

MINUTES OF CITY COUNCIL MEETING

Somersworth, NH
May 7, 2018
7:00 P.M.

The meeting was called to order at 7:00pm by His Honor, the Mayor, Dana S. Hilliard, and upon roll call the following Council members were present: Pepin, Vincent, Dumont, McCallion, Witham (entered at 7:05pm), Sprague (entered 7:27pm) Cameron, and Levasseur.

Councilor Pepin led the Pledge of Allegiance.

MINUTES OF THE PREVIOUS MEETING

Minutes of the Goal Setting Session held on March 24, 2018

Councilor Pepin, seconded by Councilor McCallion, made a motion to accept the minutes. The motion passed unanimously.

Minutes of the Public Hearing on Ordinance No. 6-18 Amending Chapter 4, Personnel Rules & Regulations, Appendix 1, Assignment of Class to Grade Police Lieutenant Labor Grade and Police Captain Labor Grade held on April 16, 2018

Councilor Pepin , seconded by Councilor McCallion, made a motion to accept the minutes. The motion passed unanimously.

Minutes of the Public Hearing on Ordinance No. 7-18 Amending Chapter 4, Personnel Rules & Regulations, Section 11. Wages and Benefits, by Adding Section 11.4.6, Meal Allowance held on April 16, 2018

Councilor Pepin, seconded by Councilor McCallion, made a motion to accept the minutes. The motion passed unanimously.

Minutes of the Public Hearing on Ordinance No. 8-18 Supplemental Appropriation for Technology Improvements at Various Somersworth Schools held on April 16, 2018

Councilor Levasseur, seconded by Councilor Cameron, made a motion to accept the minutes. The motion passed unanimously.

Minutes of the Public Hearing on Resolution No. 28-18 Change the Purpose of the Hilltop Rehabilitation Capital Reserve Fund in Accordance with RSA 34:11 and Establish a Capital Reserve Fund for the Purpose of Improvements, Reconstruction or Rehabilitation of City Parks and City Park Facilities held on April 16, 2018

Councilor Cameron, seconded by Councilor Levasseur, made a motion to accept the minutes. The motion passed unanimously.

Minutes of the CITY COUNCIL MEETING held on April 16, 2018

Councilor Dumont, seconded by Councilor Vincent, made a motion to accept the minutes. The motion passed unanimously.

COMMENTS BY VISITORS

John Joyal, of 1 Molly Ln, Our local Firefighters have been without a union contract for 2137 days, civil servants, first responders in our Community. 2137 days that is unacceptable. He stated he has worked day by day with all kinds of people across the field of different political views in his life. Civil servants who are duly afforded a fair and equitable representation via a proper contract. He would like to invite the City of Somersworth to actually try to fix 2 or 3 common denominators that were here 7 years ago and that are still here now. He thinks those 3 people know who they are; he won't even mention any names. Our Firefighters have been seeking a long term agreement since January 2012 and still haven't found what they were looking for in a contract. The 1987 YAGA report was the last wage study done by this City, that's over 30 years ago. The hair on his arms is standing up thinking about that. Even though during that timeframe people from all across the administration in this City have gotten very beneficial bonuses, incentives, increases and cost of living raises. For some reason someone has refused to allow the Firefighters a fair and equitable cost of living raise. Everything is going up, everything. The difference in pay between Firefighters and Police in this City has grown from 15.7% to over 25% as a result of this. At the top of the pay scale police are paid 33% more than our Firefighters, they are both first responders. Somersworth's starting pay for Firefighters ranks 26 out of 28 full time Fire Departments within NH; it is one of the lowest in the Seacoast region. These are people that would run into a burning building to save other people. I have always had admiration and undying respect for anybody that puts them self in harm's way. Somersworth's starting pay for Firefighters is the lowest in the entire seacoast region, a whopping 46% behind Seabrook that's unacceptable. With all of the mega box stores, all the corporations we have on Route 108 and all the new houses going up in this City. I can't believe we still have to protest this in this day and age. Disturbing that some of the administrators and executives in this City get raises year after year but Firefighters in 7 years have not had a contract.

John Kennedy, of 44 Cemetery Rd, stated here we are again he started approaching City Officials back in 2012 about our Fire department not having a contract, and here he is still no contract. He met with a City Official in 2012; he was told that it was common practice for Fire Departments to go without a contract 11 years without a contract that City Official lied to him. He is a tax payer; and he believes he doesn't deserve to be lied to. No respect for firefighters in this City, enough is enough give them their contract.

Brendan O'Sullivan, Hamilton St, he has lived in this town 27 years now. He is asking the City to take a leadership role as elected officials with this contract. He thinks that the City and the Fire Department can come to an agreement; each side needs to spell out their needs. Let's sit down and make this work.

Bradley Fredette, 3 Blackwater Rd, he has lived in this City his whole adult life. He spoke to the Mayor about joining the zoning board of adjustments. He is up for nomination tonight.

COMMENTS BY COUNCILORS

COMMUNICATIONS

Special City Legal Counsel Attorney Mark Beliveau attorney at Pierce Atwood spoke about the Superfund Landfill Closure & Solar Project Updates. There will be an update on 2 aspects of the landfill. First is the status of the landfill clean up. Second is the status of the EPA's request for financial assurance. Third is the status of the possible solar array project that would be constructed on top of the landfill.

With regard to the cleanup of the landfill we are now in our 18th year of active mediation at the landfill. Every 5 years the EPA publishes a report on the status of our cleanup and whether the cleanup is meeting public health and environmental standards. The last report was published in 2015, and the EPA found that on a short term basis the remedy was protective of human health and the environment. For it to be protective on a long term basis we would need to complete the remedy and close out the landfill with the final cap. Essentially, we received a very good report from the EPA. The next report will be in 2020.

