MINUTES OF CITY COUNCIL MEETING

AUGUST 12, 2013

The meeting was called to order by His Honor, Mayor Spencer, and upon roll call, the following members were found present: Pepin, Soldati, Hebert, McCallion, Donohue, Tapscott, Witham, Jarvis and Sprague.

MINUTES OF PREVIOUS MEETINGS.

- Minutes of 7/15/13 Public Hearing on Ordinance No. 16-13 and Ordinance No. 17-13

  Councilor Tapscott, seconded by Councilor McCallion moved to accept the minutes as written. The motion passed.

- Minutes of 7/15/13 Public Hearing on Ordinance No. 18-13

  Councilor Pepin, seconded by Councilor Tapscott moved to accept the minutes as written. The motion passed.

- Minutes of 7/15/13 City Council Meeting

  Councilor Tapscott, seconded by Councilor Hebert moved to accept the minutes as written. The motion passed.

COMMENTS BY VISITORS.

Real Roseberry, Ward 1, spoke about local businesses losing business (during the Jakarta Fair.) He thinks the City did a good job with the situation about a boarding house on Green St. People came to complain and it was good, they did their civic duty.

Ray Doyon, Ward 4, the American Legion, Post 69 Commander, congratulated the Jakarta Festival on Constitutional Way. He said the food was excellent. He would like it moved somewhere else next year because it directly affected their business and other businesses.

He got two letters about a change of traffic pattern. The proposal makes Constitutional Way, one way from High Street with parallel parking on the western side which will definitely affect their business. He is against this move. He hopes they will think about this and what is happening.

People don't realize it but he and others put up approximately 1500 flags, a week or two before Memorial Day. The City gives them $800.00 a year to decorate the graves. Three days later they are taken down to cut the grass and literally leaned against the monuments. When they go there to honor the veterans on Memorial Day, the flags are not where they were. Something has got to be done about this. Other cities don't do this. As far as he is concerned, these flags should

stay up all year. They have to take them down three weeks later, after Memorial Day, by somebody's law. To whoever is in charge of cemeteries, he wished something (could be done.)

He said again that he hopes that the festival is held somewhere else next year.

Elizabeth Miller, Ward 1, said that the Jakarta Fair was wonderful.

She thanked the Economic Development Committee, the Finance Committee, David Sharples and Bob Belmore for …the RFP for Hilltop School. This is the first step toward transforming the school into an arts and cultural center. She said that the Friends of Somersworth continue to find opportunities for tenancy and programming; it is extremely exciting and looks like it will become real very soon.

Ms. Miller went on to say that on Wednesday, September 11th, there will be an annual, general meeting of the Friends of Somersworth; they would like the community and councilors to come to hear what they have been doing and their plans for the future. On September 28, they will have their second annual hidden treasures event.

Arthur Beauchesne owns half of the shopping center on Washington St. He said that they will be impacted by changing the street to one way. He conducted a survey as to how their customers enter and exit the parking lot. Constitutional Way is the most used point of entrance. Coast bus uses Constitutional Way. They have a lot of people who come off Green St, cross Washington St, and use Constitutional Way to get to High St. Mr. Beauchesne extended his survey to itemize parking spaces that are available in the area, but underutilized. He suggests they leave (Constitutional Way) the way it is but put fresh lines which would save money in curbing.

Councilor Witham, seconded by Councilor Donohue, made a motion to suspend the rules to allow Mr. Beauchesne more time to speak. The motion passed.

Mr. Beauchesne said that they participated with the Public Works Director when they wanted to widen the street and they gave up one parking space and when they wanted space on the corner for beautification, they gave that. They have been cooperative. Their approach was positive and they would like a positive approach coming from the Council.

Denis Moore, 17 Old Indigo Hill Road, Rollinsford, had sent the Council a letter. He is here to attest to the problems listed (in his letter). There have been several issues with that property, (425 Main Street,) over the years, for instance, smelling the septic system. He doesn't know if it zoned correctly. There are horses there, he doesn't know if there is an agreement with the City regarding that. There is an apartment in the barn that was being heated with kerosene when they had about 400 bales of hay in there. These are some of the issues that have been going on in the 24+ years he has lived there.

Ralph St. Hilaire of the American Legion is a taxpayer and property owner but not a resident; he lives in Sanford. He knows they are trying to improve the City but he said what will help is to stop the taxes from going up. He is paying 6 grand on a house that is worth $180,000.00. No-one is even making an offer. We have to contain the taxes.

Cherry Mawikere said a big thank you to the City Council for their support and sponsoring the Jakarta Fair. It was a big success. There were 38 vendors and about 500 people came in; it was a great day to explore downtown Somersworth. The NYC Indonesian Consul who attended was honored to meet the Mayor. Ms. Mawikere thanked the Mayor, Council members and everyone; she said the Consul was happy about the Indonesian promotion, and the art that is being supported in Somersworth. He would like to build that friendship with NY and Somersworth. She is looking forward to next year.

ANNOUNCEMENTS BY CITY COUNCILORS.

There were no announcements by Council members.

COMMUNICATIONS.

Letter from Jeni Mosca, Superintendent of Schools:

School Administrative Unit Fifty Six
Rollinsford School District – Somersworth School District
51 West High Street
Somersworth, NH 03878

To: The Honorable Mayor Spencer, City Manager Belmore and City Council Members
From: Jeni Mosca, Superintendent of Schools

Re: Career Tech Center Renovation

I am looking for a City Council Member who might have an interest to serve on our Career Tech Center Renovation Committee. We are in the process of putting together a core group of various stakeholders without our city to assist us with examining our current center, and how to move the learning forward to meet the manufacturing/industrial and digital needs of the future. The committee will include school board members, school administration, the Greater Somersworth Chamber, CTC teachers, Economic Developer and various community partners.

We plan to meet monthly starting in September with meetings occurring during the school day. Meetings will last an hour or so with a timeline being established at the first meeting.

Please let me know if you are interested in serving as I believe you will be a valued member in moving this project forward.

Thank you for your time and consideration.

Mayor Soldati said that Councilor Pepin has expressed interest in this position, after asking if any other Councilors were interested, he assigned Councilor Pepin membership on this committee.

Letter from Denis and Cheryl Moore, Jackie and Bob Borghoff.

July 29, 2013

To: **City of Somersworth**
Mayor and City Council

From: Rollinsford Old Indigo Hill Road Residents

Denis & Cheryl Moore, Jackie & Bob Borghoff

Subject: 425 Main Street Property

It is our understanding after watching the July 15Th city council televised meeting and you're tabling of the motion to give the city manager authority to sell 425 Main Street that the City Of Somersworth plans to sell or auction off that property.

Earlier in the summer I, Denis Moore, sent an e-mail (see attached) about the city's newly acquired property at address 425 Main Street (formerly the Towers property). I recently spoke with all the residents/abutters about the aforementioned property. It is our contention as the residents of Old Indigo Hill road in Rollinsford (the access road to 425 Main) that the 425 Main Street residence is non-conforming as a multi- family to the zoning on this street. All other residencies on this street are single family.

We would like see that property sold as single family; it is currently zoned as multi-family. Around ten years ago the abutter to that property (427 Main Turgeon) went before your zoning board to have his property zoned multi-family (duplex) his request was unanimously rejected by the zoning board. During the deliberations of that zoning board hearing, discussion took place on how was 425 Main zoned as multi-family (duplex) in a non-conforming zone. Several board members expressed their opinion that it was done improperly and did not remember it coming before the zoning board for a vote.

