MINUTES FOR THE CITY COUNCIL BUSINESS MEETING
COUNCIL CHAMBERS
THURSDAY, DECEMBER 21, 2017
7:00 P.M.

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


PROCLAMATION: Augusta Senior Citizen Housing Week

PUBLIC COMMENTS ON ITEM LISTED ON THE AGENDA:

CONSENT AGENDA:

17-202  City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the Regular City Council Meeting held December 7, 2017 submitted by the City Clerk’s office be approved.

17-203  City Manager
BE IT ORDERED, that the City Manager is authorized to accept grant funding in the amount not to exceed $34,347.48 from the Maine Bureau of Highway Safety’s 2018 High Visibility Distracted Driving Enforcement Program. The grant requires a 20% match, which will be met with in-kind administrative, vehicle maintenance and fuel costs.

17-204  City Manager
BE IT ORDERED, that the City Manager is authorized to accept grant funding in an amount not to exceed $10,211.88 from the Maine Bureau of Highway Safety for the 2018 Click It or Ticket / Buckle Up No Excuses Enforcement and Education Program. Grant funding will be utilized to provide directed seatbelt enforcement and traffic related laws. There is no local match required.

17-205  City Manager
BE IT ORDERED, that the City Manager is authorized to accept grant funding in an amount not to exceed $10,157.19 from the Maine Bureau of Highway Safety for the 2018 Speed Enforcement & Equipment (Municipal & County) Grant. Grant funding will be utilized to provide directed speed enforcement and to purchase a new radar unit. There is no local match required.

17-206  City Manager
BE IT ORDERED, that the City Manager is authorized to accept grant funding in the amount not to exceed $9,841.44 from the Maine Bureau of Highway Safety for the Evidence Based Impaired Driving High Visibility Enforcement Grant. The grant requires a 20% match, which will be met with in-kind administrative, vehicle maintenance and fuel costs.
17-207    Mayor
BE IT ORDERED, that Scott Emery be reappointed to the Assessment Review Board, said term to expire December 21, 2020.

17-208    Mayor
BE IT ORDERED, that Lorie Mastemaker be reappointed to the Historic Preservation Commission, said term to expire February 2, 2021.

17-209    Mayor
BE IT ORDERED, that Council Member Linda Conti be reappointed to the Historic Preservation Commission, said term to expire February 2, 2021.

Motion for passage of the Consent Agenda 17-202 to 17-209, with 17-207 as amended.
By: Grant        Second by: Day

Motion to set aside 17-207, amending the order to remove “as the Chair of” and add “to” after reappointed.
By: Grant        Second by: O’Brien
Yeas: 8
Nays: 0

Vote on the passage of the Consent Agenda as amended.
Yeas: 8
Nays: 0

OLD BUSINESS AND TABLED MATTERS
SECOND READING (ORDINANCES)

17-199    City Manager
WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” (the “Act”) codified in the Maine Revised Statutes Annotated (“M.R.S.A.”) in Title 7, chapter 417, was approved by a state-wide referendum election on November 8, 2016; and

Motion to suspend the reading.
By: Wilson        Second by: Day
Yeas: 8
Nays: 0

WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

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WHEREAS, the Act does not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) (the “Medical Marijuana Act”) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Maine Legislature, as of the enactment date of this Ordinance, has not passed proposed amendments to the Act to clarify certain provisions regarding its effects and applicability, and to place other limitations regarding the licensing and operation of retail marijuana establishments; and

WHEREAS, the Municipal Code of Ordinances (the “Code of Ordinances”) of the City of Augusta (the “City”) does not include any regulations related to retail marijuana establishments or retail marijuana social clubs that may be permitted under the Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the City of Augusta raises legitimate and substantial questions about the impact of such establishments and social clubs on the City, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the City’s Police Department and Fire Rescue Department; and the adequacy of the City’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the City has potentially serious implications for the health, safety and welfare of the City and its residents; and

WHEREAS, the City needs time to review the Act and to review its own Code of Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the City’s current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and social clubs and other uses authorized by the Act; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses being located in the City as authorized by the Act; and
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 retail marijuana establishments and social clubs 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 twenty (120) days from the date the City enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW, THEREFORE, be it ordained by the City Council of the City of Augusta, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs (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 retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the City, such terms being defined as in the Act.

