

MINUTES OF CITY COUNCIL MEETING

JANUARY 22, 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 1/07/13 City Council Meeting – Councilor Sprague wished to amend the minutes as follows:

- On page 13, at the end of the discussion regarding Monthly Utility Billing, add “Councilor Sprague said he would like to know what the Mayor’s opinion is on the matter since he is the one that brought up the topic for discussion. The Mayor said he likes the billing the way it is currently”.

Councilor Witham moved to approve the minutes as amended. The motion was seconded by Councilor Soldati and passed unanimously.

COMMUNICATIONS.

LETTER FROM MAXINE SMIRLES.

Councilor Witham indicated he received the communication in his packet, but the letter is not signed nor is there an address. He is not sure it should be entered into the record without an address and a signature.

Councilor Witham moved to table the communication until the Government Operations Committee can review it. The motion was seconded by Councilor Tapscott and approved unanimously.

MAYOR’S REPORT.

Mayor Spencer reported the following activities:

- January 9th – Attended NHDES Public Hearing on the City of Dover’s permit request to pump water from Willand Pond.
- January 15th – Attended COAST luncheon with Councilor Pepin and the City Manager.
- January 16th – Attended the Traffic Safety committee meeting.
Attended Chamber Afterhours event at Quest Geothermal on Route 108.
- January 18th – Attended the Local Government Center New Hampshire Municipal Advisory (NHMA) meeting in Concord.

REPORTS OF STANDING COMMITTEES.

GOVERNMENT OPERATIONS COMMITTEE.

Councilor Tapscott reported this Committee met on 1/11/13.

- They reviewed the City Charter, Article VI, Code of Conduct. The Committee members decided there was no need for change of this Article.
- They reviewed City Council Rules and Regulations. The Committee decided to review item 7, Order of Business. Motion by Councilor Soldati, seconded by Councilor Witham, to insert “Announcements by City Councilors” after the first “Comments by Visitors”.
- They had a brief discussion regarding Council Rules and Regulations, Item 20, E-mail Correspondence. No changes were proposed.

PUBLIC SAFETY COMMITTEE.

Councilor Witham announced this Committee will be meeting on 1/29/13 at 8:00 a.m. in the Executive Conference Room. Their meeting will consist of review of our current Emergency Medical Services (EMS) activity here in the City and the current status of our EMS contract, and where the City is positioned in terms of moving forward with our EMS contract.

Councilor Witham said the Committee will also discuss the status of the Fire Pumper acquisition. The Fire Pumper was authorized in the current fiscal year budget. We will get an update from the Fire Chief on that. The Fire Chief will also provide them with an update on any research he has done on “fee for service” for emergency services.

FINANCE COMMITTEE.

Councilor Jarvis reported this Committee met on 1/14/13.

- They reviewed the bond compliance policy. Finance Director Smith distributed a draft of the Post-Issuance Tax Compliance Policies and Procedures. Committee was informed that this is a draft and is recommended by Bond Counsel. Also, it is elective and not being mandated by the IRS at this time. It was the consensus of the Committee that they would like some time to review the documents and discuss this at their next meeting.
- They discussed Monthly Utility Billing. Finance Director Smith distributed a memo including the incremental increase in cost to provide monthly billing (\$14,000), collection statistics and abatement statistics. There was an increase in regards to on-time payments under the monthly billing. Basically it takes two people only one day to read the meters. With the new system they do not need to get out of their cars. There was a consensus by the Committee not to change the billing cycle back to quarterly at this time.

REPORTS OF SPECIAL COMMITTEES.

SCHOOL BOARD.

Councilor Pepin reported he attended a School Board Meeting on 1/08/13. In preparation of their public hearing meeting on their budget, which will be on 2/19/13 at 6:30 p.m. at the Career Technical Center Conference Room, they took a vote on their proposed budget for next year. There will be an increase of \$650,000 that they will be presenting to the public for their proposed budget.

Councilor Pepin said the Board was invited back to Barrington for a second interview on their RFP for educating Barrington students.

COAST BOARD OF DIRECTORS.

