facility, Collection and Recycling**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 14, Sewers, Drains and Solid Waste, ARTICLE I, Municipal Solid Waste Facility, Collection, and Recycling, BE AMENDED AS FOLLOWS:**

#### **Sec. 14-104 Waste Disposal; Flow Control**

No person may dispose of Municipal Solid Waste, Construction and Demolition Debris, or other Acceptable Wastes in Rockland except at a licensed solid waste facility in conformance with applicable law. All municipal solid waste generated in Rockland must be disposed of at either (A) the Rockland Solid Waste Facility, or (B) the Penobscot Energy Recovery Company in Orrington, Maine ("PERC"), designated as a component of and credited to the City of Rockland's disposals of municipal solid waste at that facility. [On and after May 2, 2015, any person disposing municipal solid waste other than recyclable material, yard waste, construction and demolition debris, special wastes, white goods, wood wastes, universal wastes, and hazardous wastes](#)

shall do so only (1) in disposal bags designated by the Director for use for the disposal of municipal solid waste at the Facility and purchased at an authorized retailer or other facility, or (2) at the per-ton disposal fee as determined by scale or visual inspection by authorized personnel. The fees for purchasing disposal bags, disposing acceptable wastes by the ton, and for other authorized disposals at the Rockland Solid Waste Facility shall be established by Order of the City Council. No person may dispose of Unacceptable Wastes in Rockland except as may be permitted by the Maine Department of Environmental Protection.

\* \* \* \*

C. Recycling Permits. Recycling Permits issued prior to May 2, 2015, shall authorize such permittees ~~be available to Rockland residents and businesses who do not purchase a Resident or Commercial Permit but who wish~~ to dispose of recyclable material, municipal solid waste on a pay-per-bag basis, and/or other acceptable wastes at the rates or fees for the same in the Rockland Solid Waste Facility Fee Order, through May 1, 2015. Recycling Permits shall not be issued after May 1, 2015, and their use shall be entirely discontinued effective July 1, 2015.

**Registrar’s Certification**

Pursuant to Chapter 6, Section 6-203 of the Rockland Code, petitioners were required to collect 476 signatures of registered Rockland voters by September 4, 2014 to place the above question on the ballot for the November 4, 2014 Municipal Election. The petitioners having met such requirements, I, Kara M. Cushman, Registrar of Voters for the City of Rockland, Maine, do hereby certify that 479 names attached to the above petition and filed with the City Clerk’s Office on or before September 4, 2014, appear on the voting list and have been verified as registered voters of the City of Rockland.

Date: 09/04/2014

Signed: Kara M. Cushman, Registrar of Voters

Sponsor: City Council  
Originator: City Council

A public hearing was opened with Barry Faber, 73 Willow Street, saying that the public should vote yes to repeal the Pay Per Bag Ordinance. He said all of this started the last week in May just before preliminary adoption of the FY 2015 budget when the Council decided to put this system in place and wanted it to be effective July 1. He said that the Council was going to dishonor any stickers that had been sold to that point until he pointed out that it would be a breach of contract for them to do so. He said that the Council instead raised the sticker price from \$65 to \$135 and narrowly passed the ordinance establishing mandatory pay per bag by a 3-2 vote and raised the fees for the bags. He said that people have had the option to pay by the bag all along, and asked what was wrong with that system. He said the inequity in what residents are being charged versus what commercial haulers are being charged under this new proposal places the majority of the burden for paying for waste disposal on the 30% of residents who do not use commercial haulers. He said that the City is also considering contracting with Casella for single-stream recycling, but cautioned the Council that in other communities Casella has not been able to deliver on its promises. He also said that the City in the past has lost tens of thousands of dollars on bad commercial hauler contracts. He urged the voters to vote yes to repeal the pay per bag ordinance.

- Bethany Berry, 59 Crescent Street, thanked the Council for moving this matter forward and allowing the voter to decide the issue. She said that she assisted in gathering signatures to place this question on the ballot, and commended the Council for its forward thinking to let it go to the voters.

- David Myslabodski, 53 Broad Street, said that the pay per bag proposal is nothing short of throwing the taxpayers under the bus. He said that the landfill is being used for more than just disposal of construction and demolition debris, and that the City’s mandatory recycling laws are not being enforced resulting in the City paying for hauling recyclable materials to PERC to be burned. He said that the pay per bag proposal is nothing more than a new revenue stream for the City to make up for the \$400,000 shortfall in the Solid Waste Facility budget. He said that the pay per bag ordinance should be repealed and the City should establish a policy that is fair to all residents.

- Adele Faber, 73 Willow Street, spoke in support of the repeal of the pay per bag ordinance urging the residents to vote yes for the repeal in November. She also spoke concerning a newspaper advertisement that the City took out when the petition drive began that supposedly outlined the “facts” about the solid waste facility and the pay per bag proposal. She noted several inconsistencies in the “facts” forwarded in the advertisement:

- The ad stated that the landfill pays for itself, however there is currently a \$400,000+ shortfall in the landfill budget, and the City is going to have to take \$200,000 from the landfill closure account and another \$200,000 from the general fund to cover this shortfall. She also said that they public has been told that the Solid Waste Facility is operating as an “enterprise fund”, but now the public is being told that it is not an “enterprise fund”. She said that the City cannot have it both ways.

- The ad stated that the actual cost of disposing of one ton of trash was \$143; but the City set the fees for commercial haulers at \$115 until May 1, 2015 when it goes to \$125. She said the City is would be charging residents more than commercial haulers for disposal of the same amount of trash.
- The ad stated that pay per bag will encourage recycling; however, only 30% of the trash is disposed of by residents. The rest is disposed of by commercial haulers who do not recycle. She said that the City's mandatory recycling laws are not being enforced, and that is it past time to begin enforcing them.

She also urged everyone to visit the transfer station in St. George, as it is the best transfer station in the state, and added that there is no reason why the City of Rockland Council not do the same.

- Sandra Schramm, 16 Broad Street, also spoke in support of the repeal of the pay per bag ordinance, urging everyone to ask questions and do research on the issues surrounding waste disposal before voting. She said the pay per bag ordinance needs to be repealed because it will lead to single stream recycling. She said that the City should be exploring a "zero waste" system rather than looking to contract with Casella for single stream recycling, which she maintains does not work as promised. She said that the current system is not working, and that the recycling regulations are not being enforced. She said that a "zero waste" system would be much easier to implement and the savings would be large.

- Theodore Berry, 59 Crescent Street, also spoke in support of the repeal of the pay per bag ordinance, saying that he went door to door collecting signature on the petition. He also said that he witnessed commercial haulers dumping recyclable materials into the landfill. He said that the refusal to recycle by the commercial haulers constitutes a breach of contract under Article II of the Uniform Commercial Code, and urged the Council to review it and follow those guidelines to correct what it going on at the landfill.

Hearing no other speakers, the public hearing was closed.

Councilor MacLellan-Ruf moved passage.

Vote: 5 for.

At this time, and without objection from the Council, Mayor Pritchett took Order #74, Placing Referendum Question on the Ballot, out of order.

#### **Order #74 Placing Referendum Question on Ballot – Pay Per Bag Ordinance Repeal**

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

**THAT**, after notice and hearing on a citizens petition for the same, held on September 8, 2014, the following question shall be submitted to the voters of the City of Rockland at the Annual Municipal Election to be held November 4, 2014

#### **REFERENDUM QUESTION PAY PER BAG ORDINANCE REPEAL**

"Shall the relevant portions of the ordinance entitled "**Establishing Pay-Per-Bag System for Disposal of Municipal Solid Waste**" (as reprinted below) be repealed?"

#### **Chapter 14 Sewers, Drains and Solid Waste Article I Municipal Solid Waste Facility, Collection and Recycling**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 14, Sewers, Drains and Solid Waste, ARTICLE I, Municipal Solid Waste Facility, Collection, and Recycling, BE AMENDED AS FOLLOWS:**

#### **Sec. 14-104 Waste Disposal; Flow Control**

No person may dispose of Municipal Solid Waste, Construction and Demolition Debris, or other Acceptable Wastes in Rockland except at a licensed solid waste facility in conformance with applicable law. All municipal solid waste generated in Rockland must be disposed of at either (A) the Rockland Solid Waste Facility, or (B) the Penobscot Energy Recovery Company in Orrington, Maine ("PERC"), designated as a component of and credited to the City of Rockland's disposals of municipal solid waste at that facility. On and after May 2, 2015, any person disposing municipal solid waste other than recyclable material, yard waste, construction and demolition debris, special wastes, white goods, wood wastes, universal wastes, and hazardous wastes shall do so only (1) in disposal bags designated by the Director for use for the disposal of municipal solid waste at the Facility and purchased at an authorized retailer or other facility, or (2) at the per-ton disposal fee as determined by scale or visual inspection by authorized personnel. The fees for purchasing disposal bags, disposing acceptable wastes by the ton, and for other authorized disposals at the Rockland Solid Waste Facility shall be established by Order of the City Council. No person may dispose of Unacceptable Wastes in Rockland except as may be permitted by the Maine Department of Environmental Protection.

\* \* \* \*

C. Recycling Permits. Recycling Permits issued prior to May 2, 2015, shall authorize such permittees ~~be available to Rockland residents and businesses who do not purchase a Resident or Commercial Permit but who wish~~ to dispose of recyclable material, municipal solid waste on a pay-per-bag basis, and/or other acceptable wastes at the rates or fees for the same in the Rockland Solid Waste Facility Fee Order, through May 1, 2015. Recycling Permits shall not be issued after May 1, 2015, and their use shall be entirely discontinued effective July 1, 2015.

(A YES vote would repeal the Ordinance, ie; the underlined language would be deleted and the struck-through language would be reinstated.)  
(A NO vote would allow the Ordinance to go into effect as written.)

**AND**, it is further ordered that the polls at the Rockland Recreation Center, 61 Limerock Street, Rockland, Maine, shall be opened at 8:00 a.m. and closed at 8:00 p.m. on November 4, 2014 for said Elections.

Sponsor: City Council  
Originator: City Council

Councilor Hebert moved passage.

Vote: 5 for.