As you may or may not be aware, that residence has been a source of consternation for us abutters of that property. There have been numerous incidents requiring the Somersworth Police to respond to 425 Main, such as illegal drug use and sale, stolen vehicles, fighting, stolen property and piles of trash never removed constantly blowing about the neighborhood. This is a single-lane dead-end road which is owned and maintained by the Town of Rollinsford and not suitable for the high traffic that has been created by 425 Main over the years.

We are sending this letter for Mondays City council meeting. We would like this letter be read and entered into record either before the 425 Main street motion is voted upon, or open the motion for public comments and have this letter read or at the public comments section of the meeting . We would appreciate any and all actions that the appropriate board may take to remediate this situation.

In closing we feel that this is an opportunity for the city of Somersworth to correct what we feel is wrong and hope you will do your best to make things right.

Respectfully,
Rollinsford Old Indigo Hill Road residents

Denis & Cheryl Moore
Mr & Mrs Denis Moore

Bob & Jackie Borghoff
Mr + Mrs Robert Borghoff

Councilor Sprague made a point that he felt, to stay consistent with past practices, these residents are not residents of our City. He did not feel that this should have been read into the record.

Councilor Witham said that he was not troubled by it; he does not feel that we focus so much on residency, but on whether the letter is signed. This was signed and he is perfectly fine with it.

PRESENTATION OF PETITION AND DISPOSAL THEREOF BY REFERENCE OF OTHERWISE.

There were no petitions.

MAYOR'S REPORT.

Mayor's Report of Monday, August 12, 2013

- July 16th-Invited to tour the New Hampshire Food Bank in Manchester.
- July 17th-Attended the Traffic Safety Committee meeting.
- July 20th-Attended the Jakarta Fair.
- July 22nd-Invited to attend a focus group on community health by Wentworth-Douglass Hospital.
- July 23rd-Invited to attend a workshop on climate change at the Great Bay Discovery Center in Greenland, NH.
- July 26th-Met with Pastor Roman Archer of the Next Level Church on Route 108.
- July 26th-Met with the owner of the former Profile Garage on Green Street.
- August 1st-Invited to attend the FEMA Floodplain Risk Mapping Review.
- August 8th-Invited to attend a Greater Somersworth Area Chamber of Commerce Area ribbon cutting at Orthopedic Therapy Services at 388 High Street.
- August 8th-Invited to attend a Greater Somersworth Area Chamber of Commerce at the Station Your Local Bar and Grill.
- August 10th-Invited to attend and speak at the 9 and 10 year old Somersworth All-Star Little League Team BBQ.
- August 12th-Attended the Skyhaven Airport Advisory Committee meeting.

REPORTS OF STANDING COMMITTEES.

FINANCE COMMITTEE

Councilor Jarvis said that the Finance Committee met on August 7th at 9:30 am. They

- Approved the previous minutes.
- Reviewed the High St. infrastructure project. City Manager Belmore reported that the Public Works and the Environment Committee recommended awarding the project to N. Pandelena Construction Co., Inc. of Hampstead, NH. He also noted that the Hoyle, Tanner and Associates, (HTA), contract would include a 10% contingency in case they need additional inspectors during construction. HTA also recommended awarding the

project to N. Pandelena. A motion was made to support the resolution with all listed alternates. The vote was 2-1, Councilor Soldati opposed.

- The Highway Dept. equipment purchases were discussed. The consensus is to move ahead with the purchases.
- The Committee continued to support the resolution to contract with HTA for the inspection services, despite the increased contingency.

Councilor McCallion asked if this company has done other projects within the State.

Councilor Jarvis said they spent quite a bit of time checking, in order to feel comfortable with this decision.

PUBLIC WORKS AND THE ENVIRONMENT?

Councilor Sprague said they met twice. They met on July 24th to

- Approved the previous minutes.
- Talked about the Downe Street drainage easement.
- Talked about Constitutional Way, sidewalk repairs and one-way signage implementation. They had a date of August 19th to go one-way, but he wonders if that is still what they want. Maybe too much at one time is too much. They might still go one-way then but could do some of these other things at another date.
- They talked about the downtown parking plan in general.
- They talked about the Pinewood Drive easement request.
- Staff is still working on a water ordinance draft.
- Project update on the Rocky Hill culvert. (Councilor Pepin reported that the road is supposed to be paved either Wednesday or Thursday.)
- Talked about awarding the downtown Infrastructure project.
- Talked about a couple of structures on High Street that Brox will take care of.
- Talked about raising the performance bond to 5 years.
- Interstate Dr is corrected: that project is at an end.
- FYI: telephone poles and power lines will be behind buildings from Highland to Market Streets. It will only be lighting that they pick out. Too bad they couldn't do Market St and a little bit of Main Street; PSNH is working with them on that.
- They talked about weed control; he still thinks they need a plan

Councilor Sprague requests that we add a discussion item under OTHER- "D" -Fairpoint.

The Public Works and Development Committee also met on August 7th to

- Approve previous minutes
- Discuss the Horne St redesign proposal; they know where the utilities are. They decided that they should ask Cumberland Farms if they are interested before they spend too much time on this. They are the only natural buyer of that property, other than residents.
- They talked about the Highway equipment bids.

- The big thing they talked about was awarding the bid for the High Street Infrastructure project. There is a lot of money left on the table with this bid. He detailed what he learned about the company's previous projects. We have Hoyle, tanner and Associates, HTA, to screen the bidders; he thinks we will benefit from this.

Councilor Witham reported that a sinkhole has developed at 362 High Street next to a replaced catch basin.

Councilor Sprague reported that they pulled back and painted the stop bars, the white lines on the main drag that will tell you where to stop that leaves clearance for people to see but also triggers the lights.

GOVERNMENT OPERATIONS COMMITTEE

Councilor Tapscott reported that the Government Operations Committee met last Friday, August 9th, to review the evaluations for the City Manager. They went into non-public session before calling in the City Manager, who received a copy of the revised summary. They came out of non-public session at 5:50 pm and then adjourned at 5:55 pm.

Mayor Spencer said, "You had two meetings, right? On August 9th and July 24th?"

Councilor Tapscott said that they approved the minutes for July 24th on August 9th.

Mayor Spencer said he tasked (the committee) with the Library Trustees vacancy…

Councilor Tapscott said that he had gotten back to the Mayor about that, saying that they reviewed that issue at least twice in his committee and had given (the Mayor) the results he stated, right here after one of those meetings exactly what their overall, final issue about that issue. He mentioned it to (the Mayor), and he doesn't know why he is bringing it up in public.

Mayor Spencer said that the suggestion that the Government Operations Committee made was to amend the Charter at a later date.

Councilor Tapscott said, "That is exactly right, but that wasn't the last one, that was the July 24th…"

Mayor Spencer said, "So, up until we change the Charter, we need to follow State law; do you concur with that?"

Councilor Tapscott said that he told him that.

REPORTS OF SPECIAL COMMITTEES.

SUSTAINABILITY COMMITTEE

Councilor Soldati reported that the Sustainability Committee will be meeting this week on Thursday, August 15th at 6 pm. She said that they have totally enclosed the gardens to keep the critters away, the harvest is coming in and it is very lovely. She invited everyone to visit. They recycled some chain link fence so it didn't cost anything other than labor from PW. Now they need to figure out good signage so people can find the gardens. Anyone from the public is invited to attend the meeting.

PLANNING BOARD

Councilor Witham reported that the Planning Board approved a site plan application at Wentworth-Douglass Hospital for an ambulatory surgical center on Route 108. Not a huge footprint, a 6700 square foot, one story surgical center near the Works. He understands that they will break ground before the end of the year and open next year. It is a high-end looking building which blends with the medical mile concept.