Councilor Pepin said he attended a COAST bus meeting on 1/15/13. It was a community leaders luncheon. COAST did a presentation on their 2014 funding formula, which shows how much they charge the cities after all grants are collected. For the year 2014, they are proposing \$74,838 (last year was \$57,981). That is an increase of over \$16,000. The majority of the reason for this increase is ADA impact. Some of the community leaders said they are having a hard time absorbing this. Some of the Mayors have decided to get together to see if there is possibly some other way of funding. This has put a burden on the company to the point where they probably will not be able to exist simply because of the increases on ADA. Some communities will not be able to afford to contribute.

SUSTAINABILITY COMMITTEE.

Councilor Soldati reported this Committee met on 1/17/13. They discussed the following items:

- Reviewed what we accomplished over the previous year. One of the things they noted for 2011 and 2012 was the rate of recycling that is going on in the City. 28% of our waste is getting recycled. The Committee thought we might be able to come up with a plan to encourage people to recycle more than they do. It would save them money personally, the more you recycle the fewer blue bags you are buying. It would also help the City in terms of the fees we pay Waste Management. The residents will like their ideas.

The next meeting will be on Thursday, 2/21/13 at City Hall at 6:00 p.m. Anyone who is interested is invited to attend.

They will be going forward with the “Grow A Row” Plan, which is encouraging gardeners in the City and also at the community gardens, to reserve a row that will be grown and the food distributed to our local food pantry. You’ll be hearing more about this as we get into spring.

Councilor Witham asked if the 28% of our waste that is recycled is based on tonnage.

Councilor Soldati said from what Public Works Director Willis told them, 28% is pretty average for communities. They feel that communities can do better and they think part of that is education. She said people might not be aware that what Waste Management will accept for recycling has been greatly expanded.

PLANNING BOARD.

Councilor Witham reported that last week the Planning Board approved a site plan for an expansion and a number of modifications to the Hyundai dealership on Route 108. They will be adding a service bay wing to the southerly side of the building, expansion of their parking surface to accommodate the vehicles that are for sale, and a number of improvements to their façade and internally also.

Councilor Witham said he feels this speaks to the fact that some businesses are doing very well and they are looking to make some investments into their properties.

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, January 18, 2013

**SUBJECT: City Manager's Report for Tuesday, January 22, 2013
City Council Agenda**

Unfinished Business (under Section 12 of the Agenda):

Ordinances:

- A. Ordinance No. 8-13 Amend Chapter 24 Housing Code.** A Public Hearing is being posted prior to the scheduled Council meeting on Monday February 4th at 6:45 p.m. As mentioned in my email, the hearing was moved so that we could meet

newspaper posting requirements. Director Sharples will give a brief presentation at the Public Hearing. Attached is an executive summary provided by Director Sharples that provides some of the significance of the proposed changes.

Resolutions:

- A. Resolution No. 22-13 Authorizing the City Manager to Sell Surplus City Property** (former Sunningdale Golf Course Property). Again, any Purchase & Sale Agreement would be brought back to the City Council for review and approval. The Process would follow the format presented to the Council by Attorney Mitchell. This would include an independent appraisal and a sales listing.

New Business (under Section 13 of the Agenda)

Other:

- A. Discussion on Release of the Legal Opinion on the Tax Cap issued through a City Manager Memo on 12/07/2012 – Councilor Witham.** Attached is a copy of the legal opinion provided by Attorney Mitchell.

City Manager's Items (under section 9 of the Agenda)

A. Informational Items:

1. **City Newsletter.** The deadline for submittals is Thursday, January 31. This edition is intended to cover City news and events from March-August, 2013.
2. **City Council Annual Goal Setting Session.** The Saturdays of February 9 and March 2 would provide a date that allows all Department heads to attend. Other possible dates include the Saturdays of February 16 and 23.
3. **FY 2013 General Fund.** Attached is a summary of current year end expenditures as well as revenues. Overall expenditures and revenues appear to be in line with the budget as adopted.
4. **Updates:** Attached are separate Memorandums that provide updates on the progress of the following.
 - Labor Union Negotiations
 - a) We have 4 collective bargaining units that we negotiate with on an ongoing basis. We are at various states with negotiations.
 - Council Approved Action Items
 - a) Janco water extension project has been completed and the property owners are now our customers. We extended a line into Rollinsford at the property owner's expense due to their contaminated wells.

