MINUTES FOR THE CITY COUNCIL BUSINESS MEETING
COUNCIL CHAMBERS
THURSDAY, MAY 17, 2018
7:00 P.M.

There was a pre-meeting of the City Council at 6:30 p.m. in Conference Room A.


Absent: Councilors Alexander.

PROCLAMATION: EMS week May 21st through May 28th

PRESENTATION: Mayor’s Recognition of Excellence Award (REX) to Amy Vachon

PRESENTATION: Retirement of Police Chief Robert Gregoire

PRESENTATION: Retirement of City Engineer Lionel Cayer

PUBLIC COMMENTS ON ITEM LISTED ON THE AGENDA:

CONSENT AGENDA:

18-080 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Regular Meeting held May 3, 2018, submitted by the City Clerk’s office be approved.

18-081 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Special Meeting held May 10, 2018, submitted by the City Clerk’s office be approved.

18-082 City Manager (Bureau of Audit Accounts)
BE IT ORDERED, that the Roll of Accounts for the month of April, 2018 in the amount of $5,910,616.20 be approved.

18-083 City Manager
BE IT ORDERED, that the City Manager is authorized to accept grant funding from the Maine Emergency Management Agency, Homeland Security Grant Program in the amount not to exceed $1,061.00. No local matching funds are required.

Motion for passage of the Consent Agenda orders 18-080 to 18-083.
By: Conti Second by: Wilson
Yeas: 7
Nays: 0
NEW BUSINESS:

PART I – ORDERS AND RESOLVES

18-084 City Manager
BE IT ORDERED, that the City Council does hereby confirm the City Manager’s appointment of Deputy Police Chief Jared Mills to the position of Chief of Police. Said appointment to be effective on June 1st, 2018.

Motion for passage of order 18-084.
By: O’Brien Second by: Lind
Yeas: 7
Nays: 0

18-085 City Manager
BE IT ORDERED, that the City Council accept on behalf of the family of the late Governor John Fremont Hill a donation in the amount of Fifteen Thousand Dollars ($15,000.00) for the purpose of making Forest Grove Cemetery improvements as deemed needed by the Director of Community Services to include; resetting and repointing headstones, and pruning, removing and planting trees. Said funds will be held in a dedicated Forest Grove Cemetery account until such time all funds have been expended.

Motion for passage of order 18-085.
By: Elliott Second by: Lind
Yeas: 7
Nays: 0

18-086 City Manager
BE IT ORDERED, that the sum of $150,000.00 be and hereby is appropriated to the Public Works Snow Removal Bureau; and,

BE IT FURTHER ORDERED, that the sum of $150,000.00 be and hereby is de-appropriated from the Retirement and Insurance Budget.

Motion for passage of order 18-086.
By: Day Second by: O’Brien
Yeas: 7
Nays: 0

18-087 City Manager
BE IT ORDERED, that the City Manager is hereby authorized to accept the donation of land at 58 Mount Vernon Avenue, Map 35, Lot 217.

BE IT FURTHER ORDERED, that an amount of $2,000.00 will be paid by the property owners in exchange for a release of claim.
Motion for passage of order 18-087.
By: Wilson  Second by: Elliott
Yeas: 7  Nays: 0

18-088 Mayor and Council
BE IT ORDERED, that the Planning Board is hereby directed to consider and make recommendations to the City Council regarding the following amendment to Article VI, Section 300-510 of the City Code, as suggested by the City’s Ad Hoc Marijuana Policy Advisory Committee:

Motion to suspend the reading of order 18-088.
By: Wilson  Second by: Elliott
Yeas: 7  Nays: 0

13. A business operated by a Primary Caregiver, as defined by the Medical Use of Marijuana Act, 22 M.R.S.A. § 2422, shall not be considered a Home Occupation unless:

(a) Any portion of the home or accessory building in which marijuana is cultivated or stored shall be secured and locked at all times.
(b) All marijuana cultivation and processing activities shall be conducted indoors.
(c) All visits by patients shall be by appointment only.
(d) The Primary Caregiver’s use of the premises shall not generate more than two patient vehicle trips per day.
(e) The Primary Caregiver shall maintain an odor control system which prevents the odor of marijuana from being detectable outside any building where cultivation, processing or storage occurs.

Motion for passage of order 18-088.
By: Day  Second by: Lind
Yeas: 7  Nays: 0

NEW BUSINESS:
PART 2 – ORDINANCES BEING READ FOR THE FIRST TIME NO VOTE REQUIRED

18-089 Mayor and Council
WHEREAS, the Moratorium Ordinance regarding Retail Marijuana Establishments (“the Moratorium”) was enacted on December 21, 2017;

WHEREAS, City officials and staff have been working diligently to discuss and propose zoning, licensing and operational standards for Retail Marijuana Establishments;
Motion to suspend the reading of order 18-089.
By: Wilson Second by: Day
Yeas: 7
Nays: 0

WHEREAS, the Maine Legislature and various agencies of the State have not yet finalized necessary legislation and rulemaking to allow for state licensure of Retail Marijuana Establishments;

WHEREAS, City officials and staff will need to review the relevant legislation and rules in order to determine the appropriate review and enforcement standards to be included within the City Code; and

WHEREAS, it is the City’s intent that such review be completed and that relevant ordinances enacted before the State begins issuing licenses for Retail Marijuana Establishments;

NOW, THEREFORE, be it ordained by the City Council of the City of Augusta, that the Moratorium Ordinance regarding Retail Marijuana Establishments is hereby extended for an additional 180-day period, unless sooner repealed, in whole or in part, by the City Council.