At this time, Councilor Dickerson moved to take Order #80, Authorizing Transfer of Appropriations – City Manager Search, out of order. Without objection from the Council, it was so ordered.

**Order #80 Authorizing Transfer of Appropriations – City Manager Search Consultant**

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

**THAT** the City Manager is hereby authorized to transfer \$17,000 from the Executive Full-Time Payroll account (#10012-04001) to the Professional Services account (#10018-05010) to cover the cost of the City Manager Search consulting firm authorized by the City Council pursuant to Order #72 dated August 26, 2014.

Sponsor: City Manager  
Originator: City Manager

Councilor Hebert moved passage.

Councilor MacLellan-Ruf said that she has been very clear that she is opposed to paying \$17,000 to a consultant for this purpose. She said that the City could reduce the scope of what it want the consultant to do and save a considerable amount of money.

Councilor Dickerson said that she was originally impressed with the presentation of Dacri and Associates and liked their approach to the City Manager search, until she found out how much it would cost. She said that she believed that there were other alternatives that the Council could pursue that would result in the same information being received but at a much lower price. She said that much of this discussion occurred in executive session and the information is not supposed to be released. However, she asked the City Attorney if statements made in an executive session are then denied in another executive session, can such information be disclosed.

The City Attorney said that no information from an executive session may be disclosed without a vote of a majority of the City Council.

Councilor Dickerson then asked the City Attorney what the procedure would be if a Councilor wishes to ask the Council to waive the confidentiality of an executive session.

The City Attorney said that a Council may make a motion to add an item to the agenda, by unanimous consent, and have the Council vote on whether to waive confidentiality. Or, a councilor may add an item to any agenda through the normal agenda-setting process.

Councilor Dickerson said that she would like to add an order to this agenda waiving confidentiality of the August 26, 2014 Executive Session, but was informed that there is a motion before the Council for passage of Order #80 that must be dispensed with before she can bring a motion to add an item to this agenda.

The City Manager said that he sponsored this Order to transfer the funds that the Council has already approved to be spent. He said the Council pursuant to Order #72 adopted August 26, 2014, authorized the hiring Darci and Associates for this amount, this order simply moves the funds into the proper account.

Councilor Dickerson said that moving money from one account to another equates to spending that money. She said she will try to convince the other Councilors to retract their vote for spending this money. She said she believes the Council can accomplish the same thing for significantly less money.

Vote: 3 for, 2 opposed.  
(Dickerson, MacLellan-Ruf)

At this time, Councilor Dickerson moved to place an order onto this agenda to waive the confidentiality of the August 26, 2014 executive session.

Vote: 2 for, 3 opposed.  
(Isganitis, Hebert, Pritchett)  
Motion Defeated

At this time, Councilor Isganitis moved to place an order onto this agenda to waive the confidentiality of the September 9, 2013, August 26, 2014 and September 8, 2014 executive sessions.

Councilor Hebert said that he would not support this motion because this is asking for the rules to be changed after the fact. He said that the Council goes into executive session with the expectation that whatever is discussed in executive session will not be disclosed. If that expectation is diminished, it will change the tenor of executive sessions. He said that he did not see where anything was done incorrectly in any of those executive sessions, and therefore saw no compelling reason to waive confidentiality.

Councilor MacLellan-Ruf said that this is a difficult situation to discuss because the information is confidential. She said that the word “transparency” is exhausting, but how do you answer questions when the information is confidential.

Councilor Dickerson said that she had disclosed information from an executives session before because the information was not something that could be discussed in executive session. She said that she consulted an attorney before releasing any information and was told that she was on solid ground. She said she released the information because it was something that the public should have been made aware of.

Councilor Isganitis said that Councilor Dickerson is referring to the September 9, 2013 Executive Session where the Council convened an executive session “...to discuss with the City Manager, in his role as Economic Development Director, a possible business warehouse expansion proposal that could potentially include both a new TIF district with related credit enhancement agreement and City owned land. Title 1 MRSA Section 405 Paragraph 6(C) allows matters pertaining to land ownership as well as Economic Development to be discussed by Council in Executive Session, so long as no formal actions are taken in the Executive Session, when premature disclosure of the information would prejudice the competitive or bargaining position of the City”. He said that information disclosed from this meeting appeared in a newspaper article on October 25<sup>th</sup> saying that the Council discussed the relocation of City Hall. He also said that Chapter 2, Section 2-208 of the City Code prohibits any member of Council from disclosing any information from an executive session unless the Council as a whole determines that the information should be released. He said that the discussion of the relocation of City Hall was appropriate under the terms disclosed in the motion to enter into executive session. He added that it was as disturbing that some of the information disclosed was simply not reflective of what actually happened in that executive session. He said he wanted to wave the confidentiality of the executive sessions listed so that the Council could have an conversation on what actually happened in those executive session, rather than one council’s view of what took place.

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

Because motions to place an item on an agenda require unanimous consent, the motion failed.

At this time, and without objection from the Council, Mayor Pritchett took Ordinance Amendment in Final Reading and Public Hearing #22, Time Limits on Parking – Tillson Avenue, out of order.

### **Ordinance Amendment #22 Chapter 17, Section 17-802 Time Limits on Parking – Tillson Avenue**

(See page 221 for text)

A public hearing was opened with Gordon Page, Executive Director of Rockland Main Street, Inc., asking the Council to take a step back and do a study to see if placing limits on these parking spaces is truly necessary. He said that these spaces are used by local businesses and employees and would hate to see some of the scarce unlimited parking in the downtown area taken if it is not necessary.

Hearing no other speakers, the public hearing was closed.

Councilor Isganitis moved passage and then moved to postpone Ordinance Amendment #22 until the January 12, 2015 Regular Meeting.

Councilor MacLellan-Ruf said that she would support postponing the amendment and suggested that the matter be sent to the Parking Commission for review and recommendations. She also suggested that the committee look at ADA considerations, and that the elicit input from the stakeholders in this matter.

Councilor Hebert said that he too would support postponing this amendment, saying that there has been conflicting information on the necessity and impact of this proposal. He said the situation can be monitored for the rest of the summer season and during the holiday season to determine if this proposal is necessary.

Councilor Dickerson suggested that the City place survey cards at the public restroom facility to gather information on the facility's use and the need for parking. Vote: 5 for.

Ordinance Amendment #22 was postponed until the January 12, 2015 Regular Meeting.

At this time, and without objection from the Council, Mayor Pritchett took Ordinance Amendments in First Reading #27, 28 and 29, out of order.

**Ordinance Amendment #27 Chapter 19, Section 19-304 Residential Zone B Regulations – Agricultural Markets on Old County Road**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE III, Zoning Ordinance, SECTION 19-304, Zone Regulations, Subsection 19-304(3), Residential B Zone Regulations, BE AMENDED AS FOLLOWS:**

**3. RESIDENTIAL ZONE "B"**

Purpose: The purpose of this district is to protect the existing density and character of residential development, as well as limited home based businesses, while providing an area of the community for similar development.

\* \* \*

**B. Conditional Uses**

The following are permissible with the approval of the Planning Board. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 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; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances. All property owners within 300 feet of the lot lines of any proposed conditional use shall be notified in writing, at the applicant's expense, at least 7 days prior to consideration of the conditional use by the Planning Board. Eff: 09/09/09

<b>RESIDENTIAL ZONE "B" CONDITIONAL USES</b>	
(1)	Bed and Breakfast Establishments
(2)	Home Occupation, Level 3
(3)	Home Occupation similar in scale and impact to Home Occupation Level 3
(4)	Lodging or Rooming houses;
(5)	Nurseries or commercial greenhouses shall be allowed north or west of Old County Road only, and provided that no greenhouse heating plant shall be located within 60 feet of any front lot line or within 25 feet of any other lot line
(6)	Farming
(7)	Parking Lots. Parking lots shall be allowed in a Residential Zone "B" only with the following additional restrictions: <ul style="list-style-type: none"> <li>(a) Any parking lot located in a Residential Zone "B" shall be for the exclusive use of employees of the business requesting the special exception.</li> <li>(b) The parking lot shall be closed off and unavailable for use when the business requesting the special exception is not in operation.</li> <li>(c) No parking spaces shall be rented for profit.</li> <li>(d) Special exceptions for parking lots granted pursuant to this section shall not be assignable to the successors or assigns of the business requesting the special exception, but shall apply only to that business. Eff: 10/12/94</li> </ul>

(8)	Private Non-Medical Institutes and Residential Care Facilities, Small. Eff: 04/11/12
(9)	Schools and Day Care Facilities Eff: 07/11/07
(10)	Quasi-Public Uses
(11)	Any public utility building, if constructed to conform and harmonize with the buildings in this zone, provided further that the proposed use does not include a storage or service yard or repair shop, or outside storage of supplies.
(12)	On lots served by public sewerage, Assisted Living Facilities, and multi-family dwellings that include an Assisted Living Facility. Eff: 09/09/09
(13)	<u>Agricultural Markets on parcels fronting on Old County Road operated by a parcel owner and/or by a person whose primary residence is located on the parcel.</u>

Sponsor: Councilor MacLellan-Ruf  
 Originator: City Council

Councilor MacLellan-Ruf moved passage.  
 A public hearing was set for October 15, 2014 at 7:00 p.m.

Vote: 5 for.

**Ordinance Amendment #28 Chapter 19, Section 19-304 DT Zone Regulations – First Floor Residential Use**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE III, Zoning Ordinance, SECTION 19-304, Zone Regulations, Subsection 19-304(14), Downtown Zone “DT” Regulations, BE AMENDED AS FOLLOWS:**

**14. Downtown Zone "DT" Regulations.**

A. Purpose.

The purpose of the Downtown Zone is to preserve and promote a compact, historic commercial district to serve as the retail, office, institutional, financial, governmental, and cultural center of the community. This Zone should include mixed uses that are compatible with existing uses and architectural scale.