Councilor Sprague wondered whether anything will be done with the turning lanes there.

Councilor Witham said that most of the deliberations centered around traffic; there was a study done. Because of the nature of the facility they have around a dozen employees who would arrive in the morning and leave in the afternoon. The patients will go in ones and twos so they do not expect a big impact. He said that if this facility makes it worse, maybe they can leverage them to make design improvements. The biggest player is the Department of Transportation who has to issue the driveway permit and they didn't have any difficulty with this.

Councilor Tapscott said that he would like the City Council to go into non-public session after this meeting to review the City Manager evaluation summary.

CITY MANAGER'S REPORT.

CITY OF SOMERSWORTH
Office of the City Manager

TO: **Mayor Matthew Spencer and City Council Members**

FROM: **Robert M. Belmore, City Manager**

DATE: **Friday, August 9, 2013**

SUBJECT: **City Manager's Report for Monday August 12, 2013 City Council Agenda**

Communications (under Section 6 of Agenda)

A. **Letter from Jeni Mosca, Superintendent of Schools.**

B. **Letter from Denis and Cheryl Moore, Jackie and Bob Borghoff.** Attached is a copy of an email from Director Sharples regarding an illegal third unit. Any sale of the property should contain a condition that the property may only be used as a duplex. Obviously, these comments do not address this request that the property be restricted to a single family use.

Unfinished Business (under Section 13 of Agenda)

Resolutions:

A. **Resolution No. 1-14 Authorizing the City Manager to Sell City Tax Deeded Property at 425 Main Street, and 213 West High Street.** There is another agenda item that requests authorization to rent 425 Main Street property on a month-to-month basis. City Attorney Mitchell, Finance Director Smith and I have worked together to structure this proposed rental agreement. These individuals are interested in purchasing the property and the rental agreement would allow them to continue to board their horses on this property.

   The Finance Committee supports passage of this Resolution.

   (Added Note: City Manager Belmore said during his report that it looks as if there was an illegal third unit constructed in the barn at 425 Main; any sale should contain the condition that the property can only be used as a duplex, or unless Council wanted to put a stipulation, as part of the sale, to restrict it to single family. If it is not used as a duplex for over a year then they lose that right and it will go back to single family. There are a few moving parts here.)

B. **Resolution No. 2-14 Election to Exclude Remuneration Paid to Election Officials and Election Workers from the Social Security and Medicare Tax to the Maximum Amount Allowable by Law.** The Finance Committee recommends full Council support. I believe the Resolution's language outlines the intent of this administrative action recommended by staff.

C. **Resolution No. 3-14 To Notify the City Tax Collector that the City Council Shall not Accept a Tax Deed on Certain Property Subject to an Unredeemed Tax Lien, said Property Formerly Know as Breton's Cleaners Located at 1 Winter Street.**

This is the former Breton's Cleaners contaminated site that is under a NH DES clean-up mandate. Please note the City would retain the option to accept this deed at any time.

New Business (under Section 14 of Agenda)

Ordinances:

A. **Ordinance No. 1-14 Amend Chapter 13, Police Offenses, Section 3.1.G Permit and Reserved Parking and Section 3.1.F.6 Time Limited Parking, All Day.**

B. **Ordinance No. 2-14 Amend Chapter 13, Police Offenses, Section 3.1.G Permit and Reserved Parking Section 3.1.F.3 One Hour Parking, Section 3.1.F.2 Two Hour Parking, and Section 3.1.D No Parking.**

C. **Ordinance No. 3-14 Amend Chapter 13, Police Offenses, Section 3.1.G Permit and Reserved Parking.**

D. **Ordinance No. 4-14 Amend Chapter 13, Police Offenses, Section 3.1.G, Permit and Reserved Parking.**

These Police Offense Ordinances involve proposed changes that are the result of discussions held at the City Council's annual goal setting session, discussions with certain Council Standing Committee/s, and discussions regarding the downtown bond infrastructure project. These proposed changes involve parking regulations along public ways and parking in the city owned parking lot behind the former Nard's building off Constitutional Way. I recommend the Council hold a public hearing on one or all of these proposals prior to the next regular Council meeting on Tuesday, September 3. This might delay the implementation of the one-way traffic pattern on Constitutional Way until early September, however it may be better to provide more notice to ensure those businesses affected have all been given ample time to make adjustments. I also want to point out that I have attached a letter from the Coolidge Law firm that raises an objection to any closure of the curb cut off Constitutional Way which serves the Washington Street Plaza.

(Added Note: CM Belmore would appreciate clear direction on this issue of one-way.)

Resolutions:

A. **Resolution No. 4-14 To Notify the City Tax Collector that the City Council shall not Accept a Tax Deed on Certain Properties Subject to an Unredeemed Tax Lien.** These are manufactured housing units. The Finance Committee recommends approval of this Resolution. On the recommendation of the Finance Committee, staff will be moving forward to accept tax deeds on four (4) similar manufactured housing

unit properties. I have attached copies of information provided to the Finance Committee on all the mobile homes subject to deeding.

B. **Resolution No. 5-14 Resolution No. 5-14 To Authorize the City Manager to Contract with N. Pandelena Construction Co., Inc. of Hampstead, NH for the Construction of the Downtown Improvement Project.** Attached are copies of information provided to the Public Works & Environment and Finance Committees at their August 7th meeting. Our Project Engineers, HTA, recommend awarding the project to the low bidder, N. Pandelena Construction. I have attached HTA Engineers' letter of recommendation to award the project to this company.

Please consider suspending City Council rules to take action this evening on Resolution No. 5-14 and Resolution No. 6-14.

C. **Resolution No. 6-14 To Authorize the City Manager to Contract with Hoyle, Tanner and Associates, Inc. of Portsmouth, NH for Construction Administration and Inspection Services Associated with the Downtown Improvement Project.** Originally, the contract amount was approximately $417,000, however, the recommendation is to include another 10% in contingency for additional on-site inspections should more inspections be necessary. Attached is a copy of a letter from HTA Engineers that spells out their inability to gain the cooperation of Fairpoint for this project. I have moved forward with City Attorney to attempt to develop Fairpoint's prompt cooperation.

The Public Works & Environment and Finance Committee both support passage of this Resolution.

D. **Resolution No. 7-14 Authorizing the City Manager to Contract with Liberty International of Manchester, NH for the Purchase of a Combination Plow Truck.** This purchase was discussed with Council Committees on August 7th. The purchase would be made through the state bid process. The Council approved $7,500 in this fiscal year's Capital Outlay budget for this lease purchase. Please consider waiving Council rules so that the purchase order can be issued.

(Added Note: Correction to the above paragraph: The Council approved $16,500, not $7,500, in this fiscal year's Capital Outlay budget.)

<u>Other:</u>

A. **Vote to Authorize the City Manager to Sign a Purchase and Sales Agreement with MCS Development Corporation, LLC for the Purchase of the Former Police Station, Land and Building Located at 5 Main Street, Tax Map 11, Lot 210, for $60,000 and to Take any Further Action Required in the Best Interest of the City to Effectuate the Final Purchase.** I have attached a copy of a "Draft" Purchase & Sales agreement. As you know, the City Council did pass a supplemental appropriation earmarked for this purchase.

B. **Vote to Authorize the City Manager to Enter into a Month-to-Month Rental Agreement with Stephanie Shaines and Daniel Wallace of 67 Portland Avenue, Dover, NH, for City Owned Property Located at 425 Main Street Under Terms that are Deemed to Be in the Best Interest of the City.** City Attorney, Finance Director Smith and I have worked together to structure this proposed rental agreement. These individuals are interested in purchasing the property and the rental agreement would allow them to continue to board their horses on this property. Attached is a "Draft" copy of the proposed rental agreement.