b) Green Street Sewer Main Extension – the property owner wants to move forward but not at this time. That is in a holding pattern.

c) After going through a lengthy negotiation at Verizon's expense they did place a new telecommunications antenna on our water tower at Noble Pines until spring at which time they will revisit to see if they want to move forward.

d) The Great Baxter Mills gas line extension – the owners changed course and decided not to move forward with the natural gas extension.

- Public Works Infrastructure Projects

a) High Street Infrastructure Bond Project – we are meeting with Hoyle & Tanner this Friday. Their survey work is complete and we will go over where they are at with bid specifications, etc.

b) Wright, Pierce water distribution storage evaluation – I included a lengthy email from those engineers in regards to where they are at. We have an upcoming meeting to further discuss when they might finish their draft report.

c) Underwood Engineers – we have a very important pumping station on Blackwater Road which is very vital to our sewer lines. They have completed a draft evaluation report. With Council's approval, he suggests that Underwood Engineers come in prior to one of the February meetings to give an overview of their analysis of the pumping station and how we might move forward with improvements over the next couple of years.

d) The Rocky Hill Road culvert will be placed out to bid. We received NH DES wetlands approval and are ready to move forward with bid specifications.

e) High Street delamination repairs – Our in-house contracted engineer is working on the specifications

f) TE Grant and bridge rehabilitation project – We just received approval from the State in regards to the VHP contract for the Transportation Enhancement Grant.

5. Grants: I am pleased to report that the City has received notification of two pending Grants Awards - Emergency Management Performance Grants (see attached notices). These Awards are contingent on one more step in the State approval process which should merely be a formality.

- \$3,000 for consultant assistance in updating our emergency operations plan (EOP) and for the purchase of an EMD (Emergency Management Director) laptop. I would plan to move forward with this unless you direct otherwise, as well as the laptop.
- \$36,550 for Mobile Equipment to outfit the Fire Chief's newly purchased Command Vehicle with lights, radio and other associated emergency equipment. At some point, I will ask the

Public Safety Committee when they meet to sponsor a resolution so that I can sign a contract to move forward with the acceptance of this grant.

I placed on all your desks correspondence that was received too late to include in Council packets. It is from our special counsel that has been involved with Comcast franchise agreement negotiations. There is a memorandum that gives a synopsis and outlines what was different between the Comcast proposal and our proposal. We are ready to move forward. As noted in Attorney Miller's memo, once the City Council has had a chance to review this memorandum and the final draft agreement he will be ready to answer any and all questions. If Council approves the draft, we need to schedule a public hearing, giving 14 days clear notice. If anyone is inclined to discuss this, we can have a non-public meeting tonight, otherwise we can schedule a non-public meeting prior to the next Council meeting and discuss it.

Attachments:

1. Certifications (2)
2. Department Head Monthly Reports
3. Finance Director reports submitted to the Finance Committee – January 14, 2013
4. City website generated e-blasts
5. Regional COAST Funding Meeting Information
6. Strafford County Budget Book and Public Hearing Notice for *Wednesday, January 30, 2013 at 7:00 p.m.*

Councilor Sprague said the two memoranda Council received were very helpful. Where Baxter Mills decided not to go with a gas line extension, he questioned whether the resolution they passed stays with the property for an indefinite period of time. He wondered if there has to be Council action to revoke a resolution. His concern is that in lieu of payment, we opted to have them purchase an item for the Wastewater Treatment Plant. If they decide to go with the gas line extension five years from now, we probably would have already bought the item needed at the Wastewater Treatment Plant. The price might go up on our side of the table.

The City Manager said that is a good question. He will need to digest this information and they will talk about it again.