There are a couple of places in the treatment wall where contamination is making its way through the wall. So when the contaminated ground water goes through that permeable wall it is supposed to detoxify the contaminants and it has worked very well, but there has been some break through where the contaminants are reaching the down gradient side of the wall. The City is working with the consultant to try to resolve that in working with the EPA and the NHDES.

Second aspect of the landfill that we are looking at is whether we need to continue to pump the ground water from well B12R to address ground water contamination in that area. That well has been off for 4 years, because we don't believe it is actually doing anything effectively, but that is continuing to be studied and save a little money.

The last thing about the remedy is that 2 years ago the EPA wanted to do an optimization study of our remedy, to suggest any ways that we could change or modify the remedy in some way. It was no cost to the City or GE. We met in April and are still waiting on the results of the EPA's optimization study.

Councilor Levasseur asked what the expected turnaround time for the optimization review. Attorney Beliveau answered originally they said we would have a report within about 60 days of our meeting; our meeting was in April of 2016.

Councilor Vincent asked if the wall is under warranty where it is leaking. Beliveau answered there is no current warranty, but the consultant is looking into it. Was there an expectation on how long we would have this wall? Expectation was that when we had this remedy constructed it was the first time this remedy was constructed at a nonfederal government superfund site so it was very significant. We were looking at between \$40 to \$50 million dollar clean up and we ended up resolving through this innovative remedy estimated at \$16 million. The inventor of this remedy was to try to detoxify these chlorinated ethane chemicals, said that you will probably need to periodically remix the wall, the sand and the iron filings that are in it and maybe add some more iron filings. We have not had to do that yet; but we may have to do that. Councilor Vincent asked if we had locations where these issues are. Attorney Beliveau answered yes, we know exactly where these breakthroughs are.

Councilor Witham appreciated the periodical update. He has always said this is a very large financial concern within the City. Since the remedy has been installed what is the overall cost to the City. Last year this Council took some action with regard to the

partnership with General Electric; it had something to do with their financial standing. Can you refresh us with what that was all about? Attorney Beliveau answered that it second of the three issues. When we settled this matter with the US EPA, the City and GE were required to post financial assurance or financial proof that we could pay for the cost of the clean up. For the last 23 years, we have been able to submit GE financial report and the EPA accepted that as financial assurance. That changed about a year ago, between the EPA and GE. The EPA stated that they were no longer going to accept GE's financial report that you now need to post an alternative form of financial assurance. So when they came to the Somersworth landfill we looked at all our options and back in 1995 when we negotiated this settlement, we included something called a Somersworth City Council letter of authorization. What that letter stated is that the written representation by the City Manager on behalf of the City Council in accordance with the Resolution, that this is what we estimate the cost of the remaining clean up to be, here is our budget and other financial information as a City. The EPA has approved both documents. The EPA has requested that the City document why we think that \$8 million dollars represents the remaining cost for the cleanup. Councilor Witham asked with that being said it doesn't change the cost share between GE and the City. Attorney Beliveau responded that the City is responsible for 50.5% and GE is 49.5%. He has been told by the EPA that they have rejected all financial assurance from GE across the board.

Councilor Dumont asked 40 years of exposure moving forward, these breaches were they anticipated or unanticipated. Attorney Beliveau responded that he is not the best person to answer that. The wall is divided up into transects so there are impermeable sections of the wall that guide it into permeable sections so the water can move through the wall. There are sections of the wall that are running perfectly.

Councilor Dumont asked in the past the Community has been given hope for use, it seems like all hope has been lost. Doesn't think it will be used as soccer or baseball fields. Attorney Beliveau answered we would like to see us use this for future. There was talk years ago about turning it into a soccer field. But the requirements made are cost prohibitive. An option that the EPA has agreed to allow is a solar array, which is the next topic.

Regarding, the financial assurance letter the next step will be for us to reach agreement with the EPA on the amount of the financial assurance. We would then be in order to bring it back to Council with a proposed Resolution to finalize it.

The third item is the possible status of the solar array on landfill. We have made great progress with negotiating a lease with NH Solar Garden, more recently discussing the group net metering agreement. The financial economic piece will be spoken about by Director Smith. He will speak to how this will affect the City. First I would like to explain how a possible solar array would impact our landfill remedy and concerns we have around that. Our landfill unlike virtually every other closed landfill in the state, typically when you close a landfill you're required to put an impermeable cover over the top of the landfill. So the waste pile is actually not flushed. Our remedy is that the waste pile is flushed and that is how it is cleaned because that ground water moves through the treatment wall. One of the concerns about a solar array is what impact will putting one or two thousand solar arrays on top of that permeable cover. Our consultants feel that putting one or two thousand solar arrays wouldn't affect the permeable cover. To move forward we would really like that looked at by our engineers and they have agreed to split

that cost with the City. The cost split is fairly reasonable, phase 1 would be \$3,800 and phase 2 would be \$6,500. The \$6500 cost would only be incurred if we actually have a contract to move forward. The next step would be that to engage with Geosyntec to have them conduct a base line analysis on what the risks are. While we tried with NH Solar Garden to shift the financial risk onto them that if the solar array had an adverse effect on the landfill remedy that they would pay the cost of any fix. They said that was not a financial risk that they could cover. So that burden would be on the City.

Director Scott Smith addressed the Mayor and Council and discussed that this would be a helpful way to explain it is to break down the net metering agreement and the lease. Just looking at the lease component it includes an annual lease payment for the solar array and a PILOT. The annual lease amount is \$7500.00 per site, for a total of \$15,000.00. That would have included with it an escalator of 1.5% each year over the life of the lease. In addition to that there is a PILOT which is \$2800.00 on each site of a total of \$5600.00. The way that will be configured is it will be established with the first year and then each year it will be adjusted according to the tax rate. To start the City would receive an estimated \$20,000.00 a year. The issue with net metering agreement is the cost impact of energy. What the City would need to account for somewhere between a half and two thirds of the City of Somersworth government power. What we would have to do is identify a number of accounts that would equal the power that this solar array would generate. We would also have to agree to become a default service customer of Eversource. Then what would happen is based on that default service cost there will be a Condition that perhaps the City would receive income or have to pay additional fee over to the NH Solar Garden, how that would work is a default payment arrangement. The City would purchase this power at .08 cents per KWH that .08 cents is escalated by 1.5% each year. The way the default energy price factors, for example if Eversources energy rate is .09 cents per KWH then each month when the solar array produces the power NH Solar sells that power to Eversource at the .09 cents and then they reimburse the City that .01 cent per KWH. To put that in financial perspective that would be about \$25,000 year. The reverse is also true that if Eversources rate is at .07 cents, then what would happen is the City would make up the additional .01 cent per KWH to NH Solar Garden. The risk really lies in what the default service cost is and how it bounces over and above the .08 cents.