(Added Note: Only the horses would be boarded here under this proposed agreement; there would be no residents here.)

C. **Vote to Authorize the City Manager to Dispose of Certain Surplus City Owned Vehicles, Rolling Equipment and Related Surplus Parts.** The City's Administrative Code (Chapter 29) authorizes the City Manager to dispose of property valued up to $1,000. I have attached a copy of the inventories of surplus equipment, parts and vehicles that staff has deemed surplus. All departments including the School department have reviewed the lists.

(Added Note: The city's Administrative Code, Chapter 29, authorizes the City Manager to dispose of property up to $1,000. Some other equipment, they will hopefully get more than $1,000, so he will need a vote for staff to move forward, bid-wise. He has talked to other departments and no-one has any use for that stock.)

City Manager's Items (under section 10 of Agenda)

A. **Informational Items:**

1. **Landfill Site Work.** Attached is a copy of the Geosyntec pre-construction meeting minutes that was held on August 5th. As you may recall, the City is under an EPA directive to replenish soil cover to the former sanitary landfill site that was the former St. Laurent Park recreational area. The contractor plans to start work on Monday, August 19th and will take 3-5 days to complete, weather dependent.

2. **RFP-Architect/Engineering Services.** The City is soliciting proposals for Architect/Engineering Services to complete improvements to the former Hilltop Elementary School building. Proposals are due by August 15th. Staff placed an ad in the Union Leader and mailed requests to over twenty (20) companies and clearing agencies.

3. **Local Government Center – Return of Surplus.** Attached is a memorandum from Finance Director Smith that provides the expected LGC surplus return numbers for prior calendar years 2010-2011. Although we have received one check, the remaining balance is scheduled to be received

later this month. There is pending litigation involving LGC that may interfere with this refund schedule. As you can see, the City may eventually receive $235,821. A portion of the funds would be returned to employees and the balance to the City's General Fund.

B. Attachments:

1. City Attorney Certifications (6)
2. Department Head Reports.

NOMINATIONS, APPOINTMENTS AND ELECTIONS.

- Board of Cemetery Trustees – Mary E. Shaw, term to expire 02/2016.
- Ethics Commission – Roger Berube, term to expire 04/2016.
- Conservation Commission – George E. Wentworth, Jr., term to expire 04/2016.

Mayor Spencer indicated that these nominations will all lay on the table until the next meeting.

LAY ON THE TABLE

There is nothing laying on the table.

UNFINISHED BUSINESS.

RESOLUTIONS

RESOLUTION NO. 1-14 AUTHORIZING THE CITY MANAGER TO SELL CITY TAX DEEDED PROPERTY AT 425 MAIN STREET AND 213 WEST HIGH STREET.

After being read for a second time, by title only, Councilor Jarvis said that she believes that it is in the best interest of the City to sell these properties.

City Manager Belmore pointed out that it is his intent, unless Council were to direct otherwise, to try the sealed bid process. There are primarily three ways that they dispose of tax deed property, either by realtor, sealed bid or auction. Whatever bids they get can come through Finance Committee and just sell the property.

Councilor Sprague thinks that is a good idea to go the sealed bid unless they come back with something that they don't think is appropriate and then they could put it out to a realtor. His question is on how they will be conveying 425 Main Street. He would like to know the history. Is it reverting back to single family if it is not used as a multi family in one year, reverting back to single does not make sense to him. If that is the case the new applicant should have had to go in front of Zoning to get a special exemption.

Councilor Sprague asked that the rules be waived to get some answers.

After a second by Councilor Pepin, the motion passed. Director of Planning and Development Services, David Sharples spoke saying that the zoning is single family, it is now "R1", but previously it was "REC", which had no density regulations at all; it is not zoned multi-family now. He looked at the history; in 1989 the City issued a letter stating that the existing single family home could be converted to a duplex under the REC zoning. Subsequently there were permits in the 1990's which he assumes were to bring it up to code. It has been taxed as a duplex for about 20 years. In 2005, the City found out about an illegal third unit in the barn. That third unit does have to be removed, but the use as a duplex he sees as a grandfathered use, unless it is abandoned for 12 months or more, its preexisting non-conforming use can continue. They have a vested right in the use as a duplex. The date the use is abandoned is questionable, but you can reuse it for that use, up to 12 months.

Councilor Sprague said, "That is wrong, we shouldn't be doing it." He asked if we should correct something now. To use it as a duplex, having them come in front of Zoning to get the special exception.

Councilor Witham asked if it is not true that in Somersworth, zoning runs with property and not the owner.

Director Sharples explained that a variance does, but that this property never received a variance as far as he can tell.

Councilor Witham asked that if the desire was to eliminate the duplex status and sell the property, could we put that as a deed restriction?

Director Sharples said that he thought about that; he wouldn't see why not but thinks that would be an attorney question. It would affect the value, but if a willing buyer wants to buy it and that stipulation is in the deed; he would guess that would be okay; he would seek an attorney's opinion.

Councilor Sprague said it is non-conforming so it should have to get another hearing every time it transfers ownership. He said that is how a lot of the communities operate.

Councilor McCallion said it sounds like we have a little more work on 425 (Main St.)

There was some discussion about separating the two properties in this resolution.

Councilor Jarvis, seconded by Councilor (Soldati/Hebert?), made a motion to amend Resolution 1-14 to remove 425 Main St.

Councilor Witham asked if we do that, would 425 now require a new resolution?

City Manager Belmore said that if they just want to put a stipulation on how to sell it, he doesn't see why you can't just do it; as far as selling it as a just a single family residence and being clear

on whether you can have horses, he said, ”I guess it is not zoned for horses.” If it single family, he guesses there would be no horses allowed.

Councilor Sprague wonders how we want to convey this property. Convey it as a single family residence, and if the buyers want to use it as a duplex, let them go to Zoning. That does not stop the City Manager from selling.

Councilor Pepin would like this to go on the market as soon as possible. He is in favor of advertising it as a single family and get it off the books.

Councilor Witham agrees. He has no interest in a month to month agreement for horses. Why should we allow that?

Councilor McCallion thinks this could go around and around. He would go the single family route.

Councilors Jarvis and (Soldati/Hebert?) withdrew their proposed amendment to this resolution.

Councilor Pepin asked if this is a single family, then the horses can’t be there?

Councilor Sprague thinks it is two separate issues. Is it legal now, he asked.

Councilor McCallion believes itis two separate issues, but we have time to figure it out.

Councilor Pepin doesn’t see any reason to send the horses out; he doesn’t see anything wrong with them.

Councilor Tapscott asked, “If the City now owns this property, why would the City want to keep horses?”

Mayor Spencer asked if there was any more discussion and seeing none, asked all in favor to say “Aye.” All those opposed, “No.” Councilor Witham was opposed. Mayor Spencer said that “In the opinion of the chair, the ayes have it. The motion is adopted.”

Councilor Witham asked, as a point of order, whether that should have been a roll call vote. The Mayor said only ordinances.

<u>RESOLUTION NO. 2-14 ELECTION TO EXCLUDE REMUNERATION PAID TO ELECTION OFFICIALS AND ELECTION WORKERS FROM THE SOCIAL SECURITY AND MEDICARE TAX TO THE MAXIMUM AMOUNT ALLOWABLE BY LAW</u>.

After a second reading, Resolution No. 2-14 passed by a roll call vote of 9-0.

