CITY OF AUGUSTA  
MINUTES FOR THE CITY COUNCIL BUSINESS MEETING  
COUNCIL CHAMBERS CITY HALL  
THURSDAY, FEBRUARY 21, 2019  
7:00 P.M.

There was a pre-meeting of the City Council in Conference Room A at 6:30 p.m. No Council actions were taken at pre-meetings. Pre-meetings are open to the public.


Presentation: Historic Building Plaque to Daniel and Kirsten Eubank, owners of the Albert T. Fuller House, circa 1874, located at 44 North Street.

Presentation: Historic Building Plaque to Joseph and Mary Owen, owners of the Sewall Owen House, circa 1830, located at 22 Sewall Street.

Public Comments on Items Listed on the Agenda:

Consent Agenda:

19-026 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Regular Business Meeting held February 7, 2019, submitted by the City Clerk’s office be approved.

19-027 Mayor
BE IT ORDERED, that Peter Fortunato is hereby reappointed to the Board of Zoning Appeals, said term to expire March 17, 2022.

Motion for passage of the Consent Agenda orders 19-026 to 19-027.
By: Wilson Second by: Lind
Yeas: 8
Nays: 0

Old Business and Tabled Matters:

Second Reading (Ordinances)

19-023 Mayor and Council
BE IT ORDAINED, by the City Council of the City of Augusta, as follows:

That Part II of the Code of Ordinance, Chapter 31 Elections, of the Revised Code of Ordinances 1990, as amended, be further amended by removing the language with the strike through and adding the following language as underlined:
§ 31-2 Voting places.

B. The voting places in the City wards are the following:
Ward 1: Augusta State Armory  Buker Community Center
Ward 2: City Center
Ward 3: Augusta Civic Center
Ward 4: Cony High School

§ 31-9 Write-In Candidates

The requirements for declaration of write-in candidates and the procedures for tallying and reporting of votes cast for all write-in candidates at municipal elections shall be in accordance with the provisions of State Law regarding candidates and State elections as set forth in Title 21-A of the Laws of the State of Maine, except that the deadline for declaring as a write-in candidate shall be at the end of business on the 45th day prior to the election.

BE IT FURTHER ORDAINED, that the proposed amendment would not go into effect until 90 days after final adoption.

Motion for passage of order 19-023.
By: Lind  Second by: Elliott
Yeas: 8  Nays: 0

19-024  Mayor and Council

WHEREAS, solar energy collectors are highly scalable from very small installations to very large installations, and have very different impacts on the landscape than more traditional power generating facilities; and

WHEREAS, the Planning Board held a public hearing and voted unanimously to recommend the following modifications to the Land Use Ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Augusta, Maine, that the following amendments be made to the Code of Ordinances, Land Use Ordinance:

Motion to suspend further reading of order 19-024
By: Wilson  Second by: Day
Yeas: 8  Nays: 0

Add to § 300-202. Definitions

Solar Energy System, Building or Ground Mounted – A system for transforming solar energy into another form of energy either for electrical or heat generation purposes. Systems are considered structures and subject to building height and setback standards, and may be further regulated in Historic Districts. Three defined sizes are based on the

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perimeter boundary of all the structures of the system, including space between rows of structures.

A. Small Scale Solar Energy System – A system smaller than 1,500 square feet.
B. Medium Scale Solar Energy System – A system 1,500 square feet to less than 15,000 square feet.
C. Large Scale Solar Energy System – A system 15,000 square feet or larger.

Add to the Property Maintenance Ordinance:


Ground mounted medium and large scale solar energy systems which have failed to operate for more than one year shall be considered abandoned. Removal of all structures shall be completed by the landowner and/or the equipment owner within 90 days of abandonment or decommissioning. Removal shall follow procedures of the Wrecking and Demolition Permit.

Add to the Land Use Chart (300 Attachment 4, Table of Land Uses in the Base Zoning Districts):

Solar Energy System - Building Mounted, Small, Medium and Large Scale: Permitted in all districts
Solar Energy System - Ground Mounted, Small Scale: Permitted in all districts
Solar Energy System - Ground Mounted, Medium Scale:
  Conditional Use: RA, RB1, RB2, RC (Residential Districts)
  Permitted: All other districts
Solar Energy System - Ground Mounted, Large Scale:
  Conditional Use: All districts

Motion for passage of order 19-024.
By: Elliott Second by: O’Brien
Yeas: 8
Nays: 0

19-025 Mayor and Council

WHEREAS, providing additional opportunity for input by neighbors will help improve the compatibility of uses during a Planning Board review; and

