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

There will be a pre-meeting of the City Council at 6:30 pm in Conference Room A. No Council actions are taken at pre-meetings. Pre-meetings are open to the public.

PRESENTATION: Judith Shaw, Maine Office of Securities, speaking on Elder Abuse Prevention.

PUBLIC COMMENTS ON ITEM LISTED ON THE AGENDA:

CONSENT AGENDA:

17-188 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the Regular City Council Meeting held November 16, 2017 submitted by the City Clerk's office be approved.

17-189 City Manager (Bureau of Audit Accounts)
BE IT ORDERED, that the Roll of Accounts for the month of November, 2017 in the amount of $4,777,315.76 be approved.

17-190 City Manager
BE IT ORDERED, that the City Council schedule of meetings for calendar year 2018 as required by Article II, Section 6 of the City Code of Ordinances, be set as follows:

January 4 - Business Meeting to include swearing in of newly elected officials
January 11 - Informational Meeting
January 18 - Business Meeting
January 25 - Informational Meeting

BE IT FURTHER ORDERED, that for the remaining of the year, the City Council Business Meetings will be held on the first and third Thursdays of each month. Informational Meetings will be called by the Mayor or City Manager the second and fourth Thursdays of the month on an as-needed basis. Business Meetings will be held at 7:00 p.m. and Informational Meetings will be held at 6:30 p.m.

BE IT FURTHER ORDERED that the Mayor, City Council or the City Manager may amend or revise dates and times of meetings as is deemed necessary.

17-191 City Manager
BE IT ORDERED, that the City Council hereby accept a donation of three park benches and one picnic table from Eric McDonnell, a member of Boy Scout Troop 603, a project which

satisfied one of his Eagle Scout requirements and has an estimated value of ($1,030.00) one thousand thirty dollars.

17-192 City Manager
BE IT ORDERED, that the City Council hereby accepts a donation of a holiday tree from Cliff Vining valued at $1,000.00 for the City's Annual Holiday Tree Lighting event and for display during the holiday season at Market Square.

17-193 City Manager
BE IT ORDERED, that the City Council hereby accepts a donation for the cutting, removal and assistance with decorating the holiday tree from Brownies Landscaping and Excavation valued at $1,400.00 for the City's Annual Holiday Lighting Event and for display during the holiday season at Market Square.

17-194 City Manager
BE IT ORDERED, that the City Manager is authorized to accept $700.00 from Cassandra Shaffer, offered by way of public auction, for city owned tax acquired property located at Oxford Street Rear, Map 36, Lot 33.

BE IT FURTHER ORDERED, that the net proceeds from the sale will be credited to the reserve for the demolition of unsafe structures located in the city.

OLD BUSINESS AND TABLED MATTERS

SECOND READING (ORDINANCES)

17-184 Mayor and Council
WHEREAS, the City Council finds that the Greater Augusta Utility District has testified to the Planning Board and Planning Staff that additional regulatory setbacks from utility easements are not necessary and are in fact burdensome in many cases; and

WHEREAS, the City Council finds that there are no other reasons for the regulatory setbacks;

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Augusta, that Section 300-515(C) in the Code of Ordinances, be amended as follows:

> C. Except where setbacks are specified in the dimensional requirements of a zoning district; or except where other provisions of this chapter impose stricter setback or yard or buffer yard requirements, or except for required egress structures, or except for structures within the KBD1 District (for which there shall be no setback requirements for any structure, including, but not limited to, any setback requirements for public pedestrian walkways and their structural elements proposed to be built over, adjacent to, or within a public right-of-way), no structure shall be located within the following limits:
>
> > (1) Within 10 feet of the right-of-way line ~~or utility easement~~ where one exists on any street within the City except as specified below or in zoning district regulations or by deed restrictions.

(2) Within 10 feet of any new right-of-way line made necessary by construction or reconstruction of any street or right-of-way ~~or utility easement~~ where one exists within the City.