Councilor Witham back story of this whole idea got brought up he was very excited. He has concerns about the net metering, fear of the unknown. There are arrangements in the State in which there is no net metering agreement and the municipality leases the land and perhaps has a PILOT. We much like the company don't want to have the risk of anything bad happening with the landfill. Do those arrangements exist and is that a possibility? Director Smith responded not in this case, his understanding is that those scenarios do exist, but in this instance based on where we are at we actually approached NH Solar with that as an opportunity whether that would be something they would consider. At this point in time it is not an option.

A letter from Richard Michaud was read by the Clerk for interest in the vacant Ward 5 position. Letter is on file.

A second letter from Richard Michaud was read by the Clerk. Letter is on file.

A letter from David McNicholas was read by the Clerk for interest in the vacant Ward 5 position. Letter is on file.

PRESENTATION OF PETITIONS AND DISPOSAL THEREOF BY REFERENCE OR OTHERWISE

MAYOR'S REPORT

Mayors Report for City Council Meeting May 7, 2018

- It is of no surprise to this Mayor, the high level of professionalism, bravery and honor that was demonstrated by the Somersworth Police Department last week during a major incident within our community. Each day the men and women of our Hilltopper force continue with the highest level of valor to reflect the values of the law enforcement profession. Our community is forever grateful for the sacrifices you are willing to make each day. May your shield and badge continue to reflect how grateful each citizen is to call you our own.
- With an equal level of gratitude the Hilltop community is recognizes the quick and highly trained skills of our Firefighters. With boldness and fearlessness our department was able to contain the plaza fire and avert what could have been a total loss. Thank you to all members of our loyal force. The Council, Mayor and City Manager recognize your contributions and dedication and will continue in good faith to stand by you.
- This evening it is my honor to recognize a Hilltopper citizen who every day continues to dedicate herself to our Community and nation. It is through the unwavering commitment of citizens like Major Heidi A. Lelke that Somersworth continues to reflect the values of the Hilltopper Spirit and keep "On the Move!"

Each morning Major Heidi A. Lelke, rededicates herself to the self-improvement and the advancement of Somersworth and her nation. As an accomplished student Heidi has;

- Enrolled in the full-time MBA program from august 2017 to May 2018
- Completed 48 credit hours in 10 months
- Completed program residencies in New York City and China
- Inducted into the graduate honor society
- Graduating with honors on May 18th, 2018

During that time as a member of the United States Air force Heidi;

Military Accomplishments (during her time in the MBA program)

- Completed 60.6 flight hours in aircraft and 12.0 simulator hours
- Completed annual operational readiness exercise
- Flew aid and personnel in support of Humanitarian Relief mission to Puerto Rico

- Supported VT Air National Guard by flying personnel from mission readiness exercises in Nevada
- Participated in regular monthly drill requirements
- Unwavering dedication to military service and academic excellence during her time in graduate school

This evening the Somersworth Mayor's office and City Council honors the incredible self - commitment and community dedication of Major Heidi A. Lelke. In addition to the Proclamation I am about to present, Major Lelke will be lead to Citizens Place after the presentation where she will raise the flag of the United States Air Force. The flag will fly in her honor throughout the week. Thank you for your selfless commitment to the Hilltopper city and nation. You are an inspiration to us all.

Mayor Hilliard presented Major Heidi A. Lelke with a proclamation naming May 18, 2018, Major Heidi A. Lelke day in the City of Somersworth.

- The 10th Annual Spirit Up Somersworth Community Cleanup Day hosted by SYC and the City held this past Saturday, May 5th was a huge success. Over 250 enthusiastic community members; families, school groups, youth organizations, businesses and residents showed up bright and early on a beautiful spring morning ready for an assignment to the one of our designated neighborhoods and targeted street locations throughout our hilltop city. Volunteers were treated to coffee, hot chocolate and breakfast treats, while gathering the needed supplies; gloves, trash bags, and a free Somersworth cleanup day t-shirt.

The Hilltopper pride and spirit was highly visible as one travelled about the city cleaning and beautifying our 10 square miles, our neighborhoods, and our streets. Good deeds are contagious as many upon seeing others filling the blue trash bags, stopped, parked their cars and offered to help. As individuals we have power to change and make positive differences in our community and the environment for the better. The outpouring of volunteerism, support and unity on Saturday continues to define and celebrate our uniqueness as (Somersworth), a Community of caring.

All volunteers returned back to Idlehurst for a "block party". Free lunch was provided, there were raffle prizes, demonstrations, displays, and information available, Touch a truck lined the parking lot representing all City Services; police, fire, ambulance, public works as well as Waste Management and State Police K-9 Unit. The Bike Rodeo and Safety Day soon followed with over 20 youth participating in a bike safety challenge course, learning about proper bike maintenance and receiving a free bike helmet provided by the Somersworth Police Department. Two lucky youth won a free bike as part of the raffles.

- Great food, great time and turnout at the 2nd annual taste of Somersworth. Special thanks to the Cultural Commission for planning another successful culinary event, highlighting Somersworth rich ethnicity and dedication to diversity.