WHEREAS, the Planning Board held a public hearing and voted unanimously to recommend the following modifications to the Land Use Ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Augusta, Maine, that the following amendments be made to the Code of Ordinances, Land Use Ordinance:

Motion to suspend further reading of order 19-025
By: Wilson Second by: Day
Yeas: 8
Nays: 0

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300-603.E Site plan review criteria applicable to conditional uses.
(1) Neighborhood compatibility. [The intent of this subsection is to encourage the applicant to design the proposal in consideration of the physical impact it will have on the immediate neighborhood (within 500 feet if the property is in the Urban Growth Area Districts and within 1,000 feet if the property is in the Planned Development and/or Rural Districts. Major Development, Major Subdivision, New or Expanded Mineral Extraction Licenses and Renewals New Mineral Extraction License, Expansions of Renewal Mineral Extraction Licenses, and shooting ranges will have a 2,000 foot standard in the Planned Development and/or Rural Districts).]

300-603.C(1) Conditional Uses, Public Hearing Notices
(b) Notices shall be given to each of the following:
[1] To the applicant, City Council, Planning Board and Board of Zoning Appeals.
[2] To all residents of the City, by publication in a newspaper of general circulation in the City at least 10 days before the hearing, and by posting a sign on the portion of the property involved that is nearest the public road.
[3] To the owners of the properties, by regular United States mail, within 500 feet of the parcel involved if the parcel is located in the Urban Growth Area Districts or within 1,000 feet of the parcel involved if the parcel is located in the Planned Development and/or Rural Districts.
[4] For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor’s office of the City of Augusta as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action by the Planning Board.

Motion for passage of order 19-025.
By: Conti Second by: O’Brien

Motion to amend order 19-025 by striking and adding the following language as recommended by the memo from Matt Nazar, Director of Development Services. 300-603.E(1) New or Expanded Mineral Extraction Licenses and Renewals New Mineral Extraction License, Expansions of Renewal Mineral Extraction Licenses and 300-603.C(1)[3] Mineral Extraction Licenses and Renewals New Mineral Extraction License, Expansions of Renewal Mineral Extraction Licenses
By: Wilson Second by: O’Brien
Yeas: 8
Nays: 0

Vote on order 19-025 as amended
Yeas: 8
Nays: 0

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**NEW BUSINESS:**

**PART 1 – ORDERS AND RESOLVES**

**19-028  Mayor and Council**

BE IT ORDERED, that the Augusta City Council does hereby adopt the 2019 City Council Goals and Actions per the final draft of February 19, 2019.

Motion for passage of order 19-028.
By: O’Brien  Second by: Lind
Yeas: 8  Nays: 0

**19-029  Mayor and Council**

BE IT ORDERED, that the City Council does hereby refer to the Planning Board, for Public Hearing and recommendation, the following proposed Medical Marijuana Business Licensing Ordinance:

Amend the Land Use Ordinance as follows:

Motion to suspend further reading of order 19-029
By: Wilson  Second by: Elliott
Yeas: 8  Nays: 0

Modify the definition of “Specialized Medical Clinic” to exclude all marijuana uses and more appropriately define drug treatment facilities.

Add the following definitions to Section 300-202 (Other Definitions):

- **Indoor Medical Marijuana Cultivation Area.** An Indoor Medical Marijuana Cultivation Area is an indoor area used for medical marijuana cultivation in accordance with state law that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under state law.

- **Outdoor Medical Marijuana Cultivation Area.** An Outdoor Medical Marijuana Cultivation Area is an indoor outdoor area used for medical marijuana cultivation in accordance with state law that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under state law.

- **Medical Marijuana Manufacturing Facility.** "Medical Marijuana Manufacturing Facility" means a registered tier 1 or tier 2 manufacturing facility, as designated by state law, or a person authorized to engage in marijuana extraction under 22 MRS §2423-F.

- **Registered dispensary.** "Registered dispensary" or "dispensary" means an entity registered under 22 MRS §2425-A that acquires, possesses, cultivates, manufactures,
delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

- **Marijuana testing facility.** "Marijuana testing facility" means a public or private laboratory that is authorized and accredited in accordance with state law.

- **Medical Marijuana Registered Caregiver.** "Medical Marijuana Registered Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance and is registered with the state in accordance with state law. A Medical Marijuana Registered Caregiver may operate in a variety of ways including operating one retail store, in accordance with state law.