B. Use Regulations.

In a Downtown Zone "DT" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

(a) Congregate housing and other residential uses; ~~except provided, however, that on parcels abutting Main, Union, Limerock, Park, Pleasant, Winter, and Commercial Streets, Tillson Avenue, and Park Drive,~~ new dwelling units are only allowed where at least seventy-five percent (75%) of the street level floor space shall be used primarily for those uses set forth in subparagraphs (1)(b) et seq. and ~~single-family dwellings may only~~ be repaired or rebuilt as provided at Section 19-308;

- (b) Business services;
- (c) Churches;
- (d) Community and civic buildings and uses;
- (e) Eating and drinking places;
- (f) Financial services;
- (g) Home occupations, all levels of;
- (h) Human health services;
- (i) Light assembly
- (j) Lodging facilities: hotels, motels, bed & breakfasts;
- (k) Newspaper and job printing;
- (l) Office buildings;
- (m) Parking facilities, commercial;
- (n) Parks and playgrounds;
- (o) Personal services;
- (p) Professional services;
- (q) Quasi-public uses;

- (r) Research and development;
- (s) Retail or wholesale business, any generally recognized;
- (t) Schools and day care centers;
- (u) Social Services;
- (v) Studios;
- (w) Theaters, museums, art galleries and other places of entertainment and assembly;
- (x) Tradesmen's or craftsman's offices, shops, and showrooms;
- (y) Accessory uses; and

Sponsor: Councilor Isganitis

Originator: Community Development Director

Councilor Isganitis moved passage and said that an individual has approached the City with a desire to redevelop a parcel located in the Downtown Zone for residential use. As the ordinance current stands, he would be required to make at least 75% of the first floor commercial space. He said there are other areas of the Downtown Zone where residential uses may be the best use, and this amendment would allow those parcels to be redeveloped.

Councilor Hebert said that he raised the question about the parcels that were being included in this amendment, questioning whether those parcels south of Limerock Street should be considered for residential uses. He said that he did not have the wording for an amendment tonight, but hoped to have something for second reading.

Mayor Pritchett noted that this amendment will be sent to the Comprehensive Planning Commission for review and recommendations between first and second reading, and asked that Councilor Hebert's concerns be forwarded to the Commission as well.

Vote: 3 for, 2 opposed.

(Dickerson, MacLellan-Ruf)

A public hearing was set for October 15, 2014 at 7:00 p.m.

### **Ordinance Amendment #29 Chapter 3, Section 3-203 Dogs Prohibited in Certain Parks**

#### **THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 3, Animal and Fowl, SECTION 3-203 Dogs Shall Be Under Restraint While on Any Public Way or Place, BE AMENDED AS FOLLOWS:**

##### **Sec. 3-203 Dogs Shall Be Under Restraint While on Any Public Way or Place**

3. Prohibited in Certain City Parks. Dogs shall be prohibited from the following City parks from May 1 through ~~October 1~~ November 1 of each year, except for any areas that may specifically be designated as "dog parks" by order of the City Council:

- a. Johnson Memorial Park, except for the area of the boat-launch ramp and dock
- b. Sandy Beach
- c. Merritt Park Playground
- d. Ocean Street Playground
- e. Warren Street Playground
- f. Jaycee Park and Kenniston Field

Sponsor: Councilor Hebert

Originator: City Manager

Councilor Hebert moved passage.

Councilor MacLellan-Ruf said that there are approximately 488 licensed dogs in the City, and the majority of those owners are responsible and clean up after their dogs. She said the dog haters out there were rabid that dog waste was responsible for the pollution that caused the City to close Snow Marine Park, but we have since found out that it was human waste from malfunctioning sewer lines that caused the pollution. She said that she was concerned about there being further restrictions being placed on where the responsible dog owners could walk their dogs. She said she was opposed to restricting access to public property that the taxpayers pay for, and that this issue needs to be addressed in a more constructive way. She said that the hysteria and sensationalism that has surrounded this issue needs to stop, and noted that the police have reported no incidents at any public parks between dogs and children.

Councilor Dickerson asked the City Manager what the rationale was for proposing this restriction, and extending the restrictions to November.

The City Manager said that these parks are being used more and more by families later into the season, and the Recreation Director has requested that the ban on dogs be extended to Jaycee Park and Kenniston Field because those facilities are used for

softball and soccer.

Councilor Dickerson asked if the City has a “leash law” where dogs are required to be on a leash.

The City Manager said that the law requires that a dog must be under the control of the owner or keeper. He added that this proposal has nothing to do with Snow Marine Park. He said that this proposal was to create a place for families to enjoy without the fear of dogs. He added that there are many children and adults that are afraid of dogs.

Councilor Dickerson asked if there was any data to back up this action.

The City Manager said this proposal did not arise from any specific data, it was a request from the Recreation Director.

Councilor Hebert said that he was still trying to get a sense of what the concern was. He asked, other than the “fear factor”, was this a matter of the dogs running at large.

The City Manager said he was not aware of any reports.

Councilor Hebert said that with the exception of the newly proposed areas, the parks where dogs are prohibited are rather small, and he could see issues with dogs in crowded areas. However, he said this was not the case at Jaycee Park and Kenniston Field. He said he was inclined to put off this proposal and revisit the matter if new information comes to light.

Councilor MacLellan-Ruf reiterated that the police department has received no reports of any incidents involving dogs at any of the City’s parks.

Councilor Dickerson moved to postpone Ordinance Amendment #29 until the January 12, 2015 Regular Meeting to look at the matter more closely.

Vote: 5 for.

Ordinance Amendment #29 was postponed until the January 12, 2015 Regular Meeting.

At this time, and without objection from the Council, Mayor Pritchett took Ordinance Amendment #10, Container Restaurants, out of order.

**Ordinance Amendment #10 Chapter 19, Sections 19-302 & 19-304 Container Restaurants (Postponed from 05/12/14)**

(See pages 130-132 for text)

It was noted that this amendment had been postponed until this meeting, and that it received a public hearing and motion for passage in final reading at the May 12, 2014 Regular Meeting.

Councilor MacLellan-Ruf said that there has been no public comment on this matter, and added that the Council received an interesting memo from the Comprehensive Planning Commission on this matter. She said that she would like to discuss this matter further with the Comprehensive Planning Commission, therefore she moved to postpone Ordinance Amendment #10 until the January 12, 2015 Regular Meeting.

Vote: 5 for.

Ordinance Amendment #10 was postponed until the January 12, 2015 Regular Meeting.

The order of the agenda was then resumed.

**Resolves:**

#36 Appointments – Election Warden and Ward Clerk

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

**THAT** Teisha Hufnagel, 11 Robinson Street, is hereby appointed as the acting Election Warden for the November 4, 2014 State General and Municipal Elections; and

**BE IT FURTHER RESOLVED THAT** Chelsea Avirett, 10 Fulton Street, is hereby appointed as the acting Ward Clerk for the November 4, 2014 State General and Municipal Elections.

Sponsor: Mayor Pritchett

Originator: City Clerk

Councilor Hebert moved passage and thanked both for agreeing to serve in these positions.

Vote: 5 for.

(NOTE: All of the Ordinances in Final Reading and Public Hearing were dispensed with earlier in the meeting.)

**Ordinances in First Reading:**

#24 Chapter 14/Chapter 20 Re-Codifying Water Pollution Control Ordinance & Clarifying Responsibility for Private

Sewer Lateral Maintenance and Repair

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 14, Sewers, Drains and Solid Waste BE DIVIDED AND RENAMED, AND THAT NEW CHAPTER 20, Sanitary And Storm Water Sewers And Facilities, BE ESTABLISHED, AS FOLLOWS:**

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

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

\* \* \*

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

**ADD:**

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

\* \* \*

**ARTICLE II Sewers; Construction and Assessment**

\* \* \*

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

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

\* \* \*

**ADD:**

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

**Sec. 20-401 Purpose**

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

organizations. Due to the risk of sanitary sewer overflows and sewer backups, the City Council finds that a program to keep sewer laterals in good repair and to install sewer relief valves and sewer backwater valves where required, is in the best interests of the health and welfare of the citizens of the City of Rockland.

### **Sec. 20-402 Definitions**

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

1. "Applicant" shall mean any individual, firm, limited liability company, limited liability partnership, association, partnership, government agency, industry, public or private corporation or any other person or entity whatsoever who applies to the City for permits for building improvements. An applicant shall be the property owner or an authorized agent of the property owner.
2. "Building Improvement" for the purposes of this chapter shall mean the following:
  - A. New sewer connections
  - B. Repair, remodeling or improvement where the cost of the improvements exceeds fifty thousand dollars (\$50,000) in 2014 dollars, an amount to be adjusted every year for inflation according to an inflation adjustment to be determined by resolution of the City Council.
  - C. Repair, remodeling or improvement where more than twenty five percent (25%) of the building is being repaired, remodeled or improved.
  - D. Repair, remodeling or improvement where additional toilets are being installed.
  - E. Change of use on the property served from residential to commercial.
  - F. Change of use on the property from non-restaurant commercial to restaurant commercial.
  - G. Change of use on the property from non-manufacturing to manufacturing.
3. "City" shall mean the City of Rockland, a municipal corporation situated in the County of Knox and State of Maine.
4. "Director" shall mean the Director of City's Water Pollution Control Facility, or his designee.
5. "Fats, Oils and Grease" or "FOG" means any fats, oils, waxes or other similar or related constituents. FOG may be of vegetable or animal origin, including; but not limited to: butter, lard, margarine, vegetable fats and oils as well as fats in meats, cereals, seeds, nuts and certain fruits. FOG may also be of mineral origin including kerosene, lubricating oil or road oil. FOG in the City's sewer system is generally present as, but need not be, a floatable solid, a liquid, a colloid, an emulsion or in a solution.
6. "Good Cause" shall mean practical difficulties, including interference with the use or safety of the public right-of-way or adverse weather conditions.
7. "Infiltration" shall mean the seepage of groundwater into a sewer system, including sewer laterals. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections or manhole walls.
8. "Inflow" shall mean water discharged into a sewer system including sewer laterals from such sources as, but not limited to, roof leaders, cellars, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, areas around manhole covers or through holes in the covers, cross connections from storm systems, catch basins, surface runoff, street wash waters or drainage.
9. "Lower lateral" shall mean the portion of a sewer lateral lying within a public street connecting an upper lateral to the sewer main.