- Citizen's place continues to be active promoting our vast diversity. Recent flag raisings have included; the flag of England, the Earth Day flag and Tree City USA flag.
- Join City Manager Bob Belmore and I for the 5th annual Hilltop Hustle 5k run or walk. The event will take place on Saturday June 16th at 8:30am beginning at Somersworth High School. The cost of the event is \$5.00 for ages 17 and below and \$15.00 for all adults. Proceeds will benefit the PTA. Registration forms can be picked up at any school or online at www.runreg.com/hilltophustle-5k
- Having now lost track of the amount of times that the Mayor's office has had to continue to plea with the current administration to permanently reprieve their practice on the deportation of Hilltoppers who have called this nation home for close to decade, I once again will reinforce the values of this Council and community. Last year the Council and Mayor adopted a resolution calling upon President Trump to honor the foundation of this nation, hope. Since the founding of our nation and Hilltopper community; the commitment, dedication and labor of immigrant groups have built and progressed forward the values of liberty and democracy. Every American, can trace their lineage from somewhere else. It is this mosaic which has made our United States the strongest nation on the planet and continues to be as the late President Ronald Reagan stated "The last best hope of man on Earth".

As a community that understands the value of diversity, and will continue to honor, celebrate and protect each other. It is our hope that the President sees the same and will work towards ensuring Hilltopper citizens like Bobby Candra, father of three will continue to reside in the United States and honorably contribute to his community like he has for the past 18 years.

- The next **Mayors Community** forum will take place Saturday **May 12th from 9:00 – 10:30** at City Hall. Including in this forum will be **Ward 4 City Councilor Jonathan McCallion and Ward 4 School Board member Kyla Yoder**. *The purpose of the forums is to foster dialog and ideas, in a non-formal setting to continue to move our community forward. All members of the community are welcome to attend any forums*

Nominations, Appointments and Elections:

- Under nominations, appointments and Elections; **In accordance with the City Charter Article 3 section 3.2 Vacancies City Council the following are before the Council this evening for an appointment vote to the Ward 5 City Council seat,**
 - Richard Michaud
 - David McNicholas

- Under nominations, appointments and Elections; **In accordance with Council Rule 17 Appointments**, the follow are before the Council this evening for a confirmation vote.
 - **Shanna Saunders** as the City representative to the NH Southeast Watershed Alliance with a **term to expire on May 2021**, *what are the wishes of the Council?*
 - **Paul Robidas** Re-appointment as a member of the **Planning Board** with a **term to expire on January 2021** *what are the wishes of the Council?*
- Also under nominations, appointments and Elections; **In accordance with Council Rule 17 Appointments**, the following are being brought for nomination.
 - **Patty Roberge LaHoullier** re- appointment as a member of the **Board of Assessors** with a **term to expire on May 2021**
 - **Philip Munck** re-appointment as a member of **Board of Assessors** with a **term to expire on May 2021**
 - **Jeremy Rhodes** re-appointment as a member of **Planning Board** with a **term to expire on May 2021**
 - **George Poulin** re-appointment as a member of **Historic District Commission** with a **term to expire on May 2021**
 - **Larry Barry** re-appointment as a member of **Historic District Commission** with a **term to expire on May 2021**
 - **David McNicholas** from an Alternate member to a Full member of the **Historic District Commission** with a **term to expire on May 2021**
 - **Brad Fredette** appointment as an Alternate member of the **Zoning Board of Adjustment** with a **term to expire on May 2021**
 - **Shawn Kinneavy** from an Alternate member to a Full member of the **Zoning Board of Adjustment** with a **term to expire on May 2021**
 - **Steve Goff** re-appointment as a member of the **Trustees of the Trust Fund** with a **term to expire on May 2021**
 - **Larry Hamilton** appointment as a member of the **Conservation Commission** with a **term to expire on May 2021**

In accordance with Council Rule 17 Appointments, the nomination shall remain open until the May 21st, scheduled Council meeting.

This respectfully concludes the Mayors report for Monday May 7th, 2018

REPORTS OF STANDING COMMITTEES

Finance – Councilor Witham stated the Committee met on May 1, 2018 at 8:30am. They first spoke about the current FY budget for School Board they have seen an increase in demand from Special Education we will discuss those funds. There was discussion on the proposed draft of the inter-municipal water agreement as an emergency only option. It is to include a pumping station for them to send water to us and a pressure reducing station for us to send water to them. The draft agreement states there will be 50/50 cost split between Somersworth and Dover users. The Committee agreed that needed to be looked at as it was not in the best interest of the City. An old underground 5,000 gallon fuel tank at the WWTP needs to be removed; it is in the area of where a new clarifier will go. The Committee authorized for Lakes Region Environmental to remove the tank. Discussion on tax deeded property and what to do. In recent years homeowners have come forward with payment arrangement options. It was brought to our attention that it needs to be taken to full Council in order to authorize any such arrangements. We had discussion on the Fire station building project consultant. City staff brought forward using Municipal Resources out of Meredith, NH. Committee agreed with this process. There was discussion on the buy local policy if we can use Somersworth vendors first then NH, then within the region. Reporting we look good with the City budget, we will be able to finish that FY in the black.

Economic Development– Met on April 24, 2018 at 3:30 pm, visitor from Some Downtown LLC, Mr. David HM Baker, he has an interest in the old police department on Main St. He attended the meeting for some fact finding and the Committee encouraged him to continue his exploration, he plans on coming back when he has a more solid idea. Second item of the day they took up the charge from the Mayor for the evaluation of the Plaza Commission recommendation. We have asked the staff to start to prepare a request for proposal, which we hope will be at our next meeting.