<u>RESOLUTION NO. 3-14 TO NOTIFY THE CITY TAX COLLECTOR THAT THE CITY COUNCIL SHALL NOT ACCEPT A TAX DEED ON CERTAIN PROPERTY SUBJECT TO</u>

AN UNREDEEMED TAX LIEN, SAID PROPERTY FORMERLY KNOWS AS BRETON'S CLEANERS LOCATED AT 1 WINTER STREET.

After a second reading, Councilor Jarvis clarified that by not accepting this tonight does not mean that they can't do it in the future.

Councilor Witham said he is asked by residents why the City does not pursue grants to clean it up. The City does pursue Brownfield grants, and if they felt they were in line to get them, then they could execute the deed on this property, but that hasn't been the case. Brownfield grants are tougher and tougher to get. It is on their radar, it is just difficult to get.

Resolution No. 3-14 passed 9-0.

NEW BUSINESS.

ORDINANCES

ORDINANCE NO. 1-14 AMEND CHAPTER 13, POLICE OFFENSES, SECTION 3.1.G PERMIT AND RESERVED PARKING AND SECTION 3.1.F.6 TIME LIMITED PARKING, ALL DAY.

Somersworth, NH
August 12, 2013

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

- Amend Chapter 13, Section 3.1.G, Permit and Reserved Parking, by deleting Highland Street on the north side between High Street and Lord's Court.

- Amend Chapter 13, Section 3.1.F.6, Time Limited Parking, All Day Parking, by adding Highland Street on the north side between High Street and Grand Street.

This Ordinance shall take effect upon its passage.

Introduced by Councilor

Dale Sprague

Approved:
City Attorney

(This Ordinance simply eliminates the two reserved spaces that were given to Mr. Dumont for his personal parking, as the store has since closed.)

Mayor Spencer said that Ordinance No. 1-14 will lay on the table until the next meeting.

ORDINANCE NO. 2-14 AMEND CHAPTER 13, POLICE OFFENSES, SECTION 3.1.G PERMIT AND RESERVED PARKING, SECTION 3.1.F.3 ONE HOUR PARKING, SECTION 3.1.F.2 TWO HOUR PARKING, AND SECTION 3.1.D NO PARKING ANYTIME.

Somersworth, NH
August 12, 2013

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 13, Police Offenses, as follows:

- Amend Section 3.1.G Permit and Reserved Parking, by deleting Constitutional Way on the south side between High Street and the Entrance to Grand Union Plaza.
- Amend Section 10.F.3 Time Limited Parking, One Hour, by deleting Constitutional Way on the Northerly side (Salmon Falls River side) between Washington Street and High Street.

- Amend Section 3.1.F.2 Two Hour, by adding Constitutional Way on the west side between High Street and Washington Street.
- Amend Section 3.1.D No Parking Anytime, by adding Constitutional Way on the east side (Salmon Falls River side) between Washington Street and High Street.

This Ordinance shall take effect upon its passage.

Introduced by Councilor

Dale Sprague

Approved:
City Attorney

(This ordinance eliminates parking on the "Salmon Falls River side" of Constitutional Way, eliminates permit parking on the south side which will be "angle parking," and makes any public parking on Constitutional Way two hour parking.)

Mayor Spencer said that Ordinance No. 2-14 will lay on the table until the next meeting.

ORDINANCE NO. 3-14 AMEND CHAPTER 13, POLICE OFFENSES, SECTION 3.1.G PERMIT AND RESERVED PARKING.

Somersworth, NH
August 12, 2013

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 13, Police Offenses, as follows:

- Amend Section 3.1.G, Permit and Reserved Parking, by adding the following:

  When signs are erected giving notice thereof, it shall be unlawful for anyone having custody or control of a vehicle to park without a permit issued by The Chief of Police or his designee to the owners of businesses located in the downtown area of High Street for a parking area (rear City Parking lot of the former Nard's Appliance, 74 High Street,) known as Constitutional Way Parking Lot, 16 parking stalls for permit parking only at a rate of $20.00 per month.

This Ordinance shall take effect upon its passage.

Introduced by Councilor,

Dale Sprague

Approved by:
City Attorney

(This establishes the 16 spots owned by the City in back of the old "Nard's Appliance Store" as permit parking 24 hours including winter (same as the 15 spots by the Berwick Bridge) for the same fee of $20.00 per month.)

Mayor Spencer said that Ordinance No. 3-14 will lay on the table until the next meeting.

ORDINANCE NO. 4-14 AMEND CHAPTER 13, POLICE OFFENSES, SECTION 3.1.G, PERMIT AND RESERVED PARKING.

Somersworth, NH
August 12, 2013

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 13, Police Offenses, Section 3.1.G, Permit and Reserved Parking, paragraph 7, number 1, by adding the following sentence at the end:

A permit fee of $20.00 per month will be charged.

Amend Chapter 13, Police Offenses, Section 3.1.G, Permit and Reserved Parking, paragraph 7, by deleting number 2 and replacing with the following:

2. The seven spaces along Main Street between John Parson's Drive and entrance to the Main Street Plaza. Vehicles must display a permit marked Plaza Terrace (P.T.) A permit fee of $20.00 per month will be charged.

Further amend Section 3.1.G, Permit and Reserved Parking, paragraph 7, number 3, by adding the following:

3. A permit fee of $10.00 per month will be charged. (Presently $5.00 per year.)

Further amend Section 3.1.G, Permit and Reserved Parking, by adding the following at the end of the section:

Note: In the event of a snow emergency those vehicles permitted for Plaza Terrace tenants will not be required to move their vehicles to allow snow removal. Those other permitted vehicles for that parking lot will be required to move vehicles as needed for snow removal.

This Ordinance shall take effect upon its passage.

Introduced by Councilor

Dale Sprague

Approved:

City Attorney

(This Ordinance establishes a fee structure of $20.00 per month for Plaza Terrace parking which is now 24-hour parking and exempt from winter snow bans, and $10.00 per month for daytime parking for businesses.)

Mayor Spencer said that Ordinance No. 4-14 will lay on the table until the next meeting.

RESOLUTIONS

Councilor Witham made a motion to read Resolution No. 4-14 by title only. The motion was seconded by Councilor Tapscott and passed.

RESOLUTION NO. 4 – 14 TO NOTIFY THE CITY TAX COLLECTOR THAT THE CITY COUNCIL SHALL NOT ACCEPT A TAX DEED ON CERTAIN PROPERTIES SUBJECT TO AN UNREDEEMED TAX LIEN.

Somersworth, NH
August 12, 2013

WHEREAS, RSA 80:76 directs the Tax Collector, after 2 years, to execute to the City a deed of the land subject to the real estate tax lien and not redeemed; and

WHEREAS, the Governing Body of a municipality may refuse to accept a tax deed on behalf of the municipality because in its judgment, acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks, or for any reason that would be contrary to the public interest,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Tax Collector be notified that for those reasons the City shall refuse to accept the tax deeds on property located at the following locations:

Location	Tax Map/Lot
37 Colonial Village	81-37M
141 Colonial Village	81-141M
148 Colonial Village	81-148M
32 Jack & Jill	83-32M
2 Mason Lane	85-8M
3 Brook Drive	85-13M
15 Brook Drive	85-5M
102 Sherwood Glen	87-102M
109 Sherwood Glen	87-109M
117 Sherwood Glen	87-117M
204 Sherwood Glen	87-204M
206 Sherwood Glen	87-206M
306 Sherwood Glen	87-306M
307 Sherwood Glen	87-307M
308 Sherwood Glen	87-308M
419 Sherwood Glen	87-419M
420 Sherwood Glen	87-420M
505 Sherwood Glen	87-505M
643 Sherwood Glen	87-643M
644 Sherwood Glen	87-644M
5 Ringer Drive	88-10M

Introduced by Councilors

Robin S. Jarvis
Dale R. Sprague
Jennifer Soldati

Approved by:
City Attorney

After being read by title only, Mayor Spencer indicated that Resolution No. 4-14 will lay on the table until the next meeting.