Emergency Declaration

The City Council declares the existence of an emergency because the Code of Ordinances is insufficient to prevent serious public harm that could be caused by the unregulated development of Retail Marijuana Establishments, thereby necessitating a moratorium to provide an opportunity for the City to review the potential impacts and harm that may be caused by such storefronts, and to amend its Code of Ordinances to mitigate the potential impact and harm on the City and its residents.

In accordance with Article II, Section 9 or the City Charter, this Moratorium shall be enacted as an emergency ordinance. It shall be effective immediately upon enactment and shall remain in effect for one hundred eighty (180) days from the date of enactment unless it is terminated or extended in accordance with this Ordinance.

Motion to waive the second reading of order 18-089.
By: Day Second by: Elliott
Yeas: 6
Nays: 1 – Councilor Wilson

Motion to approve order 18-089
By Day Second by: O’Brien
Yeas: 6
Nays: 1- Councilor Wilson
WHEREAS, the City enacted a Moratorium regarding Retail Marijuana Establishments on December 21, 2017; 

WHEREAS, medical marijuana storefronts are a type of use which is not specifically regulated under the Maine Medical Use of Marijuana Act, and which causes the same questions and concerns set forth in the Emergency Moratorium regarding Retail Marijuana Establishments; and

Motion to suspend the reading of order 18-090.
By: Wilson Second by: Day
Yeas: 7
Nays: 0

WHEREAS, the City needs time to review regulations being considered by the State and to review its own Code of Ordinances to determine the implications of future proposed medical marijuana storefronts to develop reasonable ordinances governing the location and operations of such establishments;

WHEREAS, the City Council, with the professional advice and assistance of the City Manager, Planning Board, Planning Department and Police Department, shall study the City’s current Code of Ordinances to determine the land use and other regulatory implications of medical marijuana storefronts and consider what locations, if any, and approval and performance standards, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such a study, review, and development of recommended Ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this Moratorium Ordinance regarding Medical Marijuana Storefronts;

NOW, THEREFORE, be it ordained by the City Council of the City of Augusta, that the following Moratorium Ordinance regarding Medical Marijuana Storefronts (the “Moratorium Ordinance”) be, and hereby is, enacted, and, in furtherance thereof, the City Council does hereby declare a moratorium on the location, operation or licensing of any medical marijuana storefronts within the City.

For the purposes of this Moratorium Ordinance, a Medical Marijuana Storefront is defined as an establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by a Caregiver as defined by 22 M.R.S.A. § 2422 for the sale of marijuana and marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9). An establishment which meets all of the relevant definitions, standards and restrictions pertaining to Home Occupations shall be exempt from this Moratorium Ordinance.

This Moratorium Ordinance shall take effect once enacted by the City Council, in accordance with the provisions of the City Charter and, notwithstanding 1 M.R.S.A. § 302, shall be applicable to Medical Marijuana Storefronts for which applications are not pending or approved as of May 10, 2018. The Moratorium shall expire on the 180th day after enactment, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an
amendment or amendments to the City’s current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of medical marijuana storefronts with existing and permitted uses in residential, commercial and industrial zoning districts, the potential adverse health and safety effects of medical marijuana storefronts on the community if not properly regulated, and the adequacy of the City’s infrastructure to accommodate the presence of medical marijuana storefronts in the City.

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to medical marijuana storefronts that may be proposed to be located within the City after the effective date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a medical marijuana storefront within the City on or after the effective date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the City Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana storefront unless the application under review was filed with the City prior to the enactment date of this Ordinance; and

BE IT FURTHER ORDAINED, that those provisions of the City current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if medical marijuana storefronts are established in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Emergency Declaration

The City Council declares the existence of an emergency because the Code of Ordinances is insufficient to prevent serious public harm that could be caused by the unregulated development of medical marijuana storefronts, thereby necessitating a moratorium to provide an opportunity for the City to review the potential impacts and harm that may be caused by such storefronts, and to amend its Code of Ordinances to mitigate the potential impact and harm on the City and its residents.
In accordance with Article II, Section 9 or the City Charter, this Moratorium shall be enacted as an emergency ordinance. It shall be effective immediately upon enactment and shall remain in effect for one hundred eighty (180) days from the date of enactment unless it is terminated or extended in accordance with this Ordinance.

Motion to waive the second reading of order 18-090.
By: Day Second by: Elliott
Yea: 6
Nay: 1 – Councilor Wilson

Motion to approve order 18-090
By O’Brien Second by: Elliott
Yea: 6
Nay: 1 - Councilor Wilson

COMMUNICATIONS

Committee Reports
City Manager’s Report

18-091 City Manager
Executive Session: Personnel Matter; 1 M.R.S.A., §405(6)(A)

Motion for passage of order 18-091 to enter executive session at 8:50 p.m. accordance with 1 M.R.S.A. §405(6)(A) a personnel matter.
By: Conti Second by: Elliott
Yea: 7
Nay: 0

Motion to leave executive session at 9:15 p.m.
By: Elliott Second by: O’Brien
Yea: 7
Nay: 0

Motion to adjourn at 9:15 p.m.
By: Lind Second by: Elliott
Yea: 7
Nay: 0

Respectfully submitted,
Roberta L. Fogg, City Clerk
May 21, 2018