Public Works & Environment – Met on May 1, 2018 at 9:30, will me meeting quite a bit in the next few weeks. Road resurfacing plan is the focus, since the budget was just passed. Paving a concerns from staff are Salmon Falls Rd, Stackpole Rd from Sunningdale Dr to Green St was up for debate. With the intersection at Green St being dangerous we may take a look at reworking that next year. Washington St from High St to Main St is pretty bad. The Committee believes that we don't have the money to upgrade utilities right now. The State will be paving on West High St from Ron Curriers to St. Martin's Church continuing up to High St. Constitution Way and other projects will be done in FY2019. Another area that came up was resurfacing on High St to South St Cumberland Farms area. We received a petition regarding Hamilton St sidewalk and the Committee decided to take no action. Talked with Waste Management they have some recycling concerns, there are some plastics that are not accepted. The plastic market is not what it used to be. There are some new guidelines that will be sent out with the City water bills. Discussion about PIKE's work manholes on Blackwater Rd. PIKE is meeting with us to come up with a solution to try to cure that. Up for discussion tonight is to

waive rules to allow for Unutil to dig up the moratorium on Whitehouse Rd. They are going to repair the road after they are done.

REPORTS OF SPECIAL COMMITTEES, CITY OFFICERS AND CITY MANAGER

Special Committees

Coast Meeting – Met on April 18, 2018, since the Council has given more money to COAST the extra \$.25 has been dropped for Somersworth riders. They discussed the plan in regards to the Little Bay Bridge the project which will be completed in 2020. The State has given additional funding for additional rides through that area. Liability insurance for their automobiles has dropped; we had an insurance company approach us. They are also adding no smoking signs up at bus stops to cut down on littering at the stops. Updates on route 1 had 5,415 people and route 2 had 14,883 people.

Cultural Commission – Met on May 2, 2018 talked about the potential of Maureen Jackman and Celeste Ferran working on an exchange of students going to Thedford Mines. Possibly a Thurs, Fri, Sat and Sun trip, but they are still working on that report. A new member, Thomas Poulin a freshman from Somersworth High School has joined the Committee. Thedford Mines run is being planned for the festival weekend.

CITY MANAGER'S REPORT –



CITY OF SOMERSWORTH *Office of the City Manager*

TO: Mayor Dana S. Hilliard and City Council Members

FROM: Robert M. Belmore, City Manager

DATE: Friday, May 4, 2018

**SUBJECT: City Manager's Report for Monday May 7, 2018
City Council Agenda**

6:15 p.m. Workshop
Re: School Department Fiscal Year 2018 Budget Update

6:45 p.m. Public Hearing
Re: Ordinance 9-18 Amending Chapter 19, Zoning Ordinance, Adding New Section 19.24

Communication (under section 6 of Agenda)

- A. Special City Legal Counsel - Attorney Mark Beliveau: Superfund Landfill Closure & Solar Project Updates.** Attached is a copy of information provided by Legal Counsel Attorney Mark Beliveau that will be the focus of this discussion.

Unfinished Business (under section 13 of Agenda)

Ordinances

- A. Ordinance 9-18: Amending Chapter 19, Zoning Ordinance, Section 25, Definitions, and Adding New Section 19.24, Accessory Dwelling Units.** Again, the Planning Board voted to forward this Amendment to the City’s Zoning Ordinance for City Council review and adoption.

New Business (under section 14 of Agenda)

Resolutions

- A. Resolution No. 33-18 To Amend City Council Rules and Regulations.** Attached is a copy of a **red-lined** version of Council Rules & Regulations as well as my April 13th dated Memorandum that outlines the Committee’s recommendations.

Other

- A. A Vote to Authorize the Finance Committee, Indefinitely until Rescinded, to offer for Sale Tax Deeded Properties by Auction, Sealed Bid, or Otherwise as Justice may Require Pursuant to RSA 80:80.** The Finance Committee voted at their May 1st meeting to support this action item. This authorization will allow the City Manager and Staff to work with the Finance Committee to resolve the disposition of tax deeded properties as well as negotiating tax payment agreements so that residents would be able to remain in their homes as they become current with all their tax obligations. I believe that this particular course of action would fall within the State Statue’s intent of ‘as justice may require’. Finally, this proposed vote was a recommendation provided by our City Attorney. Attached is a copy of RSA 80:80.
- B. Discuss a Proposed City Charter Amendment to the Section entitled, Changes to Ward Boundaries (Article 1.4), as recommended by the Government Operations Committee, and Vote to Send to the September 11, 2018 Ballot.** Attached is a copy of a Memorandum received from City Attorney Keriann Roman regarding the Committee’s recommendation on a proposed amendment to the City Charter. She also included a summary of the amendment process as well as a **red-lined** version of this particular section of the Charter that is being proposed.

- C. A Vote to Waive Excavation Moratorium on Whitehouse Road for Until (City Ordinance Ch. 12, Section 12.1, MORATORIUM PERIOD, for Roads that have been Overlayed, the Moratorium shall be Three (3) years).** The Public Works & Environment Committee voted at their May 1st meeting to support this waiver. Attached is a copy of this section of the Ordinance, as well as the Until request and recommendations from Public Works Director Mike Bobinsky to include, should Council approve the waiver.

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

A. Informational Items.

- 1. Fiscal Year 2018-2019 Budget Ordinance.** Attached is a copy of the FY2019 Budget Ordinance as adopted by the City Council at the April 16th Council Meeting. There are also copies of supporting detail that provides the individual amendments by department. Finally, there is a Tax Rate estimate analysis as well as a Tax Cap analysis provided by Finance Director Scott Smith. The current estimated tax rate is \$34.03, which is \$.94 (ninety-four cents) increase over the prior year. The Budget, as amended is under the Tax Cap by \$6,972.
- 2. Skyhaven Airport Advisory Council.** I am pleased to announce my appointment of our Economic Development Manager Robin Comstock to represent the Economic Development sector of Somersworth (Letter is Attached).
- 3. New Hampshire Department of Safety.** I am pleased to announce the State Office of Homeland Security & Emergency Management has approved funding to reimburse the City for expenses we may incur for the New Hampshire/Maine Rural Water Association Salmon Falls River Event in the amount not-to-exceed \$11,327 (Letter is Attached).
- 4. EPA Brownfield's Grant.** The City received a \$200,000 grant from EPA to finish the clean-up at the Bretons Cleaners site at 1 Winter Street. As I am quoted in a recent EPA news release *"I am very pleased and excited about EPA's Brownfield's Grant Award to the City. This Grant will allow us to bring life back to a prime piece of property located at a Gateway to our Downtown adjacent to the Salmon Falls River. We look forward to working collaboratively with EPA on this important City Brownfield's project"*. I have attached a copy of the formal Grant notification letter received from EPA Director David R. Lloyd.