10. “Notice to repair” shall mean notice issued by the Director of Pollution Control to a property owner that the sewer lateral is in violation of this chapter, which order directs the abatement of the violation.
11. “Property Owner” shall mean the owner of the property as shown on the last equalized assessment roll or in the records of the Knox County Registry of Deeds.
12. “Sanitary Sewer Overflow” or “SSO” means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oil and grease.
13. “Sewer backup” means a blockage of sewer flow in a sewer lateral which results in damage to private property.
14. “Sewer backwater valve” shall mean a device installed in the horizontal position in the sewer lateral below ground, which includes a one-way flap valve which allows the sewage to flow out to the sewer main in normal use, but prevents sewage from backing up into the property if the sewer main shall become blocked.
15. “Sewer lateral” shall mean the sewer line beginning at the foundation wall of any building and terminating at the sewer main and shall include the upper lateral and lower lateral together.
16. “Sewer main” shall mean a public sewer designed to accommodate more than one sewer lateral.
17. “Sewer relief valve” shall mean a device that allows water and materials that back up to escape from the cleanout rather than flowing into the property.
18. “Stormwater” shall mean the water running off or draining from the surface and subsurface of an area during and after a period of rain or irrigation.
19. “Public Street” shall mean any public highway, street, alley, public easement or right-of-way.
20. “Upper lateral” shall mean that portion of a sewer lateral beginning at the foundation wall of any building or industrial facility and running to the property line.

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

1. Administration. The Director is authorized to prepare and publish administrative procedures which shall, among other things, establish the following:
  1. Standards for sewer lateral inspection, repair and/or replacement.
  2. Standards for sewer relief valves and sewer backwater valve devices.
  3. Standard for root removal from sewer laterals.
  4. A standard notice to repair and enforcement procedures for sewer lateral repair and/or replacement.
  5. An enforcement response plan related to sewer ordinances.
2. Applicability.
  - A. This chapter shall apply to property located within the City or connected to the City’s sewer collection system through an outside sewer service agreement.
  - B. All sewer laterals connected to the public sewer, including sewer laterals servicing residential, multi-family residential, commercial or industrial uses shall be inspected in accordance with the appropriate provisions of Sections 13.05.050 through 13.05.090 upon the occurrence of any of the following, unless a valid certificate of sewer lateral compliance is on file with the City:

- (1) Application for a new connection to the sewer collection system; or
  - (2) Application for a building permit for a building improvement; or
  - (3) In conjunction with a repair or replacement of the sewer main to which the sewer lateral is connected; or
  - (4) In conjunction with smoke testing of the sewer main; or
  - (5) Subsequent to a sanitary sewer overflow resulting from blockage in a lower lateral.
3. *Approved Inspection Methods.* Inspection of sewer laterals shall be conducted according to standards adopted by the Director. Inspection shall be conducted by closed circuit television or three-dimensional photography. Inspection shall be performed by a licensed plumber, contractor or other person who possesses any license required by law, if any, to perform the inspection. The inspection record shall contain a photo or video of the exterior of the property being inspected. Inspection shall not commence without a valid permit issued by the City, which provides the opportunity for the inspection to be witnessed by the Director. Upon completion of the visual inspection, the person conducting the inspection shall provide a copy of the inspection results to the Director. A video inspection shall be valid for a period of 1 year from the date of video recording.
4. *Sewer Relief Valve Requirements.* A sewer relief valve shall be installed by the property owner on the sewer cleanout where the upper lateral connects to the lower lateral on each sewer lateral connection of a single-family or multi-family residential property to a sewer main.
5. *Sewer Backwater Valve.* A sewer backwater valve shall be installed by the property owner on the upper lateral where the elevation of any floor of the building is below the street elevation of the sewer main, where a condition exists where a blockage in the sewer main would cause the sewer to back up to an elevation above the lowest floor level of the building, or where a pump is used to lift sewage to the sewer lateral or sewer main.
6. *Requirements for Sewer Lateral Repair and/or Replacement.* The Director shall issue a notice to repair when the sewer lateral has conditions which would result in an unacceptable amount of inflow or infiltration to enter the sewer system or which would result in an unacceptable risk of blockages. The Director shall have the sole discretion to determine when repair and/or replacement is required due to unacceptable conditions of a sewer lateral. A sewer lateral shall be considered in compliance with the provisions of this chapter if inspection verifies all of the following conditions to the satisfaction of the Director:
- A. The sewer lateral is free of roots, deposits of FOG and/or other solids which may impede or obstruct the flow of sewage.
  - B. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders or yard drains.
  - C. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage and/or the infiltration of groundwater.
  - D. The sewer lateral is free of structural defects, cracks, breaks or missing portions and the grade is reasonably uniform without major sags or offsets.
  - E. The sewer lateral is equipped with cleanouts as shown on the City's standard detail.
  - F. The sewer lateral is constructed of materials with a remaining design life of at least twenty-five (25) years. "Orangeburg pipe" a bituminized fiber pipe made from layers of wood pulp and pitch pressed together, shall be considered to be at the end of its design life.
  - G. A sewer relief valve is installed.
  - H. A sewer backwater valve, if required, is installed.

7. Time Limit for Sewer Lateral Repair and/or Replacement. Repair and/or replacement of sewer laterals shall be completed within one hundred twenty (120) calendar days after the issuance of a notice to repair.
8. Time Limit for Root Removal. Removal of tree roots from sewer laterals shall be completed within ninety (90) days after the issuance of a notice to repair.
9. Permits Required for Repair. All repair or replacement work shall be completed by a person properly licensed to perform the work, including a licensed plumber and/or contractor and shall be completed under all appropriate permits from the City including, as appropriate, building and encroachment permits.
10. Repair Performed by City and Recovery of Costs.
  - A. If the sewer lateral repair/replacement and/or sewer lateral root removal are not completed by the property owner within the required time limits, including any extensions granted, the City may complete the required repair/replacement and/or root removal. The cost in any sum of money expended by the City in making such a repair/replacement shall become a lien upon the property served by the sewer lateral and may be recovered in an action brought thereof in the name of the City; or, in the alternative, such cost and expenditure may be placed upon the municipal tax bill to be collected by the City of Rockland for the benefit of the City.
  - B. Prior to the City causing a lien to be placed on the municipal tax bill, the City Clerk shall notify the property owner of the intent to place the cost of the repair/replacement on the municipal tax bill and shall give the property owner the opportunity to appear before the City Council to show cause for why such sums should not be placed on the municipal tax bill to be collected for the benefit of the City.
  - C. Any and all sums determined to be due and owing to the City by resolution of the City Council shall accrue interest at the rate set by resolution.
11. Final Inspection. Upon completion of the repair and/or replacement of the sewer lateral, re-inspections shall be conducted until the sewer lateral passes inspection.

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

1. Responsibility for Sewer Lateral Inspection, Repair and/or Replacement. The applicant for permits for building improvements shall be responsible for performing sewer lateral inspection, repair and/or replacement. A building permit shall be obtained if one has not already been obtained.
2. Occupancy Contingent on Completion of Sewer Lateral Repair and/or Replacement. Occupancy permits for building improvements shall only be issued if the sewer lateral passes inspection.

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

1. Responsibility for Inspection of Upper Lateral and Lower Lateral. Upon repair and/or replacement of the sewer main, the City may inspect the upper lateral and/or the lower lateral. In addition to visual inspection, the inspection performed by the City may include smoke testing, dye testing or other methods to assess the condition of the sewer lateral.
2. Responsibility for Repair and/or Replacement of Sewer Lateral. The property owner shall be responsible for repair and/or replacement of the upper lateral in the case where the City is repairing and/or replacing the sewer main and/or the lower lateral. The property owner shall also be responsible for correcting all sources of inflow to the sewer lateral.
3. Notice to Repair and Time Limits. A notice to repair will be issued by the Director when conditions are observed in conjunction with repair and/or replacement of the sewer main which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be stated in Section 20-403.
4. Repair Performed by the City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed within the required time limits, including any extensions granted, the City may complete the required

repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 20-403.

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

1. Responsibility for Inspection. The City may perform smoke testing of sewer mains to detect sources of inflow. Upon notification by the Director that smoke testing indicates the presence of inflow from private property, it shall be the responsibility of the property owner to perform an inspection of the sewer lateral according to the approved inspection methods described in Section 20-403.
2. Responsibility for Repair and/or Replacement of Sewer Lateral . The property owner shall be responsible for repair and/or replacement of the sewer lateral in the case where a notice to repair has been issued as a result of smoke testing.
3. Notice to Repair and Time Limits. A Notice to Repair will be issued by the Director when conditions are observed in conjunction with smoke testing which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be stated in Section 20-403.
4. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed with the required time limits, including any extensions granted, the City may complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 20-403.

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

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

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

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

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

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

Sponsor: Mayor Pritchett  
Originator: Water Pollution Control Facility Director

Councilor Isganitis moved passage.

Councilor Dickerson asked how the lateral inspection requirement was going to work.

The City Attorney said that inspection of the lateral is the responsibility of the property owner. He said that smoke-testing is one way to determine if there are any problems with the connection. However, he said inspections would only be required if there was an indication of a problem, or if there was an application by a property owner for substantial renovation to the property.

Councilor MacLellan-Ruf said that she was concerned about the cost to the property owners, but it doesn't sound like the City will be going door to door requiring homeowners to conduct these inspections. Vote: 5 for.

A public hearing has been set for October 15, 2014 at 7:00 p.m.

#25 Authorizing Quit Claim Deed – 106 Thomaston Street

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to issue a municipal quit claim deed to Ryan Lawrence for a City-owned parcel of land and the building(s) thereon located at 106 Thomaston Street, Rockland, Maine (Tax Map #61-A-8) for \$50,000; said sale being subject to the execution and compliance with terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor: City Council

Originator: City Manager

Councilor MacLellan-Ruf moved passage and said that a lower bidder has asked the Council to consider selling the property to them instead of the highest bidder. She said that the proper procedures were followed, and that this bidder placed a bid but lost.