RESOLUTION NO. 5–14 TO AUTHORIZE THE CITY MANAGER TO CONTRACT WITH N. PANDELENA CONSTRUCTION CO., INC. OF HAMPSTEAD, NH FOR THE CONSTRUCTION OF THE DOWNTOWN IMPROVEMENT PROJECT.

Somersworth, NH
August 12, 2013

WHEREAS, the Somersworth City Council adopted Resolution 8-13 to appropriate and bond for improvements and upgrades to the City's drainage, water, and sewer systems, and reconstruction of the roads and sidewalks on a portion of High Street and Market Street; and

WHEREAS, the City has solicited bids through their consultant engineer for the construction of these improvements; and

WHEREAS, the City's consultant engineer has reviewed the results and recommends awarding the contract to N. Pandelena Construction Co., Inc. of Hampstead, NH for an amount not to exceed $3,185,580 (Three Million One Hundred eight Five Thousand Five Hundred Eighty dollars); and

WHEREAS, the City's consultant engineer has reviewed their recommendation with the Public Works and Environment committee and they voted to support this recommendation; and

WHEREAS, the City's consultant engineer has reviewed their recommendation with the Finance committee and they voted to support this recommendation,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to contract with N. Pandelena Construction Co., Inc. of Hampstead, NH for the construction of the downtown improvement project to an amount not to exceed $3,185,580 (Three Million One Hundred eight Five Thousand Five Hundred Eighty dollars).

Introduced by Councilors

Dale Sprague
Robin Jarvis
Brian Tapscott
Marcel Hebert

Approved
City Attorney

Councilor Sprague, seconded by Councilor Hebert, made a motion to waive the rules for the second reading to be done tonight. The motion passed.

After the second reading, by title only, Councilor Sprague said that he is comfortable with this company. He recommends that they move forward with this tonight.

Councilor Witham thinks he has heard of N. Pandelena but said it is certainly not a prominent player among the other bidders but he believes that the biggest part is perhaps not the contractor but the oversight provided by the engineering firm, in this case Hoyle, Tanner and Associates.

Councilor Witham made a motion to suspend the rules, seconded by Councilor McCallion, to allow representatives of Hoyle Tanner to speak. The motion passed.

Bill Davidson outlined construction oversight. They have tasks: at the beginning there are shop drawings to make sure that they are using the proper materials for anything that is going in the ground. They deal with requisitions. They have on-site meetings with the contractors and City staff and the resident engineer. They have construction (administration), if there are conflicts, so that they can figure out solutions. They take care of change orders if there are problems or substitutions to be made. At the end of the project they create a punch list to make sure everything is done and to specifications and they do record drawings so that the City has a product that actually shows what is out in the field.

Councilor Witham asked if a Clerk of the Works is not a position that is common with road projects. He asked if they were serving as a sort of a Clerk of the Works.

Bill Davidson said they would use a resident, full-time engineer, which he feels would make them more confident.

Bill Davidson introduced the Hoyle Tanner project team.

The City Manager clarified that the resident engineer will be typically 40 hours per week, but Bill Davidson said it also depends on the contractor's schedule.

City Manager Belmore said that they require not only insurance, but a performance bond as well.

Bill Davidson explained that a performance bond is put out for the amount of the contract if something doesn't hold up or if the contractor does not complete the work. It protects the City from that.

Councilor Jarvis stressed the importance of oversight.

Councilor Pepin asked if their work will continue into the winter months.

Mr. Davidson said that there is a winter shut-down; he believes it is from just before Thanksgiving to the second week of January.

When questioned about snow removal, Mr. Davidson answered that the City is responsible for normal snow removal. If the contractor is working in an area, he is responsible for the snow removal in that area.

Councilor Witham asked about traffic control. He said this is going to be disruptive for the downtown. He asked if their agency has any oversight of traffic management plan.

Mr. Davidson said it is submitted to them for review. He said that plan will change throughout, (as needed).

Councilor Witham talked about communication being key during this process, between the City and businesses and motorists. No matter how hard you try, it is a major construction project in

your urban core and it is not pretty and there is not way to make it pretty, whether it is N. Pandelena or any other firm. There will be dust, noise, traffic, parking issues; all that despite all of the efforts to manage it well.

Nelson Thibeault, of Hoyle Tanner, said that the contractor will rent a spot downtown in the area and the engineer will be there. He asked if anyone knows of any spots; the contractor is looking.

Councilor Soldati wants to be honest: she voted against this, specifically because the award was given to N. Pandelena. She said that her confidence was not high after listening to all the discussion in committee. However, because they do have a performance bond, she feels somewhat easier about that. She is hoping there are no mistakes made that they have to go to that. She didn't like spending another 10% more for an engineer to oversee. She is concerned that they are rushing through this because they want to get started. She hopes it all comes out well. She thinks the plan is wonderful.

Resolution No. 5-14 passed, 9-0.

RESOLUTION NO. 6–14 TO AUTHORIZE THE CITY MANAGER TO CONTRACT WITH HOYLE, TANNER AND ASSOCIATES INC. OF PORTSMOUTH, NH FOR CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES ASSOCIATED WITH THE DOWNTOWN IMPROVEMENT PROJECT.

Somersworth, NH
August 12, 2013

WHEREAS, the Somersworth City Council adopted Resolution 8-13 to appropriate and bond for improvements and upgrades to the City's drainage, water, and sewer systems, and reconstruction of the roads and sidewalks on a portion of High Street and Market Street; and

WHEREAS, the City has contracted with Hoyle, Tanner and Associates to engineer and design these improvements; and

WHEREAS, the City will require contract administration and inspection services of a professional engineer during the construction of the downtown improvements; and

WHEREAS, Hoyle, Tanner and Associates will provide these services under a contract not to exceed $460,000 (Four Hundred Sixty Thousand dollars),

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to contract with Hoyle, Tanner and Associates, Inc. of Portsmouth, NH to provide construction administration and inspection services associated with the downtown improvement project to an amount not to exceed $460,000 (Four Hundred Sixty Thousand dollars).

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Introduced by Councilors

Dale Sprague
Robin Jarvis
Jennifer Soldati
Marcel Hebert

Approved
City Attorney

Councilor Sprague, seconded by Councilor (Soldati/Tapscott?), made a motion to suspend the rules for a second reading. The motion passed and the resolution was read a second time, by title only.

Councilor Sprague said that this makes sense to him.

Resolution No. 6-14 passed unanimously on a voice vote.

RESOLUTION NO. 7 – 14 AUTHORIZING THE CITY MANAGER TO CONTRACT WITH LIBERTY INTERNATIONAL OF MANCHESTER, NH FOR THE PURCHASE OF A COMBINATION PLOW TRUCK.