B. Attachments.

1. City Attorney Certifications One (1)
2. Big Brothers Big Sister's Thank You Letter Dated April 16, 2018

Calendar Reminders

- **10th Annual Spirit Clean-up Day** – Saturday May 5th from 7:30 a.m. to 12:30 p.m. The clean-up day will kick off at Idlehurst starting at 7:30 a.m.
- **Chamber of Commerce Annual Awards Dinner.** Friday, May 11th, Spring Hill Event Center South Berwick, ME from 5:30 p.m. – 9:00 p.m.

NOMINATIONS, APPOINTMENTS AND ELECTIONS

City Council, Ward 5, with term to expire September 2018:

- a. Richard Michaud
- b. David McNicholas

Councilor Witham, seconded by Councilor Cameron made a motion that both individuals be brought forward for nomination for the ward 5 open seat, all are in favor.

Roll call vote was taken by Clerk. Richard Michaud has been confirmed by roll call vote.

The Following Will Require Council Confirmation Vote:

- a. Patty Roberge LaHoullier, Re-Appointment as a member of the Board of Assessors, with a term to expire, May 2021.
- b. Philip Munck, re-appointment as a member Board of Assessors, with a term to expire, May 2021
- c. Jeremy Rhodes, re-appointment as a member of the Planning Board, with a term to expire, May 2021
- d. George Poulin, re-appointment as a member of the Historic District Commission, with a term to expire, May 2021
- e. Laura Barry, re-appointment as a member of the Historic District Commission, with a term to expire, May 2021
- f. David McNicholas, from Alternate member to Full member of the Historic District Commission, with a term to expire, May 2021
- g. Brad Fredette, appointment as an Alternate member of the Zoning Board of Adjustment, with a term to expire, May 2021
- h. Shawn Kinneavy from Alternate member to a Full member of the Zoning Board of Adjustment, with a term to expire, May 2021
- i. Steve Goff, re-appointment as a Trustees of the Trust Fund, with a term to expire, May 2021
- j. Larry Hamilton, as a member of the Conservation Commission, with a term to expire, May 2021

These nominations shall remain open until the May 21, 2017 City Council meeting.

LAY ON THE TABLE

For Council Confirmation Vote:

Shanna Saunders, as the City representative to the NH Southeast Watershed Alliance, with a term to expire in May 2021

Councilor Witham, seconded by Councilor Levasseur made a motion to confirm the nominee. All are in favor.

Paul Robidas, re-appointment as a Member of the Planning Board, with a term to expire April 2021

Councilor Witham, seconded by Councilor Cameron made a motion to confirm the nominee. All are in favor.

UNFINISHED BUSINESS

Ordinances:

Ordinance No 9-18 was read by Clerk for a second read.



City of Somersworth – Ordinance

Ordinance No: **9-18**

AMENDING CHAPTER 19, ZONING ORDINANCE, SECTION 25, DEFINITIONS, AND ADDING NEW SECTION 19.24, ACCESSORY DWELLING UNITS

April 16, 2018

THE CITY OF SOMERSWORTH ORDAINS THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 19, Zoning Ordinance, Section 25. Definitions, Subsection Z. Dwelling Unit, by deleting it in its entirety and replacing it with the following:

Section 19.25.Z. **DWELLING UNIT.** A single unit, structure or portion thereof, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- a. Dwelling, Single-family. A building and accessories thereto principally used, designed or adapted as a single dwelling unit.
- b. Dwelling, Two-family. A building and accessories thereto principally used, designed or adapted with two dwelling units of similar proportions, the living quarters for each of which are completely separate. **This does not include Accessory Dwelling Units**
- c. Dwelling, Multi-family. A building and accessories thereto principally used, designed or adapted with three or more dwelling units, each of which has separate living quarters.
- d. Dwelling unit, Accessory - An “accessory dwelling unit” means a residential living unit that is within or attached to a single-family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

And, further amend Chapter 19, Zoning Ordinance by adding a new Chapter 24, Accessory Dwelling Units, as follows:

Section 19.24 Accessory Dwelling Units

This section is enacted in accordance with the provisions of RSA 674:71 – 73 and RSA 674:21 and serves to increase housing alternatives while maintaining neighborhood aesthetics and quality. To that end, attached accessory dwelling units (ADU) are permitted on any property containing an owner-occupied single-family dwelling, provided that the applicant meets the criteria set forth below:

- a) A maximum of one (1) ADU per property is permitted on property located in zoning districts that allow single-family dwellings and must be located within or attached to the principal single-family dwelling unit or attached or detached garage. “Attached” does not include via the use of a breezeway.