Councilor Dickerson said that the City owes it to the taxpayers to take the higher bid, but there is more that goes into the decision. She said the Council needs to consider the highest and best use of the property as well. She said that she appreciates what Mr. Lawrence has done with other properties in the City, but was struck by the request for the Gamages. She said this was formerly a family home and they want to bring it back into the family for use by other family members, which she felt was a compelling argument. She said that she tends to vote against these kinds of sale because she is philosophically opposed to the procedures that are currently in place. She said she feels that the City should not profit in these instances, and introduced a bill in the Legislature to return any excess amounts to the prior owner, however that measure failed in the Senate. She said it would be nice to consider conveying the property to the Gamages. Vote: 4 for, 1 opposed.

(Dickerson)

A public hearing was set for October 15, 2014 at 7:00 p.m.

#26 Authorizing Quit Claim Deed – 224 Old County Road (“Engine Quarry”)

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to issue a municipal quit claim deed to Greg Dorr for a City-owned parcel of land located at 224 Old County Road, Rockland, Maine (Tax Map #80-A-3) and known as “Engine Quarry”, in exchange for title to property located at 45 Rankin Street, Rockland, Maine (Tax Map #23-A-11); said exchange being subject to the execution and compliance with terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor: City Council

Originator: City Manager

Councilor MacLellan-Ruf moved passage.

Councilor Dickerson said that aside from the issues raised by Mrs. Barbour, it was appropriate for the City Manager to attempt to get property back on the tax rolls. However, she said that Engine Quarry is a special place that is an asset to the City and one that she would like to see preserved for the use of all people. She said it doesn't make sense to trade this pristine natural area for a parcel on Rankin Street. She said it would be better for the City to keep this property.

The City Manager said that the reason that the City would be interested in the Rankin Street property is its proximity to Lindsey Brook and the possibility of using it a retention pond to alleviate flooding in Lindsey Brook downstream.

Councilor Dickerson said it certainly makes sense to acquire that parcel, but would not want to trade the Engine Quarry for it. She said that perhaps the City could make some other arrangements with Mr. Dorr to acquire this parcel.

Councilor Hebert said he has a different view of Engine Quarry than Councilor Dickerson. He said he see the quarry as a liability, not an asset. He said he would like to see the usefulness of the Rankin Street property for Lindsey Brook flood mitigation explained before moving forward, but agreed that mitigation far exceeds the benefits of keeping the quarry property.

Councilor MacLellan-Ruf said that Mrs. Barbour claims to own this property, but the City Attorney has documentation to the contrary that apparently Mrs. Barbour does not have. She asked that Mrs. Barbour be provided that documentation. She said that there are certainly issues with Lindsey Brook and anything to alleviate the problems would help. She said that some kind of balance should be explored.

Councilor Dickerson urged the Council to go up to Thompson Meadow Road and look at this property. She said this property has hay fields and meadows, and once it is gone it will be gone forever. She said that there is no other place like this, and that it needs to be preserved for use by the public.

Councilor Isganitis said that he has traveled Thompson Meadow Road and is always disappointed when he sees trash piled up on this property, and questioned if the quarry is still a viable clean swimming area. He said that the City does not have a good track record of being stewards of these kinds of areas. He said that there is value in the Rankin Street property to benefit taxpayers up and down Lindsey Brook.

Councilor MacLellan-Ruf said that there are compelling arguments on both side of this issue. She also said that Mr. Dorr has placed a value of \$30,000 on the Rankin Street property and suggested that the City look into just purchasing the property. She added that the City may not have been great stewards in the past, but that does not mean it will not be in the future. She said that she supported Councilor Dickerson's position on this matter.

Vote: 2 for, 3 opposed.  
(Dickerson, MacLellan-Ruf, Pritchett)  
Motion Defeated.

#30 Chapter 13, Article IV Pesticide & Herbicide Usage on City-Owned Property

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 13, Parks and Trees, BE AMENDED AS FOLLOWS:**

**ADD:**

**ARTICLE IV Pesticide / Herbicide Usage on City-Owned Lands**

**Sec. 13-401 Purpose**

The purpose of this chapter is to safeguard the health and welfare of the residents of the City of Rockland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of City-owned lands.

**Sec. 13-402 Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Natural, organic land care:** An extension of the principles and practices of organic agriculture to the care of turf and landscape.

**Pesticide:** Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency ("USEPA"). Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

**Sludge:** As defined in 38 M.R.S. § 1303-C (28-A), as amended from time to time.

**City-Owned Land:** All land owned or leased by the City of Rockland and/or managed by or on behalf of the City, including outdoor grounds such as municipal facilities and lawns, parks, playing fields, cemeteries, the City Forest, and conservation and open space.

**Pest:** Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

**Sec. 13-403 Permitted and Prohibited Uses of Pesticides / Herbicides.**

The following provisions shall be applicable to all turf and landscape for outdoor pest management activities on City-owned land.

A. Permitted Uses:

- (1) Use or application of natural, organic land care protocols;
- (2) All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program; and
- (3) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S. §§ 1301, et seq.), the Protection of Natural Resources Act (38 M.R.S. §§ 480-A, et seq.), or the Site Location of Development Act (38 M.R.S. §§ 481, et seq.), and any rules related thereto, as amended from time to time.

B. Prohibited Uses:

- (1) Use or application of chemical pesticides, other than pesticides classified by the USEPA as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute; and
- (2) Use or application of sludge or sludge-derived products not listed as permitted above.

**Sec. 13-404 Exemptions**

The following processes are exempt:

1. Drinking water and wastewater treatment;
2. Indoor pesticide use;
3. Contained baits or traps for rodent control;
4. Use of pesticides classified by USEPA as exempt materials under 40 C.F.R. 152.25;
5. Pesticides permitted by the Organic Materials Review Institute;
6. Management of City-owned land not used or used infrequently by the public (roadway medians, for example);
7. Pesticide applications by owners or tenants of residential properties on landscaped areas within municipal rights-of-way;
8. Pesticide applications on City-owned land to control vermin or other infestations, which applications are, in the discretion of the City Manager, reasonably necessary to prevent the spread of such infestations or to protect the public health;
9. Control of poisonous or rapidly invasive plant species injurious to human health or the environment, using the least toxic product in accordance with USEPA protocols under 40 C.F.R. 152.5, the Maine Code of Regulations, Titles 7 and 22: "Use of Pesticides," and the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control.

**Sec. 13-405 Emergency waiver**

If the City Manager, applying the criteria set forth below, finds that there exists an emergency situation, the Code Enforcement Officer may, upon written request, grant a thirty (30) day temporary waiver authorizing of non-exempt pesticide(s). The waiver may be extended, but in no event shall the total waiver period exceed six (6) months. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.

The waiver determination shall be based on the following criteria:

A. The pest situation presents:

- (1) An immediate threat to human health or environmental quality; or
- (2) An immediate threat of substantial property damage or loss; and

B. Viable alternatives consistent with this article do not exist.

**Sec. 13-406 Enforcement and permits**

Except with respect to the conduct of City of Rockland employees, this Article shall be enforced by the Code Enforcement Officer, in accordance with the provisions governing the enforcement of the property maintenance code set forth in Chapter 4. The City Manager shall be responsible for assuring compliance by City of Rockland employees with the provisions of this Article.

**Sec. 13-407 Conflict and invalidity**

If a conflict or inconsistency is found between this Article and other sections of the City Charter or Code of Ordinances, the terms of the stricter provision(s) shall prevail. The invalidity of a provision of this Article shall not invalidate any other provision of this article.

**State Law Ref.:** 30-A M.R.S. § 3001; 22 M.R.S. § 1471-U; 38 M.R.S. § 1310-U.

Sponsor: Councilor Dickerson  
Originator: Councilor Dickerson

Councilor Dickerson moved passage and said that the City had this ordinance in place at one time, but the State Board of Pesticide Control was not properly notices so the ordinance was declared void. This action will put it back on the books.

Vote: 5 for.

A public hearing was set for October 15, 2014 at 7:00 p.m.

**Orders:**

#65 Authorizing Development of FY 2015 Council Work Plan (Postponed 08/04/14)

(See pages 211 for text)

It was noted that this Order had been postponed until this meeting, and had received a motion for passage at the August 4, 2014 Special Meeting.

Vote: 0 for, 5 opposed.  
Motion Defeated.

#75 Authorizing License Agreement – CMP (385 Main Street)

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

**THAT** the City Manager is hereby authorized to enter into a license agreement with Central Maine Power Company, in substantial compliance with the license agreement attached hereto and incorporated herein by reference, for the place of a pole and transformer pad on City-owned property to service 385 Main Street.

Sponsor: City Manager  
Originator: City Manager

**LICENSE AGREEMENT**

**THIS AGREEMENT** by and between the City of Rockland, Maine, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Licensor") and Central Maine Power Company ("CMP" or "Licensee"), a business corporation and regulated utility with its principal place of business in Augusta, Maine (the "Licensee"), is effective September \_\_\_, 2014.

**WHEREAS**, the City owns and operates a municipal parking lot as part of its Water Pollution Control Facility at 40 Tillson Avenue in Rockland (Tax Map 1-C-4), which parking lot is sometimes referred to as the Thorndike Parking Lot; and

**WHEREAS**, CMP provides electrical service to several Main Street, Rockland properties from poles and electrical utility facilities located along the easterly edge of the Thorndike Parking Lot; and

**WHEREAS**, the owner of the Thorndike Building, comprised of two mixed-use structures located at 385 Main Street and 399 Main Street in Rockland (the “Thorndike”), seeks to replace and relocate a three phase transformer serving the Thorndike; and

**WHEREAS**, the relocated transformer will be situated in such a manner that it extends approximately two feet northward of the Thorndike into a right-of-way in which the City is believed to have an interest; and

**WHEREAS**, the relocation of the transformer will necessitate the relocation of the utility pole – Pole #2 – serving said transformer, to a location within the City’s Thorndike Parking Lot, at latitude 44.104392, longitude 69.108276; and

**WHEREAS**, the City of Rockland has agreed to the relocation of the transformer and utility pole,

**NOW, THEREFORE**, in consideration of the terms, conditions, and covenants set forth herein, the City and CMP agree as follows:

**1. Grant of License.** The City grants to Licensee a license to (1) relocate the Thorndike transformer to the location depicted in Exhibit A hereto, extending approximately two feet inside an area designated as right of way or reserved way in deed of OPM, Inc. to Merrill Lee Williams, Trustee, dated April 10, 2006, and filed on the Knox County Registry of Deeds in Book 3604, Page 97; and (2) erect, bury, maintain, rebuild, patrol, operate, remove, and do all other actions involving electric and communication distribution equipment and facilities in Thorndike Parking Lot, consisting of one replacement pole – Pole 2H – and wires and cables, anchors, guywires, or pushbraces attached to said pole, together with all necessary fixtures and appurtenances over, across, and under a portion of the surface of the land of the City located at 40 Tillson Avenue in Rockland, Maine, Pole 2H being located at latitude 44.104392, longitude 69.108276 and as approximately shown on the attached Exhibit B. Said transformer, pole, wires, cables, anchors, guywires, and pushbraces may be collectively referred to herein as the “Utility Facilities.” Upon the placement of Pole 2H and the establishment of any electrical service from Pole 2H, CMP shall immediately remove existing Pole 2 in Thorndike Parking Lot and fill and restore the condition of the ground, including compaction and seeding.