Somersworth, NH
August 12, 2013

WHEREAS, the fiscal year 2013-2014 adopted budget contains an appropriation for a down payment toward the purchase of a combination plow truck through a lease/purchase agreement; and

WHEREAS, city staff recommended the purchase of the combination plow truck be made utilizing the State of New Hampshire bid list; and

WHEREAS, the Public Works and Environment Committee for the City of Somersworth has reviewed the recommendation to utilize the State of New Hampshire bid list and supports the recommendations; and

WHEREAS, the Finance Committee for the City of Somersworth has reviewed the recommendation to utilize the State of New Hampshire bid list and supports the recommendations,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to contract with Liberty International of Manchester, NH for the purchase of a combination plow truck for an amount not to exceed $160,800 (One Hundred Sixty Thousand Eight Hundred dollars), and

BE IT FURTHER RESOLVED THAT the City Manager is authorized to execute a five-year lease/purchase agreement for the acquisition of the combination plow truck in order to meet the needs and best interests of the City.

Introduced by Request

Mayor Matthew Spencer

Approved

City Attorney

Councilor Tapscott, seconded by Councilor Hebert, made a motion to suspend the rules and have a second reading. The motion passed.

After a second reading by title only, Resolution No 7-14 passed unanimously on a voice vote.

Mayor Spencer said that we need to hold public hearings for Ordinances 1-14 through 4-14 before the next meeting, Tuesday, September 3, 2013 at 6:30 pm.

OTHER

VOTE TO AUTHORIZE THE CITY MANAGER TO SIGN A PURCHASE AND SALES AGREEMENT WITH MCS DEVELOPMENT CORPORATION LLC FOR THE PURCHASE OF THE FORMER POLICE STATION, LAND AND BUILDING LOCATED AT 5 MAIN STREET, TAX MAP 11, LOT 210, FOR $60,000 AND TO TAKE ANY FURTHER ACTION REQUIRED IN THE BEST INTEREST OF THE CITY TO EFFECTUATE THE FINAL PURCHASE.

The Council voted 7-2 to authorize the above. (Councilors Tapscott and Witham opposed.)

VOTE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A MONTH-TO-MONTH RENTAL AGREEMENT WITH STEPHANIE SHAINES AND DANIEL WALLACE OF 67 PORTLAND AVENUE, DOVER, NH, FOR CITY-OWNED PROPERTY LOCATED AT 425 MAIN STREET UNDER TERMS THAT ARE DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

Councilor Hebert said that if this is a single family property with horses on it for years, he does not know what to do with this. He feels they need to discuss this.

Councilor Sprague thinks that since they had no record of them going through the proper channels that they had a special exemption; they have the time right now to send this thing back to single family. A separate issue now is the horse farm. He believes they are exposing themselves if they enter into an agreement, he knows that the City Attorney has signed off on it. Like Sunningdale, they were not allowing people to stay on up there. He said that lawyers go after deep pockets. He feels bad. He thinks they will need to find another place for their horses for the time being. As far as it being a horse property in the future, he has no problem with that.

Councilor Pepin said that this Council always talks about green space. Maybe he is old fashioned, he was raised on a dairy farm; there is no more farming in this community. The only

thing left is horses and chickens. Animals are important, too. This property has had horses on it as long as he can remember; he doesn't see anything wrong with it, unless it were a nuisance to the neighbors and people were complaining about it. He stressed the green space.

City Manager Belmore just outlined the agreement:

- $350.00 due per month.
- Month to month which can be terminated by either party for any reason.
- January through August arrears- $2800.00.
- They will provide a certificate of insurance naming the City as an additional insured for at least $1M.
- They are posting a $3,000.00 cash bond if they don't comply with removing the horses within 60 days if there is a sale.

They covered their bases as best they could to move forward with the property and protecting the interests of the City.

Councilor Witham does not support the rental agreement; it has little to do with the liability. There are some areas in the City where there are horses.

He doesn't like the City Council doing the job of the Zoning Board of Adjustment. He thinks it belongs in their hands with proper channels. Once the sale goes through as a single family, single family does not allow horses. There is a better way to go about it than this rental agreement. He is concerned about the City getting into the business of owning and renting buildings. He does not think that is the place we belong.

Councilor Soldati supports Councilor Pepin's view. She does not have a problem with the liability issue because of the $1M insurance. She thinks that sometimes they get a little uptight. To her it is way for the City to bring in a little money. She does not have a problem saying yes to this rental agreement, so she is going to vote yes.

Councilor Jarvis is mixed. Some of what has been said is confusing. She questioned whether the horses are actually on that property or is extended to some back fields or property? If they shouldn't be there to begin with, then why are they going to continue to allow it? She is on the fence.

Councilor McCallion wonders why he keeps hearing the song "Wildfire" in his head. Nobody disputes that the horses have been there for quite a while, maybe they do have to go through the proper channels. He doesn't know the whole story. …He thinks the rental agreement was crafted pretty well; we are going to gain some money up front, they are protected. Really, nothing is changing. By the time everything is prepared, they still have 60 days. He thinks they have a little time. He will be in support of this. He thinks they owe them a little time. He is going to vote for Wildfire.

Councilor Witham asked if this is rent to keep the horses or are they allowed to stay on the property as well.

City Manager Belmore said there are some barns. This is just to keep the horses, nobody will be living there. He picked up from Director Sharples that it used to be zoned Recreational and they were allowed to have horses there; they have been there quite a while. They come onto the property to (take care of the horses.)

Councilor Sprague said that for the sake of Mr. Ed, he will support the rental agreement. He asked if they were using the barn.

City Manager Belmore understands that they are, to house the horses.

The Council vote on the above passed 9-0.

VOTE TO AUTHORIZE THE CITY MANAGER TO DISPOSE OF CERTAIN SURPLUS CITY-OWNED VEHICLES, ROLLING EQUIPMENT AND RELATED SURPLUS PARTS.

The vote on the above passed 9-0.

FAIRPOINT DISCUSSION

Councilor Sprague said that at their last Public Works meeting, they found out from Hoyle and Tanner that over 25% of the project is in conflict with Fairpoint's duct banks for pipes in the ground out there. About three months ago they sat down with a representative from Fairpoint but it was not really clear. …His understanding is that Fairpoint has no urgency or even willingness to even move anything. There will be conflicts; they are going to have some engineering oversight. Changes are going to need to be done. He doesn't feel that this should be on our dime; it should be on Fairpoint's. We need to give the City Manager some backing and teeth to write a letter to Fairpoint saying this is the way it goes or we get PUC involved. This should have been taken care of three months ago. If Fairpoint is not dealing with our engineering firm, let us know, we will send a letter to Concord, PUC, whatever we need to do, just like we dealt with the gas company, they have some older mains that are taken care of; they are not going to go in the road. In his mind, if there is a problem, who cares. They are going to have to find another alternative, they are not going in our new road or our sidewalks, they need to understand this and get on board now. There are RSA's in Concord that the PUC follows that protect us from this. This is a serious item; we are starting that digging in the next couple of weeks.

Councilor Witham, seconded by Councilor McCallion, motioned to suspend the rules for each occasion for appropriate people to speak to this issue. The motion passed.

City Manager Belmore updated the Council that he had attached a letter from the Hoyle Tanner engineers that spelled out their inability to obtain cooperation from Fairpoint for this project. Because Fairpoint sometimes fails to respond to municipalities requests, he has already contacted the City Attorney to have them contact the PUC to get this rolling under PUC regulations.

Nelson Thibeault of Hoyle Tanner and Associates thinks that the letter and what the City Manager just said pretty much wraps it up. You own the land; they are there by your grace. Part of the problem was that they didn't even know where some of their utilities were. A lot of their ductwork is in the ditch line which is the only place you can put your storm drains, so you don't have much choice as to where you can move to. A lot of their duct banks are old and dilapidated. They run into it all the time, (Fairpoint) knows what they are doing; they are just trying to delay. The only other alternative is to go in and start ripping thing up and they will have to go in and replace. The down side of that is affecting the businesses and residents and we don't want to go that route. Things get damaged during construction but…they certainly don't want to go in there with the intent of tearing up 25% of Fairpoint's communication services and tell them to come down and fix it. That would put people out of service. It has now gone beyond the technical; they have done everything they can do and it is time for the legal people to take over.