- b) The ADU is contained within or will be an addition to an existing or proposed single family detached dwelling;
- c) Exterior alterations, enlargements, or extensions of the Single-Family Dwelling are permitted in order to accommodate the ADU. However, no such change is permitted which would alter the appearance of the Single-Family Dwelling to look like a duplex or any other multifamily structure (i.e., the house should not look like it was designed to house more than one family). The construction of any exterior accessways which are required for access to the ADU shall be located to the side or rear of the building whenever possible. The ADU shall also be designed to remain functionally dependent on the Single-Family Dwelling and shall not have provisions for separate utilities, garages, driveways, and other similar amenities;
- d) The ADU shall contain no more than two bedrooms;
- e) The ADU shall not exceed 800 square feet in area;
- f) The ADU shall be connected internally to the Single-Family Dwelling;
- g) The property owner must occupy one of the two dwelling units;
- h) One approved, off-street parking space for the ADU shall be provided in addition to any parking for the Single-Family Dwelling;
- i) The Single-Family Dwelling, ADU, and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the single family dwelling. In order to assure compliance with this requirement, the property owners at the time the ADU is established shall be required to execute a restrictive covenant running in favor of the City, which shall be recorded in the Strafford County Registry of Deeds and a copy provided to the Department of Development Services and the Assessor prior to the issuance of a Certificate of Occupancy; and
- j) Where municipal sewer service is not provided, the septic system shall meet NH DES Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.
- k.) A certificate of use issued by the Planning Department is required to verify conformance with the preceding standards. Said certificate shall be renewed annually. The applicant shall remit a non-refundable filing fee of \$75.00 at the time the completed application is filed Applications to renew the certificate of use shall be due by January 1st following the date of approval of the certificate of use and then by every January 1st thereafter for so long as the ACCESSORY DWELLING UNIT continues. Fees shall be levied as set forth in the City of Somersworth Fee Schedule, as amended annually, for ACCESSORY DWELLING UNIT certificates of use and renewals.

Authorization	
<i>Sponsored by Councilor:</i> David A. Witham	<i>Approved:</i> City Attorney
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City of Somersworth – Ordinance 9-18

History

First Read Date:	04/16/2018	Tabled:	
Public Hearing:	05/07/2018	Removed From Table:	
Second Read:	05/07/2018		

Action

Councilor Witham moved for adoption, seconded by Councilor Cameron.

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin	X	
Ward 2 Councilor	Vincent	X	
Ward 3 Councilor	Dumont	X	
Ward 4 Councilor	McCallion	X	
Ward 5 Councilor			
At Large Councilor	Witham *	X	
At Large Councilor	Sprague		X
At Large Councilor	Cameron	X	
At Large Councilor	Levasseur	X	
TOTAL VOTES:		7	1
On 05/07/2018		PASSED	FAILED
Ordinance 9-18			

*Councilor Witham, seconded by Cameron made a motion to adopt Ordinance 9-18.
Approved by roll call vote 7-1, Councilor Sprague opposed.*

NEW BUSINESS



City of Somersworth – Resolution

Resolution No: **33-18**

TO AMEND COUNCIL RULES AND REGULATIONS

May 7, 2018

WHEREAS, the Council Rules and Regulations have been reviewed by the Government Operations Committee as amended, and

WHEREAS, the Government Operations Committee are recommending the Council Rules and Regulations, as amended, be further amended as follows:

Amend Section 2, Presiding Officer, by adding the following:

C. The Mayor, or the Acting Mayor if appropriate, shall approve the Council Meeting Agenda to include the scheduling of Agenda Items to be placed onto the Consent Calendar. The City Manager will be available to assist in the setting of the Council Agenda to include the Consent Calendar.

D. Consent Calendar

1. Items may be placed upon the Consent Calendar if such items have been identified during agenda setting to be routinely approved without discussion or debate, such as prior meeting minutes.
2. The Consent Calendar shall be voted upon as one item unless an item is removed prior to voting. The Presiding Officer shall inquire and any Council Member may request that an item be removed prior to the voting.
3. Removed items will be addressed individually immediately following voting upon the Consent Calendar. All items remaining on the Consent Calendar will be collectively approved by a vote of the Council.

Amend Section 7, Order of Business, as follows:

Strike: “Minutes of Previous Meetings” under Number 3. and replace with “Public Hearings”,

Insert: “Consent Calendar” under Number 5.,

Re-number the following order of business accordingly

Amend Section 8, Filing with Clerk, by deleting:

It shall be the duty of the Police Department to deliver said agenda items by hand in an expeditious manner upon receipt of the material from the City Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Council Rules and Regulations are amended effective upon passage of this resolution.

Authorization

Sponsored by:

Martin P. Dumont, Sr.

Nancie Cameron

Edward Levasseur

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Approved:

City Attorney

City of Somersworth – Resolution 33-18

History

First Read Date:	05/07/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Councilor _____ moved for adoption, seconded by Councilor _____.

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont *		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Resolution 3-18		PASSED	FAILED

Resolution No 33-18 will remain in 1st reading until May 21, 2018 meeting.

OTHER

Vote to Authorize the Finance Committee, Indefinitely until Rescinded, to Offer for Sale, Tax Deeded Properties by Auction, Sealed Bid, or Otherwise as Justice may require pursuant to RSA 80:80

Vote passed 8-0 in favor of the authorization of the Finance committee to proceed forward.

Discuss a Proposed City Charter Amendment to the Section entitled, Changes to Ward Boundaries (Article 1.4), as recommended by the Government Operations Committee, and Vote to Send to the September 11, 2018 Ballot

Councilor Witham stated he has missed a few Government Operations meetings when this has been discussed, however he does support it. The way the charter currently reads is rather restrictive in line with the census; by the time you get the census it is too late. This will allow us to readjust the lines as they are out of balance significantly.

Vote passed 8-0.

Vote to Waive Excavation Moratorium on Whitehouse Road for Unitil (City Ordinance Ch. 12, Section 12.1, MORATORIUM PERIOD, for roads that have been overlayed, the moratorium shall be (3) years)

Councilor Sprague is in support of waiving it. There is only 1 year left in the moratorium. This is a big project and if we said no then I think Rochester and Unitil would have a big problem on their hands.

Vote passed 7-1, Councilor McCallion opposed.