**2. Use.** CMP shall utilize the Utility Facilities for the purpose of providing electrical distribution services and supply to business(es) and/or residence(s) located at and in the vicinity of 385 and 399 Main Street in Rockland, Maine (Tax Map 1, Block C, Lots 3 and 2, respectively).

**3. Term.** The Term of this License Agreement shall be twenty (20) years, and terminating at midnight on August 14, 2034, unless terminated earlier by either or both parties as provided in this License Agreement; provided, however, that this License Agreement may be renewed for additional five year terms upon the mutual, written agreement of the City Manager and CMP. Within ninety (90) days of the expiration of such Term or renewal term(s), CMP, within ninety (90) days, shall cause the relocation or discontinuance and removal of the Utility Facilities.

**4. Termination.** Either party may terminate this Agreement by giving ninety (90) days’ prior written notice thereof. Upon notice of termination by the City, CMP shall cause the relocation or discontinuance and removal of the Utility Facilities; provided, however that in the event the City gives notice of termination between October 1 of one year and April 1 of the succeeding year, CMP shall have until June 30 of such succeeding year to relocate or discontinue and remove the Utility Locations.

**5. Utility Facilities Construction, Maintenance, And Consolidation.** Licensee shall be fully and solely responsible for the construction, maintenance, repair, and replacement of the Utility Facilities, and the City shall have no responsibility or liability therefor. Licensee shall install and maintain the Utility Facilities in conformance with Rockland Code, Ch. 18, Art. I, Sec. 18-104(2)(K) and other applicable laws, ordinances, regulations, and rules. Licensee shall obtain the approval of the City Manager or his designee for the location of Pole 4H before installing it. Upon the occurrence of any incident affecting the condition or function of said Utility Facilities, CMP shall effect its repair and restoration within a reasonable time, which repair or restoration shall in no event be later than fourteen days following written notice from the City. In the event of a reduction in the electrical distribution and/or supply needs at the Thorndike or area locations served by CMP, CMP shall take reasonable steps to consolidate services and utility facilities and, whenever reasonably practicable, eliminate poles from Thorndike Parking Lot.

**6. Vegetation Management.** CMP agrees that, during the Term of this Agreement, CMP will suspend the use of herbicides under the Utility Facilities and other CMP poles, lines, cables, transformers, and facilities in, above, or under the Thorndike Parking Lot and rights-of-way and reserved ways serving or located within or adjacent to said parking lot. The City, in consideration of such forbearance, covenants and agrees to clear and maintain the brush under the said utility facilities in Thorndike Parking Lot in compliance with reasonable CMP specifications to the end that growth will be suppressed as well as it would have through the use of herbicides, at its own expense, including all necessary labor, tools, materials, conveyances, and equipment. In the event the City fails to adequately maintain vegetation under the utility facilities, CMP may provide notice of this deficiency and, if not corrected within ninety (90) days of the mailing of such

notice, enter the premises and take such steps as it deems necessary to bring the area into compliance that are not inconsistent with the City’s policies for the maintenance of City property. Notwithstanding anything to the contrary herein, CMP may conduct urban-appropriate tree pruning over and around the utility facilities, in conformance with ANSI A300 (Part 1) standards and ISA Best Management Practices for Tree Pruning (latest edition). CMP shall confer with Rockland’s Tree Warden prior to commencing pruning operations.

**7. Indemnification; Hold Harmless.** Licensee hereby agrees and undertakes to indemnify Licensor, and shall protect and hold Licensor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from any event, act, or omission within the term of this Agreement in connection with any claim, loss, or damage arising from or connected with the construction, maintenance, operation, replacement, and or removal of one or more utility facilities in Thorndike Parking Lot, and from any other incident, occurrence, or loss, whether actual or alleged, arising from the permissions granted by the City to CMP under or in connection with this License Agreement. Nothing herein shall be deemed a waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

**8. Miscellaneous.**

A. This License Agreement is not intended and shall not be construed as creating or conveying to Licensee, or any party, an interest in real property or right-of-way, and Licensee acknowledges for itself, its tenants, members, agents, successors, and assigns, that it or they shall have no right, title, or interest in any City property or right-of-way;

B. The limitations, obligations, and rights granted to or imposed upon Licensee in this License Agreement shall alike extend to and be binding upon Licensee and its successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

Councilor Hebert moved passage.

Vote: 5 for.

#76 Authorizing License Agreement – CMP (435 Main Street)

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

**THAT** the City Manager is hereby authorized to enter into a license agreement with Central Maine Power Company, in substantial compliance with the license agreement attached hereto and incorporated herein by reference, for the place of a pole on City-owned property to service 435 Main Street.

Sponsor: City Manager  
Originator: City Manager

**LICENSE AGREEMENT**

**THIS AGREEMENT** by and between the City of Rockland, Maine, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Licensor") and Central Maine Power Company (“CMP” or “Licensee”), a business corporation and regulated utility with its principal place of business in \_\_\_\_\_, Maine (the “Licensee”), is effective September \_\_\_\_, 2014.

**WHEREAS**, the City owns and operates a municipal parking lot as part of its Water Pollution Control Facility at 40 Tillson Avenue in Rockland (Tax Map 1-C-4), which parking lot is sometimes referred to as the Thorndike Parking Lot; and

**WHEREAS**, CMP provides electrical service to several Main Street, Rockland properties from poles and electrical utility facilities located along the easterly edge of the Thorndike Parking Lot; and

**WHEREAS**, the new owner of a large, historic brick building at 435 Main Street in Rockland, 435 Main Street, LLC, is effecting a nearly complete rehabilitation of the structure, which will significantly increase the electrical supply Regular

needs at 435 Main Street; and

**WHEREAS**, to serve the increased electrical supply needs at 435 Main Street, CMP has determined that it is reasonably necessary to install enhanced electrical facilities on a new, separate pole in Thorndike Parking Lot; and

**WHEREAS**, the City of Rockland seeks to support the rehabilitation of and proposed business and residential uses at 435 Main Street, by permitting the placement of new utility facilities to serve the property; and

**WHEREAS**, the City has also agreed to perform vegetation management to protect the said utility facilities and avoid the use of herbicides on City property consistent with the City's Policy on Pesticide / Herbicide Usage On City-Owned Lands,

**NOW, THEREFORE**, in consideration of the terms, conditions, and covenants set forth herein, the City and CMP agree as follows:

**1. Grant of License.** The City grants to Licensee a license to erect, bury, maintain, rebuild, patrol, operate, remove, and do all other actions involving electric and communication distribution equipment and facilities in Thorndike Parking Lot, consisting of one pole – Pole 4H – and wires and cables, anchors, guywires, or pushbraces attached to said pole (collectively, the “Utility Facilities”), together with all necessary fixtures and appurtenances over, across, and under a portion of the surface of the land of the City located at 40 Tillson Avenue in Rockland, Maine, Pole 4H being approximately located as shown on the attached Exhibit A.

**2. Use.** CMP shall utilize the Utility Facilities for the purpose of providing electrical distribution services and supply to business(es) and/or residence(s) located at and in the vicinity of 435 Main Street in Rockland, Maine.

**3. Term.** The Term of this License Agreement shall be twenty (20) years, and terminating at midnight on August 14, 2034, unless terminated earlier by either or both parties as provided in this License Agreement; provided, however, that this License Agreement may be renewed for additional five year terms upon the mutual, written agreement of the City Manager and CMP. Within ninety (90) days of the expiration of such Term or renewal term(s), CMP, within ninety (90) days, shall cause the relocation or discontinuance and removal of the Utility Facilities.

**4. Termination.** Either party may terminate this Agreement by giving ninety (90) days' prior written notice thereof. Upon notice of termination by the City, CMP shall cause the relocation or discontinuance and removal of the Utility Facilities; provided, however that in the event the City gives notice of termination between October 1 of one year and April 1 of the succeeding year, CMP shall have until June 30 of such succeeding year to relocate or discontinue and remove the Utility Locations.

**5. Utility Facilities Construction, Maintenance, And Consolidation.** Licensee shall be fully and solely responsible for the construction, maintenance, repair, and replacement of the Utility Facilities, and the City shall have no responsibility or liability therefor. Licensee shall install and maintain the Utility Facilities in conformance with Rockland Code, Ch. 18, Art. I, Sec. 18-104(2)(K) and other applicable laws, ordinances, regulations, and rules. Licensee shall obtain the approval of the City Manager or his designee for the location of Pole 4H before installing it. Upon the occurrence of any incident affecting the condition or function of said Utility Facilities, CMP shall effect its repair and restoration within a reasonable time, which repair or restoration shall in no event be later than fourteen days following written notice from the City. In the event of a reduction in the electrical distribution and/or supply needs at 435 Main Street or area locations served by CMP, CMP shall take reasonable steps to consolidate services and utility facilities and, whenever reasonably practicable, eliminate poles from Thorndike Parking Lot.