17-185 Mayor and Council

WHEREAS, the City Council finds the Maine Department of Environmental Protection requires one change to shoreland zoning timber harvesting practices in order to address a condition of approving the city's shoreland zoning ordinance;

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Augusta, that Section 300-528 (O) in the Code of Ordinances, be amended as follows:

O. Timber harvesting. The Bureau of Forestry shall administer the regulation of statewide standards for timber harvesting and related activities in shoreland areas ~~all forestry activities~~ within the City of Augusta. Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Bureau of Forestry ~~Forest Bureau~~ pursuant to Title 12, section 8867-B. Timber harvesting regulation repealed May 20, 2017. ~~December 19, 2016~~.

17-186 Mayor and Council

WHEREAS, the City Council finds that the existing dense residential uses on the west side of Willow Street are non-conforming in the zoning district they are in, but would be conforming uses in the neighboring zoning district; and

WHEREAS, Tax Map 38, Lot 235A is split zoned between two zoning districts in such a way that reuse of the site is significantly compromised; and

WHEREAS, the City Council finds that modifying the zoning along the west side of Willow Street better reflects the recommendations of the Comprehensive Plan;

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Augusta, that Tax Map 38, Lots 220 and 220A be rezoned from Medium Density Residential (RB1) to Kennebec Business District 2 (KBD2); and Tax Map 38, Lot 235A, which is split zoned between Medium Density Residential (RB1) and Kennebec Lockes (KL), be entirely zoned as Kennebec Lockes (KL).

NEW BUSINESS

PART I – ORDERS AND RESOLVES

17-195 City Manager

BE IT ORDERED, that the City Council hereby authorizes the City Manager to purchase a 45 acre parcel of land (Map 11 Lot 40) owned by Industrial Metal Recycling property and adjacent

to Hatch Hill Landfill for the appraised value of $36,000 using funds from the Hatch Hill Enterprise account.

17-196 City Manager
BE IT ORDERED, that the City Manager is hereby authorized to extend the existing lease of the Inn at City Hall to Housing Initiatives of New England to allow for a new 50 year term.

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to consent to an assignment of said lease for the purpose of allowing Housing Initiatives of New England to take advantage of low income and historic tax credit financing.

17-197 Mayor and Council
BE IT ORDERED, that the City Council hereby authorizes the City Manager to sign all necessary applications and documentation to apply for Certified Local Government status through the Maine State Historic Preservation Commission and the National Park Service, so that the city may participate in the program and be eligible for historic preservation funding that may be available through the state and federal government.

A Resolution Supporting Federal Historic Tax Credits

17-198 Mayor and Council
WHEREAS, the Mayor and Council of the City of Augusta find that federal historic tax credits are a vitally important component to stimulating economic development and preserving significant historic properties in Maine's capital city, and

WHEREAS, the use of federal historic tax credits has been the single most important contributor to the successful restoration and reuse of such important projects as the Inn at Old City Hall (senior housing), the Cony Flatiron Project (senior housing), the former Hodgkins School (senior housing), downtown revitalization, and potentially the restoration and redevelopment of the landmark Kennebec Arsenal property, and

WHEREAS, reduction or elimination of federal historic tax credits is certain to have an adverse impact on future economic development and historic preservation efforts in Augusta and statewide.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of Augusta do hereby unanimously support the continuation in federal law of the 20% historic tax credit as currently structured and do hereby request our Maine Congressional Delegation do all in their power to champion this critical economic development tool.

NEW BUSINESS
PART 2 –ORDINANCES
FIRST READING - NO VOTE REQUIRED

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

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 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 (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.

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.

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.

COMMUNICATIONS

Committee Reports
City Manager's Report

17-201 City Manager

Executive Session: Labor Negotiations; 1 M.R.S.A., §405(6) (D)

Respectfully submitted,
Roberta L. Fogg, City Clerk