Councilor Sprague said he received good information from Mr. Sharples regarding the proposed housing code, but he would like to see a comparison showing how each item will be changing if the new Housing Code is adopted. He would like to have something ahead of time, prior to the presentation on 2/04/13.

Councilor Witham remarked on the memos that update the Council on ongoing projects. It is nice to get the recap on resolutions the Council passes. He appreciates the updates.

Regarding the goal setting session, Councilor Witham said he finds these sessions to be very valuable.

Mayor Spencer also mentioned the presentation by Underwood Engineers and wondered if Council would want to have that prior to the next regular meeting.

Following discussion, it was the consensus of the Council that the presentation by Underwood Engineers would be on 2/04/13 at 6:00 p.m.

Following discussion by Council members, it was agreed to hold the goal setting session on 2/09/13.

UNFINISHED BUSINESS.

ORDINANCE NO. 8-13 AMEND CHAPTER 24 HOUSING CODE ORDINANCE.

Councilor Witham moved to table Ordinance No. 8-13. The motion was seconded by Councilor Pepin and passed unanimously.

RESOLUTION NO. 22-13 AUTHORIZING THE CITY MANAGER TO SELL SURPLUS CITY PROPERTY.

Resolution No. 22-13 passed by roll call vote of 9 yeas, 0 nays.

NEW BUSINESS.

OTHER.

DISCUSSION OF RELEASE OF THE LEGAL OPINION ON THE TAX CAP ISSUED THROUGH A CITY MANAGER MEMO ON 12/07/12 – COUNCILOR WITHAM.

Councilor Witham said they all received a communication from the City Manager dated 12/07/12. Attached to the communication was an e-mail from City's counsel, Jae Whitelaw from the Mitchell Municipal Group in Laconia, answering the question about implementation of the tax cap.

Councilor Witham moved to make the e-mail communication, legal opinion on the tax cap, a matter of public record. The motion was seconded by Councilor Tapscott and passed unanimously.

LEGAL OPINION REGARDING CHARTER AMENDMENT EFFECTIVE DATE AND IMPLEMENTATION.

From: Jae Whitelaw, Mitchell Municipal Group

To: Bob Belmore, City Manager

Assuming that the Council does not vote to implement the tax cap amendment prior to July 1, 2013, the first day of the 2014 budget year, I believe that the tax cap amendment does not apply to the 2014 budget year. My opinion is based on the provisions of Charter Section 7.6 (C), which provides that the City Manager's proposed budget becomes effective if the Council fails to adopt a budget on or before the last day of the prior budget year, i.e. June 30, 2013. While some charters allow the Council an additional time period into the new budget year to establish the budget (ex: July 15), the Somersworth charter does not. Therefore, the City Manager's budget is effective as of July 1, the first day of the 2014 fiscal year.

Please don't hesitate to call if you or the Council have further questions. Thank you.

Jae Whitelaw
Mitchell Municipal Group, P.A.
25 Beacon Street East
Laconia, NH 034246

COMMENTS BY VISITORS.

Real Roseberry, 405 Route 108, said he recently gave a letter to the City Manager, Mayor and City Clerk, requesting answers to the effective date of the tax cap and he hasn't received any answers yet. He wants a copy of the lawyer's opinion, and he wants a letter stating why his tax cap is being postponed. He will send it to the Attorney General and the Secretary of State and let them decide. The City might have a fine lawyer, but a sneaky one. He wants to know why he hasn't received a letter answering his questions. When it's ready, he will come and pick it up.

CLOSING COMMENTS BY COUNCIL MEMBERS.

Councilor Tapscott said the Strafford Regional Planning Commission will be meeting on January 24th at 7:00 p.m. for the third time this fiscal year at the Rochester Community Center. Everybody is invited to attend and enjoy the fun.

Councilor Tapscott indicated at the next Government Operations Committee Meeting on February 4th there will be an item proposing a change to Council Rules and Regulations.

ADJOURNMENT.

Councilor Tapscott moved to adjourn. The motion was seconded by Councilor Pepin and passed unanimously. The meeting adjourned at 7:37 p.m.

Respectfully submitted,

Diane M. DuBois, City Clerk