

**AGENDA FOR THE CITY COUNCIL BUSINESS MEETING
COUNCIL CHAMBERS
THURSDAY, December 15, 2016
7:00 P.M.**

PRESENTATION AND PUBLIC HEARINGS:

PUBLIC HEARINGS

Liquor License:

Spirituous, Malt and Vinous Liquor License application for Chen Chi Sushi Hibachi Corp. d/b/a Kume Sushi Hibachi Steakhouse IV, 19 Stephen King Drive.

Discontinuance of St. Andrews Street:

The City Council of the City of Augusta is holding a public hearing to make it known that a city street known as St. Andrew Street, description below, is no longer of public use and is intended to be discontinued, with a public easement retained.

St. Andrew Street, as accepted by the Augusta City Council on August 17, 1970, Order 385, is bounded as follows:

A certain lot or parcel of land situated on the east side of the river in Augusta, Maine; beginning at an iron pipe located on the southerly side of South Belfast Ave, so called 5' westerly of the northwesterly corner of land now or formerly owned by Thecla T. Cloutier; thence southerly in a line parallel with and 5' westerly of the westerly line of land owned by said Cloutier and land now or formerly owned by Joseph Zayac 600'; thence westerly in a line parallel with the southerly line of said South Belfast Ave to a point located 55' feet westerly of the westerly line of said Zayac; thence northerly in a line parallel with and 55' westerly of the westerly line of said Zayac and Cloutier 600' the the southerly side of said South Belfast Ave; thence easterly along the southerly side of South Belfast Ave 50' to the iron pipe at the point of beginning; meaning and intending a strip of land 50' wide and 600' long.

Additionally, a certain lot or parcel of land situated on the east side of the river in Augusta, Maine; beginning at a point on the westerly side of the 50' wide and 600' long strip described in the paragraph above, 600' southerly of the southerly side of South Belfast Ave; thence westerly in a line parallel with the southerly side of South Belfast Ave 20'; thence northerly in a line parallel with the westerly line of said Zayac 25'; thence easterly in a line parallel with the southerly line of South Belfast Ave 20'; thence southerly in a line parallel with the westerly line of said Zayac 25' to the point of beginning.

The intent being to discontinue all of St. Andrew Street and award damages in the form of land owned by the City of Augusta, 5' wide by 700' long, as described in Kennebec County Registry of Deeds Book 1542, Page 205; and a 50' by 100' parcel of land owned by the City of Augusta at the southerly end of the 50' wide St. Andrew Street, as described in the third paragraph of this order.

The City of Augusta shall retain a public easement over the herein described area, both St. Andrew Street and the land awarded as damages, as provided in Title 23, M.R.S.A., Section 3026.

PUBLIC COMMENTS ON ITEM LISTED ON THE AGENDA:

CONSENT AGENDA:

16-207 City Manager (Bureau of City Clerk)

ORDERED, that the minutes of the City Council Business Meeting held December 1, 2016, submitted by the City Clerk's office be approved.

16-208 City Manager (Bureau of City Clerk)

ORDERED, that the minutes of the City Council Special Meeting held December 8, 2016, submitted by the City Manager be approved.

16-209 City Manager (Bureau of Audit Accounts)

ORDERED, that the Roll of Accounts for the month of November, 2016 in the amount of \$6,868,130.71 be approved.

16-210 Mayor

ORDERED, that Delaine Nye hereby be reappointed to the Planning Board, said term to expire December 17, 2019.

16-211 Mayor

ORDERED, that Bradley Sawyer hereby be appointed to the Greater Augusta Utility District Board of Trustees, said term to expire December 31, 2018.

OLD BUSINESS AND TABLED MATTERS

SECOND READING (Ordinances)

**16-187 Mayor Rollins and ~~Councilors Blodgett, Conti, Grant, Munson, Paradis~~
Council (sponsors amended 12/13/2016)**

Tabled from 11/17/2016

WHEREAS, the City Council finds that use Meal Center and Food Pantry is part of the larger Service definition in the Land Use Ordinance and has caused confusion in interpretation; and

WHEREAS, the City Council finds that clarity of interpretation is critical to creating certainty for residents and developers;

NOW THEREFORE be it ORDAINED, by the City Council of the City of Augusta, that the Code of Ordinances, Land Use, Section 300-202 will have a new definition added, below, in alphabetical order.

MEAL CENTER AND FOOD PANTRY: A social service organization where food is distributed, either prepared or unprepared, for free or below market price.

and the new use, Meal Center and Food Pantry, shall be added to the Table of Uses (300 Attachment 4) under the institutional heading as a Conditional Use (designated in the table with a CUq) in the following zoning districts:
RD, BP, KBD1, KBD2, CB, CC, CD, PD, PD2.

Proposed amendment attached.