Add the following uses to the Land Use Table:

- **Indoor Medical Marijuana Cultivation Area – Permitted in CB, CC, CD, IA, MED, PD, PD2, RRES, RPDS, RR, RV**
- **Outdoor Medical Marijuana Cultivation Area – Conditional Use in RR, RPDS, RRES**
- **Medical Marijuana Testing Facility – Permitted Use in IA, PD, CC, CD, MED**
- **Medical Marijuana Manufacturing Facility – MED, IA, PD, CC, CD**
- **Medical Marijuana Registered Caregiver – Conditional Use in MED, IA, CB, CC, CD, KBD1, KBD2, PD, PD2, RD, RPDS, RR, RRES, RBV, RV**
- **Registered Dispensary – Conditional Use in MED, IA, CC, CD, PD.**

Include a new section in the LUO as follows:

§300-533 Medical Marijuana Businesses

This section regulates Medical Marijuana uses within the City of Augusta. The permitting standards outlined here shall be adhered to for all medical marijuana businesses, in addition to other applicable standard in this and other ordinances or state law. Medical Marijuana Businesses, for the purposes of this section, include Indoor Medical Marijuana Cultivation Area, Outdoor Medical Marijuana Cultivation Area, Medical Marijuana Testing Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Registered Caregivers, and Registered dispensaries.

A. Medical Marijuana Businesses shall not locate within 500 feet of a Place of Worship, state licensed daycare of any size, or school. Measurement shall be from the exterior wall of the Medical Marijuana Business to the property line of the protected use. This section shall not prohibit the activity of a caregiver or other authorized individual from administering medical marijuana to a qualified patient who is located within one of these protected areas.

B. Medical Marijuana Businesses shall not have any odor of marijuana detectible beyond the area controlled by the business, whether that be a lease or owned area that is a portion or all of a recorded parcel of land. Odors shall be controlled by whatever best-practices exist.
C. Medical Marijuana Registered Caregivers shall not occupy a space larger than Y square feet for all aspects of their operation. No single property or building shall allow more than five Medical Marijuana Registered Caregivers occupying a total of (Y x 5) square feet.

D. Any Medical Marijuana Business that is located in a zoning district where it is not a permitted or conditional use shall discontinue operation in that location by June 30, 2021.

§300-534 Marijuana for Personal Use

All marijuana cultivated for personal use under Title 28-B of the Maine Revised Statutes shall be grown on the property where the user is domiciled.

Motion for passage of order 19-029.
By: Day Second by: Elliott

Motion to amend order 19-029 to strike the words “Business Licensing” from the first paragraph, strike the word indoor and add the word outdoor from the second paragraph in definitions Section 300-202, and ask the Planning Board to consider adding an overlay district.
By: Alexander Second by: Wilson
Yeas: 8
Nays: 0

Vote on order 19-029 as amended.
Yeas: 8
Nays: 0

19-030 Mayor and Council
BE IT ORDERED, that the Augusta City Council does hereby refer to the Planning Board a proposed amendment to the Land Use Ordinance regarding regulation of small parking lots as a primary use.

Motion for passage of order 19-030.
By: Wilson Second by: Elliott
Yeas: 8
Nays: 0

Motion to suspend the rules and take order 19-032 out of order.
By: O’Brien Second by: Lind
Yeas: 8
Nays: 0

19-032 Mayor and Councilor Elliott
BE IT ORDERED, that the City Manager is hereby authorized to offer for public sale a parcel of tax acquired property at 1 Park Street, Map 39 Lot 32.
Motion for passage of order 19-032.
By: Elliott Second by: Judkins

Motion to table order 19-032.
By: Judkins
Motion died for lack of second.

Vote on order 19-032.
Yeas: 2 – Councilors Elliott and Wilson
Nays: 6
Motion failed

19-031 Councilor Wilson
BE IT ORDERED, that the City Council does hereby authorize the City Manager to start the process to discontinue a portion of Park Street.

Motion to table order 19-031 indefinitely.
By: Lind Second by: Wilson
Yeas: 7
Nays: 1 – Councilor Elliott

COMMUNICATIONS

Committee Reports
City Manager’s Report

19-033 City Manager
Executive Session: Potential Litigation; 1 MRS, §405(6)(E)

Motion to move order 19-033 to enter executive session at 7:56 p.m. for pending litigation in accordance with 1 M.R.S.A., §405(6)(E).
By: Conti Second by: O’Brien
Yeas: 8
Nays: 0

Motion to leave executive session and adjourn at 8:55 p.m.
By: Elliott Second by: Wilson
Yeas: 8
Nays: 0

Respectfully submitted,
Roberta L. Fogg, City Clerk
February 21, 2019