CLOSING COMMENTS BY VISITORS

John Joyal, 1 Molly Ln, as he sat there during the meeting he looked at the elected officials there are currently 4 former City Firefighter, one being part time. In a Democratic City with a Democratic Mayor, he requested and implored to think of what these firefighters are going through. A cost of living allowance affects everyone. We have a big turnover rate in this City at 69% within the last 3 years that should be reason for concern for the City Manager and for the Fire Chief as well as for this elected body. Firefighters are leaving for better money and benefits elsewhere. In this community 2% COLA raise and benefits go up 9% we are looking at a 7% deficit. These firefighters worked 24/7 – 365 days doing their job and putting their lives on the line going into burning buildings and dealing with fentanyl. Contracts have been negotiated in the past, offered his help. Cost of living allowance needs to be turned around and made into something different. Most firefighters have to have another job to sustain their lives and families. Full time regular salaries in 2012-2013 as adopted for the Firefighters were \$769,870 in a year; in 2018-2019 it is \$740,615 that's a difference of about \$30,000 in 6 years. He is asking that the City gives it its valiant best at making this contract work.

Need to be fair and asked the 3 Firefighters on the elected body to fight for them. 7 years is unacceptable for no contract.

David McNicholas, 11 Lee St, Ward 5, just like to say thank you to the first responders and City Council and for the opportunity to offer my services to this City.

CLOSING COMMENTS BY COUNCIL MEMBERS

Pepin – To my Brother Firefighters I know what it is like to a picket line I did back in the 70's. I know what it's like as a Firefighter I listen to them on the scanner go out several times a day. He believes that all employees in this City are under paid, especially the ones in emergency services. Negotiations is a two way street, he wants to be able to sit down and talk to negotiate a contract, not end up in arbitration. Every year that this contract goes by the gap gets bigger and bigger. The facts were brought out with the difference between Police Department and Fire Department is because Police have settled on a contract. The only time he can vote on it is when he has a contract in front of him. As far as the personal input, some is given, but there is nothing concrete from any of our Council members.

Vincent – Thinks that Councilor Pepin has said it perfectly. He gave his respect to Mr. Joyal for coming up and giving his point, he will keep those points in mind. He stated that he came up with really good points. Spirit Clean Up Day – was fantastic and thanked Maureen Jackman and Kristen Davenport. Wants to talk about a letter received by Dave Francoeur, he was pleased with the way we handled his application. Last comment about the consent calendar was a great idea by the Mayor and is in favor for it.

Dumont – Our public safety people have the utmost respect from the Dumont family. He would love to see a contract come to Council for approval; he is also waiting on that day. For whatever reason it is where it is at and he will say an extra prayer this weekend. The Indonesian piece we have been blessed with having the Community in Somersworth. We have had the opportunity to interact with such a wonderful society of people. People who live day to day not knowing what tomorrow will bring for them, is not a very good way to be living your life. The ones that are in Somersworth not only take care of their Community but they take care of the City of Somersworth in many different ways. He applauds them and is 100% in favor in getting rid of this game that's being played. Clean up day, he thanked the people for donating their time. Wonderful to see that in our Community, Maureen Jackman deserves a lot of credit along with others. The letter from Dave Francoeur was spot on and it benefits the entire crew. He is excited to hear about the appointment of Robin Comstock in the appointment to the Skyhaven airport. Liquor store coming in is beneficial to the City.

Witham – He doesn't disagree with public comment, one thing that he does disagree with that was said is that the City is anti-fire; this Councilor and the colleagues on this Council that we are not anti-fire. We have supported the Fire budget and things of that nature. It is true that 7 years without a contract is too long. If fingers can be pointed it's not at the City Manager. This Council gives City staff, specifically the City Manager in particular guidelines he has to follow by. The City has attempted to negotiate in good faith; we have offered some agreements that have not been met by liking on the other side. Water/sewer has a Union with the "me too" clause. The way a "Me Too" clause reads is that if a wage

increase or some other benefit is given to our non-labor group employees that they fall in line with that. Wants to take a leadership role, but he is at a loss at what to do.

Sprague – Congratulated Councilor Richard Michaud tonight and thanked Mr. McNicholas for his putting his name forward. Nothing personal just that Mr. Michaud reached out to him numerous times and he didn't know who he was until he walked up tonight. The Air Force think tonight was quite spectacular. The David Francoeur letter was good but the liquor store developer he wouldn't ask that developer how it went because you wouldn't get that same response from him. That project was held up 3 times for nonsense reasons. He thinks that the Economic Development Department need to get things more streamlined. He is not okay with consent calendar he is against it. Doesn't think there is enough stuff done in this chamber to allow for that. Agrees Fire needs a contract, it is not because we haven't reached out. Councilor Witham put it correctly we try to keep all agencies the same, whether it's COLA or insurance increases. Thanked Police, Fire, Ambulance and everyone involved in incident on the Green St. Mr. Joyal put it exact with adrenaline rushes for all of those emergency services. Especially, with 3 of the elected officials with the life that comes off at the end, that is a reason why we want to take care of them.

Cameron – Would like to thank everyone that came to the Cultural dinner at the High School. We look forward to doing that again. Sher appreciated Mr. Joyal's passion and point of view, as this is a learning curve for her. She hopes that as things progress we can come up negotiations to satisfy everyone. Thanked Mr. McNicholas for his application and certainly hope that there are other venues that he can donate his time. She welcomed Mr. Michaud to the Council. She also appreciated the way that everything was handled in regards to the Green St incident.

Levasseur – Thanked everyone that came out tonight and exercised their 1st amendment rights that participated in our democracy. I hope that on both sides we can come to an agreement and get the Fire Department a contract. He also expressed his thanks to Mr. McNicholas for putting his name in the hat and congratulated Mr. Michaud on his appointment. He also wanted to dispel rumors that the council is anti-fire; he has specifically worked with the Public Safety Committee to build a new Fire Department that to me isn't something that says that I'm anti-fire. He agreed with Councilors Pepin and Vincent, that it is a two way street.

ADJOURNMENT

Councilor Dumont seconded by Councilor Witham, made a motion to adjourn. The meeting adjourned at 9:12 pm. Councilor Sprague opposed.

Kelly Gagne, Deputy City Clerk

Dana Hilliard, Mayor