**16-188 Mayor Rollins and Councilors Blodgett, Conti, Munson, Paradis
Tabled from 11/17/2016**

WHEREAS, the City Council finds that the current definition of “Religious Activities and Associated Uses” is outdated and does not provide adequate clarity for religious organizations or citizens regarding accessory activities conducted in relation to such uses ; and

WHEREAS, the City Council finds that clarity of interpretation is critical to creating certainty for residents and others; and

WHEREAS, the City Council finds that the faith community is a critical part of the fabric of the community, but as the nature of worship changes, certain activities conducted by religious organizations, like their secular counterparts, could have an impact on the health, safety, and general welfare of the neighborhoods where they are located;

WHEREAS, the City’s Planning Board reviewed this issue and the proposed amendments at two public hearings, at which residents and business owners voiced concern over the impact of social services, traffic and parking on residential neighborhoods and business districts, and religious entities discussed how activities such as community suppers, clothing drives and educational activities are components of their religious practice;

WHEREAS, the City Council respects the needs of all property owners and is interested in limiting traffic, noise, parking, and other impacts of uses in keeping with the nature of the district in which they are located; and

WHEREAS, in keeping with the Comprehensive Plan, the City Council intends to regulate accessory uses conducted by religious entities only to the extent they are significant in scope and, due to their potential impacts, would not otherwise be allowed as primary uses in the district in which they are located;

NOW THEREFORE be it ORDAINED, by the City Council of the City of Augusta, that the Code of Ordinances, Land Use, be amended to repeal the current term and definition of a “Religious Activities and Associated Uses” in Section 300-202 and replace it with the following term and definition:

PLACE OF WORSHIP: Any building used for nonprofit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as

a place of worship, or for ceremonies, rituals, education, and related social events. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque. Any new or expanded use conducted on the premises of a Place of Worship shall be considered a separate principal use if it is operated for more than 16 hours a week, for a total of four or more weeks per year.

and that Religious Activities and Associated Uses in the Table of Uses (300 Attachment 4) shall be changed to the new use “Place of Worship”; and

that “Place of Worship” shall be allowed in the same districts, and with the same designations, as Religious Activities and Associated Uses were in the Table of Uses (300 Attachment 4); and

that, additionally, Places of Worship shall be allowed as a permitted use (designated with an X) in the following districts in the Table of Uses (300 Attachment 4): RPDS, RV.

**16-190 Mayor and Councilors Bilodeau, Conti, McCormick, Munson and Paradis
Tabled from 12/01/2016**

~~WHEREAS, the City Council finds that the ground vibration standard in the Blasting Ordinance does not result in an acceptable level of vibration within nearby residences;~~

~~NOW THEREFORE be it ORDAINED, by the City Council of the City of Augusta, that the Code of Ordinances, Blasting be amended to add a new section as follows:~~

~~130-5 Performance Standards~~

~~C. Ground vibration:~~

~~(1) Peak particle velocity. Peak particle velocity limits (inches per second) not to be exceeded at any time, and in any one of the three principal directions:~~

~~(a) Production quarry:~~

Distance From Blast (feet)	Maximum Peak Particle Velocity (inches/second)
Less than 300	1.25 0.19
300 to less than 500	0.94 0.14
500 to less than 5,000	0.75 0.11
5,000 or more	0.54 0.08

Amended as follows:

WHEREAS, the City Council finds that the production quarry blasting is different from project blasting, in that project blasting has a relatively limited timeframe for occurrence, ending when a project is complete, while production blasting at a quarry can continue for years or even decades; and

WHEREAS, the ongoing nature of quarry blasting has a negative effect on the marketability of adjacent residential property; and

WHEREAS, the ongoing nature of quarry blasting has a negative impact on the peaceful enjoyment of neighboring property; and

WHEREAS, the ongoing nature of quarry blasting has had a negative impact on the level of anxiety experienced by adjacent residents;

NOW THEREFORE be it ORDAINED, by the City Council of the City of Augusta, that the Code of Ordinances, Blasting be amended to add a new section as follows:

130-5 Performance Standards

G. Number of Blasts. No production quarry shall have more than six (6) blasts per calendar year.

16-205 ~~City Manager~~ Mayor Rollins and Councilors Alexander, Grant, Munson and Paradis (sponsors amended 12/13/2016)

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” (the “Act”) proposed to be 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

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

WHEREAS, the Act will 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;

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 eighty (180) 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 November 8, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) 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 November 8, 2016 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 November 8, 2016, 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 November 8, 2016 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.

NEW BUSINESS
PART 1

16-212 Manager (Bureau of City Clerk)

ORDERED, that the application for a Spirituous, Malt and Vinous Liquor License be approved for Chen Chi Sushi Hibachi Corp. d/b/a Kume Sushi Hibachi Steakhouse IV, 19 Stephen King Drive.

16-213 Manager

ORDERED, That the City Council accept the donation of a sculpture titled "IO" created by Artist Andreas von Huene located on the island at Green St. and Water St.. Artist Andreas von Huene donated \$3,000.00 and the Augusta Downtown Alliance donated \$13,000.00 for an amount totaling \$16,000.00.

16-214 Manager

ORDERED, that the City Council accepts a donation of a Holiday Tree from Anne Dutil valued at \$1,000.00 for the City's Annual Holiday lighting event and display during the Holiday **season at Market Square**

16-215 Manager

ORDERED, that the City Council accepts a donation for the use of a crane and personnel from Lajoie Brothers Inc. valued at \$1,200.00 for the cutting down, removal and setting in place at Market Square the Holiday Tree for the City's Annual Holiday lighting event and display during the Holiday season at Market Square.

16-216 Manager

ORDERED, that the City Council accepts a donation for the cutting, removal and assistance with decorating the Holiday Tree from Chavarie Tree Service valued at \$1,200.00 for the City's Annual Holiday lighting event and display during the Holiday season at Market Square.

NEW BUSINESS

PART 2 –ORDINANCES - FIRST READING

NO VOTE REQUIRED

COMMUNICATIONS

Committee Reports
City Manager's Report

Respectfully submitted,
Roberta L. Fogg, City Clerk
December 13, 2016