This Moratorium Ordinance shall take effect once enacted by the City Council, in accordance with the provisions of the City Charter, but shall be applicable as of December 1, 2017, as expressly provided below. The moratorium shall remain in effect for one hundred and twenty-eight (120) days from the date of applicability of this Ordinance, 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 retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the “Marijuana Legalization Act;” the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the City in responding to the same; and the adequacy of the City’s infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the City.

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, that may be proposed to be located within the City on or after the December 1, 2017, applicability date of this Ordinance; and
BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Moratorium Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other City official or board prior to December 1, 2017, the applicability date of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the City on or after the December 1, 2017, applicability 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 retail marijuana establishment or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the City’s 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 retail marijuana establishments or retail marijuana social clubs 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.

Motion for passage of order 17-199.
By: O’Brien Second by: Day

Motion to amend order 17-199 from 120 days to 180 days.
By: O’Brien Second by Alexander
Yeas: 4 - Councilors Elliott, O’Brien, Day and Alexander
Nays: 4 – Councilors Conti, Grant, Blodgett and Wilson
Mayor Rollins voted yea.
Motion for the amendment passed.
Vote on order 17-199 as amended.
Yeas: 5 – Councilors Conti, Elliott, O'Brien, Day and Alexander
Nays: 3 – Councilors Grant, Blodgett and Wilson

17-200 Mayor and Council
WHEREAS, the City of Augusta must be in compliance with federal grant regulations before any expenditure of federal money is authorized.

Motion to suspend the reading.
By: Wilson Second by: Day
Yeas: 8
Nays: 0

NOW THEREFORE BE IT ORDAINED, that the Augusta Code of Ordinances Article II Section 83-4 is hereby amended by adding the following:

G. Department heads and authorized bureau directors will verify that the vendor that will be doing work or purchasing equipment/goods from is not listed on the ineligible or debarred list on System for Award Management (SAM), to ensure potential vendors or contractors have not been suspended or barred from receiving federal funding, for all purchases done with federal grants. They will search on SAM to find a list of current companies (Entity) or individuals that have been declared ineligible to receive Federal contracts due to a violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. Section 793; and/or the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. Section 4212. SAM contains the electronic roster of debarred companies excluded from Federal procurement and non-procurement programs throughout the U.S. Government (unless otherwise noted) and from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and nonfinancial assistance and benefits. The SAM system combines data from the Central Contractor Registration, Federal Register, Online Representations and Certification Applications, and the Excluded Parties List System.

Motion for passage of order 17-200.
By: Conti Second by: Day
Yeas: 8
Nays: 0

NEW BUSINESS

PART I – ORDERS AND RESOLVES

17-210 City Manager
BE IT ORDERED, that the City Manager is hereby authorized to sign a Collective Bargaining Agreement with Augusta Public Works Department Local, 1458 of Council #93 the American Federation of State, County and Municipal Employees (AFSCME) consistent with Council guidance and effective July 1, 2017 through June 30, 2019.
Motion for passage of order 17-210.
By: O'Brien Second by: Grant
Yea's: 8
Nays: 0

17-211  City Manager
BE IT ORDERED, that the City Council, hereby authorize a 2% cost-of-living salary adjustment to full-time and permanent part-time non-union employees effective at the start of the pay week closest to July 1, 2017 and consistent with the FY 2017-2018 budget.

Motion for passage of order 17-211.
By: O'Brien Second by: Elliott
Yea's: 8
Nays: 0

17-212  City Manager
BE IT ORDERED, that the City Council hereby authorizes the City Manager to expend up to $350,000 for the design, installation and oversight of the construction of methane gas wells in the Hatch Hill Landfill Expansion Phase III. These wells are part of the landfill closure and are being installed now to ensure there is sufficient gas quality and quantity for the methane to electricity project and to capture methane that is currently being emitted into the atmosphere and produces carbon dioxide. This project will be funded by the Hatch Hill Enterprise Fund.

Motion for passage of order 17-212.
By: Elliott Second by: Blodgett
Yea's: 8
Nays: 0

COMMUNICATIONS

Mayor Rollins presented Councilor Blodgett with a recognition and thank you for her service to the city.

  Committee Reports
  City Manager’s Report

Motion to adjourn at 8:00 pm.
By: Alexander Second by: Elliott
Yea's: 8
Nays: 0

Respectfully submitted,
Roberta L. Fogg, City Clerk

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