**6. Vegetation Management.** CMP agrees that, during the Term of this Agreement, CMP will suspend the use of herbicides under the Utility Facilities and other CMP poles, lines, cables, and facilities in, above, or under the Thorndike Parking Lot. The City, in consideration of such forbearance, covenants and agrees to clear and maintain the brush under the said utility facilities in Thorndike Parking Lot in compliance with reasonable CMP specifications to the end that growth will be suppressed as well as it would have through the use of herbicides, at its own expense, including all necessary labor, tools, materials, conveyances, and equipment. In the event the City fails to adequately maintain vegetation under the utility facilities, CMP may provide notice of this deficiency and, if not corrected within ninety (90) days of the mailing of such notice, enter the premises and take such steps as it deems necessary to bring the area into compliance that are not inconsistent with the City's policies for the maintenance of City property. [Notwithstanding anything to the contrary herein, CMP may conduct urban-appropriate tree pruning over and around the utility facilities, in conformance with ANSI A300 \(Part 1\) standards and ISA Best Management Practices for Tree Pruning \(latest edition\). CMP shall confer with Rockland's Tree Warden prior to commencing pruning operations.](#)

**7. Indemnification; Hold Harmless.** Licensee hereby agrees and undertakes to indemnify Licensor, and shall protect and hold Licensor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from any event, act, or omission within the term of this Regular

Agreement in connection with any claim, loss, or damage arising from or connected with the construction, maintenance, operation, replacement, and or removal of one or more utility facilities in Thorndike Parking Lot, and from any other incident, occurrence, or loss, whether actual or alleged, arising from the permissions granted by the City to CMP under or in connection with this License Agreement. Nothing herein shall be deemed a waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

**8. Miscellaneous.**

A. This License Agreement is not intended and shall not be construed as creating or conveying to Licensee, or any party, an interest in real property or right-of-way, and Licensee acknowledges for itself, its tenants, members, agents, successors, and assigns, that it or they shall have no right, title, or interest in any City property or right-of-way;

B. The limitations, obligations, and rights granted to or imposed upon Licensee in this License Agreement shall alike extend to and be binding upon Licensee and its successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

Councilor Hebert moved passage.

Vote: 5 for.

#77 Authorizing Transfer of Funds – Gas Collection System

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

**THAT** the City Manager is hereby authorized to transfer \$57,000 from the Solid Waste Equipment Reserve account (#70000-07165) to the Capital Improvement revenue account (#40000-03462) and expended out of the Capital Improvement expenditure account (#40000-07566) for the continued installation of the Gas Collection System at the City's Landfill.

Sponsor: City Manager  
Originator: City Manager

Councilor Isganitis moved passage.

Vote: 5 for.

#78 Authorizing Transfer of Appropriations – Coast Guard City Committee

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

**THAT** the City Manager is hereby authorized to transfer \$1,500 from the Executive Health Insurance budget line (#10012-05085) to the Contributions account (#10011-05018) for use by the Coast Guard City Committee, making the total amount available to the Committee \$2,500.

Sponsor: Councilor Isganitis  
Originator: Coast Guard City Committee

Councilor Isganitis moved passage.

Vote: 5 for.

#79 Approving Thorndike Parking Area Project Plan

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

**THAT** the City Council approves the plan for improvements to the Thorndike Parking Area in substantial compliance with the plan presented to the City Council on September 8, 2014; and

Regular Meeting, Order #79 continued:

September 8, 2014

**THAT** the City Manager is hereby authorized to expend and execute any such instruments to implement plans for improvements to the Thorndike Parking Area in accordance with CFMF Grant accepted by the City Council in the amount of \$200,000 pursuant to Resolve #16 dated March 12, 2012.

Sponsor: City Manager  
Originator: City Manager

Councilor Hebert moved passage.

Vote: 5 for.

With no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 10:55 p.m.

A TRUE COPY.

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

### SPECIAL MEETING

### AGENDA

September 10, 2014

#### Work Session – FY 2015 City Council Work Plan

The meeting was called to order by the Mayor at 6:30 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Frank Isganitis, City Manager Luttrell, and City Attorney Beal. Councilor Eric Hebert arrived at 6:32 p.m., and Councilor Elizabeth Dickerson was excused from attending this meeting.

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

- Andy Wish, 276 Broadway, spoke concerning Lindsey Brook, asking the City Council to include addressing the various issue with the Brook in the Council’s work plan. He said that the City needs to take responsibility for the issues with the Brook and address them, as it did with the Mannings on Talbot Avenue.

Hearing no other speakers, the public forum was closed.

**Work Session - FY 2015 City Council Work Plan:** The Council then went into informal session to continue its work on the FY 2015 City Council Work Plan.

With the work session completed for this session, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 7:40 p.m.

A TRUE COPY.

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

### SPECIAL MEETING

### AGENDA

September 29, 2014

**Initial Overview > Maine Arts Commission Grant Application (< 15 Minutes)**

(Note: Because of Columbus Day Holiday, Council will need to take action on this item at 10/6 Mtg)

**Work Session > City Manager Search > Open Session (≈ 90 Minutes)**

Summarize Challenges and Opportunities Facing the Community and City Government  
(Key points from FY15/16 work plan; short & longer term priorities for Council & Manager)

Overview of the Municipality  
(Structure of city government; organizational culture; city finances, drivers of local economy)

Develop Description of Ideal Candidate  
(Skills, experience, education, background, management style, etc.)

Selling Points about Rockland

(What makes job attractive to a candidate & this community attractive to candidate’s family?)

**Executive Session > City Manager Search** (≈ 30 Minutes)

Council to meet in Executive Session, pursuant to 1 M.R.S. 405(6)(A) which permits consideration of employment matters in executive session, to discuss aspects of the City Manager Search with Dacri Associates

The meeting was called to order by the Mayor at 6:30 p.m. with the following members answering the roll call: Mayor Larry Pritchett, Louise MacLellan-Ruf, Eric Hebert, Frank Isganitis, City Manager Luttrell, and City Attorney Beal. Councilor Elizabeth Dickerson was absent from this meeting.

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

- Barry Faber, 73 Willow Street, spoke concerning the City Manager search asking why the City was paying more than three times what other communities have paid for search consultants. He wanted to know what the City was paying \$17,000 for this search when the going rate for a city manager search is \$5,000.

- Doug Curtis, Jr., 115 Summer Street, also spoke concerning the City Manager search, saying that there are many good ways to find a city manager, and that it is not a difficult task, but it is rather time consuming. He also suggested that the ad for City Manager be posted on the City’s website as well. Mr. Curtis then commented on the upcoming referendum on the Pay Per Bag Ordinance repeal, saying that the City should publicly explain the fee structure at the Transfer Station as well as clearly explaining what a yes and no vote means on this question.

Hearing no other speakers, the public forum was closed.

**Initial Overview - Maine Arts Commission Grant Application:** The Council went into informal session for an overview of the Maine Arts Commission Grant Application with Community Development Director John Holden. The purpose of the grant would be to facilitate the creation of a Cultural Plan and a Community and Arts Development Strategy for the City of Rockland.

**Work Session – City Manager Search:** The Council then held an open discussion with a representative from Darci and Associates to begin the search process by determining the qualities that the City is looking for in a candidate for the City Manager position as well as key points from the Council’s Work Plan as it relates to short and long term goals and objective of the Council and the Manager.

**Executive Session – City Manager Search:** Councilor Hebert moved to enter into Executive Session, pursuant to 1 M.R.S. §405(6)(A), which permits consideration of employment matters in executive session, to discuss aspects of the City Manager Search with Dacri and Associates. Vote: 4 for.

The Council entered Executive Session at 8:30 p.m.

The Council came out of Executive Session and, with no action being taken, adjourned without objection at 9:36 p.m.

A TRUE COPY.

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

**SPECIAL MEETING**

**AGENDA**

**October 6, 2014**

- Resolve #37 Appointments – COMPS & BOAR
- Order #81 MAC - Creative Community Economic Development Grant
- Work Session – 1<sup>st</sup> Quarter Financial Report
- Work Session – Tax Acquired Properties (20 Katahdin & 63 Warren)
- Set Agenda for October 15, 2014 Regular Meeting

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

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

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

- Barry Faber, 73 Willow Street, spoke concerning the shortfall in the Solid Waste Budget of more than \$400,000, saying that it was a result of bad disposal contracts with outside vendors and mismanagement at the facility. As a result of this shortfall, he maintains that the City Council attempted to create a new revenue stream through the Pay Per Bag proposal to cover-up this shortfall. He said that if the contracts had been properly written and the fees charged at the appropriate rates, the City could have realized nearly \$3 million in revenue to put toward landfill closure costs. He said that the past contracts and existing contracts are so open-ended that a court could have found them void for vagueness. He said with no minimum guaranteed amounts, the contracts are not worth the paper they are printed on.

- Adele Faber, 73 Willow Street, said that some of the speakers intended to display photographs of the landfill and transfer station as exhibits to go along with their comment, but were told by the Mayor that they could not do so. She asked for an explanation of this ruling, noting that she herself had used similar exhibits in the past.

It was explained that the Council's Rules of Procedure (Chapter 2, Section 2-212(7)(c)) states that "signs and placards" are prohibited. The Mayor said that his interpretation of that prohibition extended to posters or other large props for display.

Councilor Dickerson moved to suspend the Rules to allow the speakers to display their exhibits.

Councilor MacLellan-Ruf seconded the motion and said that historically speakers have been allowed to display exhibits in support of their comments.

Mayor Pritchett said that he does not recall this practice being allowed during his time on Council.

Councilor Isganitis said if the photographs are just pictures of the landfill and transfer station, copies should have been included in the Council's packets. He asked if Mrs. Faber and the others were just trying to grandstand or were they actually trying to move the City forward.

Councilor Hebert said his only concern, having not seen the exhibits, were that they were simply picture of the dump or did they contain political messages.

Councilor Dickerson asked the Mayor what the process was to arrive at this point.

Mayor Pritchett said that he saw the boards against the wall prior to the beginning of the meeting and told the Mr. Myslabodski that such displays are not allowed under the Council's Rule of Procedure. He said that he did not see what the boards contained, he simply reminded him of the rule.

Vote: 3 for, 2 opposed  
(Isganitis, Pritchett)

Because of motion to suspend the rules requires four votes to be carried, Councilor Dickerson's motion failed.

The Public Forum was then resumed.