Councilor Witham said that it strikes him that Fairpoint is difficult to deal with and they are slow in most everything they do. He notices around the City that if a utility pole gets struck or needs replacing, Public Service is out there lickity-split, they place the top half, they restring their wires and then cable comes along and then the broken pole sits there months or years on end until Fairpoint decides it is time for them to put their wires to the new pole as well. They are problematic everywhere around the City. The downtown project is a magnified view of how poor an organization they are in terms of their ability to respond to community needs. He doesn't know if it helpful and he looks for guidance from the City Manager and his staff; he is certainly willing on behalf of the elected body representing the citizens of this City to send a letter to Fairpoint stating their displeasure with their lack of responsiveness, with a copy to the PUC as well. That along with the action being taken by our City Attorney, kind of attacking on all fronts maybe it lights a fire under them and maybe something gets done. He supports these multiple measures if City Administration thinks that would be helpful.

Councilor Sprague said that the age of what is out there concerns him the most. Unitil has replaced their lines because they don't want to come back; they are upgrading metal to plastic. What do you think of what (Fairpoint) has out there?

Nelson Thibeault answered, in part, that the age of some of the utilities out there is from 1927.

Councilor Sprague asked if they have the ability to go into their road and repair their lines before the moratorium has ended. Does the City have recourse?

Nelson Thibeault said that they can back charge them.

Councilor Sprague said he understands about the present work, but if something deteriorates later are they going to have the right to go into the road and repair their stuff?

Mr. Thibeault said that different communities have different (conditions). Other than for a major emergency, some communities don't allow any upgrades for 5 years. (The City Manager said that Somersworth is 5 years.) Mr. Thibeault said that Fairpoint told their people that it would be a couple of years.

Councilor Sprague said that if they do come back in 5 years they have to put everything back exactly as they find it.

Nelson Thibeault reminded the Council that they are there by the City's grace and it might be a time to look at ordinances and make them stronger.

Councilor McCallion asked if they ever have outside contractors come in and upgrade.

Mr. Thibeault said, "No, they own the lines and you can't touch them unless there is a major emergency. That is a legal question." He would have to look at the agreements, he assumes there would be easements, but back to the 20's, maybe not.

Councilor Witham made a motion that Mayor and Council send a letter to Fairpoint stating their strong displeasure with their lack of responsiveness and urging them to work promptly with Hoyle Tanner to resolve conflict, with a copy of that letter to be sent to the Public Utilities Commission and the Governor's office. Councilor Hebert seconded the motion which passed unanimously on a voice vote.

Councilor Witham asked that they be kept apprised by letter.

COMMENTS BY VISITORS.

There were no additional comments by visitors.

CLOSING COMMENTS BY COUNCIL MEMBERS.

Councilor Pepin gets upset when he hears people from the public, especially local businesses, say that they haven't had an (opportunity to express themselves.) We don't get the publicity we should get; he doesn't see it in any of the newspapers, Foster's isn't handling it, what they have planned for the downtown area and how they are making changes so that the public is aware of it. He knows that the new Economic Development Manager, Christine Soutter is out straight, but maybe she can talk to businesses and get some feedback as to how it affects them and to come back to Council.

Councilor Pepin said also that construction is way overdue on his street and it is not due to the contractor, STS Contractors... There were bad weather conditions and architectural delays. STS has been outstanding and he wants Council to know; their work is excellent.

Councilor Witham reported that Unitil continues its work downtown. Their work has expanded beyond the project area; He draws Council attention to Highland Street which was in very good maintenance. After (Unitil) performed a number of trenches on Highland Street, in seemingly random spots, he thinks they are leveraging their freedom a bit and he is concerned. He would like an opinion from City staff on how Highland Street will hold up after it is completed because he is concerned with the patch work that will be in place. He frankly wants them to pave the whole thing now that it looks like a checkerboard.

He said that Councilor Pepin raises a very good point about Constitutional Way. He sent a letter to the American Legion to apologize for not considering the impact to them of closing the road for the Jakarta Fair. He is not sure it would have changed his vote, but it was not something that he considered. With regard to the long term project and making Constitutional Way one-way, it was part of a large effort to recreate parking that they were taking away from other parts of the downtown. He said that they have loosely talked about closing access to the Plaza; he did not know that that had moved forward to being more of a reality. He would like City staff to provide him with a sketch of what it would look like both with and without that access being blocked. He said they did receive a diagram but it was confusing.

Councilor Witham said that the only cemetery that the City is responsible for is the Forest Glad Cemetery on Maple Street; all the others are owned by various churches. Hopefully they can look into what their policies are for Forest Glade. He is not sure.

He said that they did not talk about it tonight but it is a property that they are holding on to, the Old Chabot's Dairy at 28 Green Street. He would like to thank Code Enforcement Officers through the City Manager's office for responding to some of his concerns. He thought someone might be living there; there was a gas grill and a chair that were seemingly moving around the property. He has been assured that no-one is living there, but someone has painted parts of the building white, purple and red. In his view, that is graffiti and is illegal. If someone were painting the Hilltop School they would be greatly upset. Apparently they have identified the individual. Hopefully there is at least a warning to the individual; He's like some restitution to repaint the building at least one color but maybe that is asking a lot. There don't seem to be any "No Trespassing" signs, so he wonders about security. He wants City staff to look at that; it would be helpful.

He thanked the Public Works staff for addressing the problems he asked that they look at. They have addressed the potholes, etc., rather quickly and he appreciates it.

Councilor Sprague thinks that Unitil is getting a little lax in their efforts in the City, for instance, dirt and sediment. He wants to keep up with them. As far as the compaction, they have a sizeable bond. He has full confidence that they will respond to any failing ditches.

Next Monday, August 19th, is when his committee has set as the kick-off date for Constitutional Way becoming one-way. He hopes City staff is ready for that. If it gets pushed off another week, he would rather have all their ducks in a row which a local newspaper advertising it because construction will begin soon.

Regarding the Jakarta Fair- If any City staff stands at the mike and addresses Council, then say what you are going to do and do what you say. He was concerned that there were no barriers at the end of the road. He was told they would put a cop car at the end of that road. If we say we're going to do something, let's follow through with it.

FUTURE AGENDA ITEMS.

There were no future agenda items mentioned.

NONPUBLIC SESSION.

There was a motion by Councilor Tapscott, seconded by Councilor (?) to go into non-public session. The motion passed and the Council went into non-public session.

The following minutes were submitted by Mayor Spencer:

9:40 p.m. Went into non-public/ 5 minute recess.
9:45 p.m. Discussed City Manager Bob Belmore's yearly evaluation.
10:02 p.m. Motion by Councilor Tapscott, seconded Councilor Pepin to suspend rules to go past 10:00 p.m. Passed unanimously.
10:24 p.m. Motion by Councilor Witham, seconded by Councilor Jarvis to come out of nonpublic meeting. Passed unanimously.
10:24 p.m. Motion by Councilor Witham, seconded by Councilor Jarvis to extend City Manager Bob Belmore's contract by 2 years to July 2016 with a 2% increase in annual salary and no changes to health coverage. Passed unanimously.

ADJOURNMENT.

10:25 p.m. Motion by Councilor Witham, seconded by Councilor Jarvis to adjourn. Passed unanimously.

Respectfully submitted,

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Elise B. Brelis, Deputy City Clerk