- David Myslabodski, 53 Broad Street, spoke concerning solid waste issues, saying that the Pay Per Bag proposal has nothing to do with encouraging recycling and everything to do with squeezing more money out of the residents. He urged the public to vote yes to repeal the Pay Per Bag Ordinance on November 4, 2014, to tell the City that you want better management of the Solid Waste Facility. He said that the residents are subsidizing the commercial haulers by paying higher disposal fees than the haulers. He added that the City's current mandatory recycling ordinance is not being enforced and recyclable materials are being dumped in the landfill or in the hopper and shipped to PERC to be burned. He said it is possible to do it right, and urged the public to look at how other communities are doing it. He added that the Pay Per Bag proposal, should it go into effect, will only result in more littering.

- Sandra Schramm, 16 Broad Street, said that she has used exhibits to support her comments before Council many times and was dismayed at the censorship that is taking place at this meeting. She then went on to comment on solid waste issue, saying that the mismanagement of the facility and funds have led to much red ink. She said that the operation of the solid waste facility has been a failure across the board, and that Pay Per Bag is not the answer. She said that the photographs that she wanted to show at this meeting, but is being prohibited from doing so, showed materials being dumped into the landfill that are not allowed, which is why she believes that they are not being allowed to show them. She urged the public to vote yes to repeal the Pay Per Bag Ordinance, and tell the City that you want a sustainable plan moving forward into the future. She added that the City should be moving toward a "zero waste" system, and urged the public to visit the facility in St. George as an example of how it should be done.

At this time, Councilor Isganitis asked if he could ask Mrs. Schramm a question. Without objection from the Council, he was allowed to do so.

Councilor Isganitis asked if the photos of the alleged illegal dumping were taken on September 12<sup>th</sup>, why did she wait three and a half weeks to bring it to the attention of the City. He said that the Solid Waste Director or City Manager should have been informed so that the issue could have been addressed.

Mrs. Schramm said that she did not have to answer his question.

- Adele Faber, 73 Willow Street, said that she once witness Pine Tree Waste dumping unacceptable waste into the hopper and told the Solid Waste Director. She said that she was told "who cares, they are paying \$110 per ton to dump it". She said that it does not good to inform the City of these kinds of things.

Mrs. Faber then went on to describe what repeal of the Pay Per Bag Ordinance would mean. She said it would mean that the City goes back to the sticker and bag system that is current in place; it would send a message to the City Council that it cannot create a new revenue stream based on erroneous information; tells the City that it needs to enforce the mandatory recycling ordinance through education and directing residents where the appropriate place is to dispose of their recyclable materials; cut expenses in landfill operations by not taking outside waste and save the remaining quarry space for use of the residents; and explain what the Solid Waste budget pays \$96,000 to the General Fund each year for "administrative services". She said this proposal is going against the stated wishes of the voters, and is a knee-jerk reaction to the \$400,000+ shortfall in the Solid Waste budget.

- Linda Athearn, 422 Broadway, asked for an update on the Snow Marine Park situation, noting that the closed signs were gone and that there were people with dogs in the park again. She also asked for an update on the dog park proposal.

Hearing no other speakers, the public forum was closed.

Mayor Pritchett asked if either Councilor MacLellan-Ruf or Councilor Isganitis would like to address the dog park question. Councilor Isganitis said that he and Councilor MacLellan-Ruf met with Suzanne Ward and review available City property and selected a few sites that looked promising. He said they now need to schedule a follow-up meeting to more closely review the parcels that they have identified.

Mayor Pritchett then asked the City Manager to address the Snow Marine Park question.

The City Manager said that the park remains closed, and that the signs have been replaced. He said after the next rainfall, the park will be tested again to see if the pollution remains.

The City Manager also said, with regard to the Solid Waste Budget, that department from 2010 through 2013 had excess revenues and the City was able to place funds into the Landfill Closure Account. He said that 2014 is the first year that revenue projections have not been met at the facility. He also said that the City's current recycling rate as determined by the State is approximately 32%.

Without objection from the Council, the Rules were suspended to allow Solid Waste Director David St. Laurent to comment on Solid Waste Facility operation.

Mr. St. Laurent said that there has been a steady increase in the City's recycling rate over the past five years to the current level of 32%. He also said that the correct per ton disposal fee, after some recalculating, is \$132 per ton for disposal of municipal solid waste. He said that the previously reported \$143 was an average if the purchase of stickers is factored into the equation.

Mr. St. Laurent said that the pay per bag system was looked at because it offers the fairest way to pay for waste disposal. He also said that the City is looking at moving away from accepting outside waste at the facility which would extend the life of the landfill for another 20 years. He said that over the past seven years, they have addressed serious safety violations at the facility; high levels of hydrogen sulfide and ground water contamination, to the point where DEP was ready to fine the City and order the closure of the landfill. He said that is where the idea of a rapid fill of the landfill came from and why the City was accepting waste from outside contractor. He suggested that it may be helpful to form a committee to look at alternatives for the facility and work with the public in a constructive way.

Mayor Pritchett then noted the upcoming meeting schedule for the Council: Wednesday, October 15, 2014 at 7:00 p.m. will be the Council's Regular Meeting due to the Columbus Day Holiday of October 13<sup>th</sup>; also an Executive Session will be held prior to the October 15<sup>th</sup> meeting to hear a hardship abatement. He also asked the Councilors to let him know if they would be available for meetings on October 20<sup>th</sup> and/or October 29<sup>th</sup> to meeting with the Comprehensive Planning Commission, Economic Development Advisory Committee and Planning Board to discuss zoning issue.

The Council then went back into Special Session and continued with the agenda.

Special Meeting continued:

October 6, 2014

**Resolve #37 Appointments**

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

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

**Comprehensive Planning Commission:** Jesse Butler, 49 Acadia Drive, Alternate (2015)

**Board of Assessment Review:** Jeffrey Boggs, 86 Masonic Street (2016)  
Nathan Davis, 10 Fulton Street (2014)

Sponsor: Mayor Pritchett  
Originator: Mayor Pritchett

Councilor Hebert moved passage.

Vote: 5 for.

**Order #81 Authorizing Maine Arts Commission Grant**

**WHEREAS**, The City is home to a number of cultural organizations representing the City's heritage, literary arts, musical arts, physical art, artists; and

**WHEREAS**, The City Community Development Department has engaged interested organizations, citizens and others, under the name of the Cultural Planning Coalition, in an effort to prepare a Cultural Plan and Community and Arts Development Strategy; and

**WHEREAS**, The Cultural Planning Coalition is open to any interested citizen, worker, business owner, or person or organization with interest in the preserving, sustaining, and developing the cultural assets of the City; and

**WHEREAS**, The City is initiating this cultural planning program with support from the Emmanuel and Pauline Lerner Foundation, held a cultural leadership forum, and is holding three community listening sessions to gather input from its citizens on the City's cultural assets; and

**WHEREAS**, The City is one of two cities invited to apply to the Maine Arts Commission Creative Community (is) Economic Development (CCED) grant program; and

**WHEREAS**, the CCED grant proposal will help fund, in part, a consultant and coordinator to assist in preparing the Cultural Plan and coordinating efforts among all the interested parties; and

**WHEREAS**, the Farnsworth Art Museum, as an eligible 501c3, will be the grant applicant on behalf of the Coalition, the City, and others representing the Rockland Cultural Planning Coalition; and

**WHEREAS**, the City wishes to support this effort and demonstrate the City's commitment to community economic development through the continued development of its cultural assets;

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

**THAT** the City Manager or designee is hereby authorized to provide matching funds to this grant application in amounts of up to \$7,500 from the Fisher Tax Increment Financing District Municipal Revenue Account in FY 2016 and up to \$10,000 from the Fisher Tax Increment Financing District Municipal Revenue Account in FY 2017 as match in a manner outlined in the attached Memorandum

Sponsor: City Manager  
Originator: Community Development Director

Councilor Isganitis moved passage.

Without objection from the Council, Mayor Pritchett suspended the Rules to allow Community Development Director John Holden to address this issue.

Special Meeting, Order #81 continued:

October 6, 2014

Mr. Holden gave a brief synopsis of the project and said that the community listening sessions have been scheduled as follows:

- October 8, 2014 at 5:00 p.m. at Sharps Pont South;
- October 29, 2014 at 5:30 p.m. at Ocean Side East High School; and
- November 1, 2014 at 10:00 a.m. at the Lincoln Street Center

Councilor MacLellan-Ruf said that the concerns that she has been hearing are that this, like a lot of other projects lately, seems to focus on the downtown. She said she would like to see some sort of outreach to include other areas of the City rather than just the downtown area.

Mr. Holden said that the proposed steering committee for this project includes the Rockland Historical Society, Mid-Coast Music Academy, the City's Library Director, the City's Community Development Director, a member of Council, and citizens at large, so there is plenty of opportunity for other areas of the City to be involved in this process. He said this project is proposed to be a City-wide project and does not focus on any particular area.

The Council went back into Special Session for a vote on Councilor Isganitis' motion for passage.

Vote: 5 for.

**Work Session: First Quarter Financial Report.** The Council went into informal session for a work session on the FY2015 first quarter financial report with Acting City Manager/Finance Director Tom Luttrell.

**Work Session: Lien Acquired Property.** The Council then held a work session on the disposition of three lien acquired properties; 20 Katahdin Avenue, 63 Warren Street, and 26 Rockland Street. Staff was asked to gather additional information on these properties, including ascertaining the willingness of the foreclosing banks (for 20 Katahdin Avenue and 63 Warren Street) to improve the properties as a condition of reconveyance to make them more marketable.

**Set Agenda for October 15, 2014 Regular Meeting:** The Council then set the agenda for the October 15, 2014 Regular Meeting. The following communication was addressed:

- a. Letter from Susan Craft, Project Coordinator for the "Do You See Me" Project – Request for waiver of fees for use of the Recreation Center. Councilor Hebert asked that an order be placed on the October 15, 2014 Regular Meeting Agenda for the Council to consider this request.

With the agenda set, and with no further business to come before the City Council, Councilor Hebert moved to adjourn. Without objection from the Council, the meeting was adjourned at 8:36 p.m.

A TRUE COPY.

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