

**AGENDA FOR THE REGULAR CITY COUNCIL MEETING  
THURSDAY, APRIL 1, 2010  
COUNCIL CHAMBERS, CITY CENTER  
7:00 P.M.**

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

PRESENTATION- Recognition of Capital Area Technical Center Students of the Month for February: Aimee Christie and Eryka Wilson

PRESENTATION- Theater At Monmouth – Augusta Show

PUBLIC HEARING- Grant and Loan Application to USDA Rural Development Authority for Lithgow Library’s Renovation and Expansion Project

PUBLIC COMMENTS ON ITEMS LISTED ON THE AGENDA

CONSENT AGENDA

All matters listed under this item will be considered routine and will be enacted by one motion. If a Councilor wishes to discuss one (or more) item(s), Councilor may ask to have the item(s) removed from the Consent Agenda and considered individually.

049 Manager (Bureau of City Clerk)  
ORDERED, That the minutes of the City Council meeting held March 18, 2010, submitted by the City Clerk, be approved.

050 Mayor Katz  
ORDERED, That Terry Pomerleau Gray be reappointed to the Airport Advisory Committee; said term to expire April 1, 2013.

OLD BUSINESS AND TABLED MATTERS

TABLED

115 City Manager  
ORDERED, That the City Manager is authorized to expend an amount not to exceed \$5,000 to conduct a structural engineering analysis of the Colonial Theater.

156 Councilor Munson  
WHEREAS, the Mineral Extraction Ordinance intended to protect the public health, safety, and general welfare, and to minimize the adverse impact of extraction to citizens of the city, abutting property owners, and wildlife and natural resources.

OLD BUSINESS AND TABLED MATTERS (Con't)

TABLED (Con't)

156 Continued

WHEREAS, two uses identified as accessory to a mineral extraction use have been found to have a significant impact on abutting property owners by virtue of additional traffic, additional noise, additional dust, and additional odor, unanticipated at the time the Mineral Extraction Ordinance was initially adopted.

WHEREAS, due to the lack of experience with these two accessory uses, the city and the public did not adequately scrutinize the uses during the initial licensing of mineral extraction sites.

WHEREAS, no permanent bituminous mix plants or ready mix concrete plants have yet been installed.

WHEREAS, sunsetting the one existing temporary bituminous mix plant and requiring further planning board review and authorization for it to restart seasonal operation as an accessory use in the spring of 2010 is not found to be an unreasonable financial burden to the owner of the mineral extraction site, since an accessory use is by its nature not the primary function of the site.

NOW THEREFORE BE IT ORDAINED, By the City Council of the City of Augusta hereby amends the Mineral Extraction Ordinance as follows:

*Allowable associated mineral extraction uses.* Associated mineral extraction uses include, but are not limited to, bituminous mix plants, crushing/screening operations, ready mix concrete plants, materials being recycled / reprocessed. Each of these associated uses must be expressly approved by the Planning Board to be considered allowable under a mineral extraction license. Ready mix concrete plants and bituminous mix plants shall be reviewed using the Site Plan Review Criteria Applicable to Conditional Uses, found in Section 6.3.4 of the Land Use Ordinance. Any existing temporary bituminous mix plants or ready mix concrete plants associated with a licensed mineral extraction site as an accessory use at the time of adoption shall be eliminated by May 1, 2010, unless they receive additional approval from the planning board for their operation as per this section.

SECOND READINGS

046 Mayor Katz

BE IT ORDAINED, By the City Council of the City of Augusta, as follows:

That Chapter 6, Section 245. Use of city equipment on private ways, of the Revised Code of Ordinances 1990, as amended, be further amended by deleting the following:

OLD BUSINESS AND TABLED MATTERS (Con't)

SECOND READINGS (Con't)

046 Continued

~~All private ways located in the city which were being maintained by the city as of January 1, 1986, are to be maintained and kept open through the use of city-owned equipment until such time as specific action by the City Council ceases the activity on such way or ways. This section is enacted based upon the Council's findings that it is in the best interest of the city to maintain and use its highway equipment on such ways in order to provide police and fire protection to the inhabitants living on the ways and to the general public.~~

BE IT FURTHER ORDAINED, That Chapter 6, Section 245. Use of city equipment on private ways, of the Revised Code of Ordinances 1990, as amended, be further amended by adding the following:

The City provide plowing and sanding for all private roads which meet the following conditions:

1. A public easement to the City is signed by all property owners that own any fee interest on that road.
2. The road has at least three (3) year-round residences located on at least three (3) separate parcels or is a paved roadway located in an approved residential subdivision with at least three (3) separate parcels.
3. A Road Association is formed for each road, and
4. The road meets minimum standards established by the City Council

Furthermore, that the Road Association provide a contact person to the City.

The City reserves the right to establish a per mile cost for plowing and sanding and reimburse that amount to the Road Association in lieu of providing services directly.

047 Mayor Katz and Councilor Munson

WHEREAS, The City of Augusta is endeavoring to ensure compatibility of neighboring mineral extraction and residential uses; and

WHEREAS, The City Council finds that the existing Land Use Ordinance, Mineral Extraction Ordinance, and other regulations are inadequate to prevent serious public harm from the development of bituminous mix plants or ready mix concrete plants as associated mineral extraction uses; and

WHEREAS, The City Council has formed a council subcommittee to research, evaluate, and propose additional standards to enhance the compatibility of these uses in proximity to neighboring uses; and

OLD BUSINESS AND TABLED MATTERS (Con't)

SECOND READING (Con't)

047 Continued

NOW THEREFORE BE IT ORDAINED, By the City Council of the City of Augusta, that no bituminous mix plant or ready mix concrete plant shall be reviewed or permitted by City staff, the Planning Board or under any other authority pursuant to the Land Use Ordinance or as an associated use in the Mineral Extraction Ordinance.

Bituminous mix plants and ready mix concrete plants listed in previously approved permits for licensed mineral extraction sites, where no specific information about the associated uses was provided to, or reviewed by, the Planning Board shall be subject to this Moratorium and prohibited from starting operation.

This moratorium retroactively applies to any applications currently pending or received by the City after January 28, 2010, including but not limited to, applications which have not received substantive review by the Planning Board.

This moratorium shall be in effect for a period of 180 days, effective immediately as of the time of its enactment.

NEW BUSINESS

PART 1 - ORDERS

051 Councilors Coffin, Munson, Paradis and Rollins

WHEREAS, In Augusta there are locations where hot mix asphalt plants and residences exist in close proximity to each other, and

WHEREAS, Residents have expressed concerns to the Augusta City Council about the potential negative health impacts of chemical compounds released into the air as a result of the operation of hot mix asphalt plants; and

WHEREAS, The State of Maine currently regulates only opacity with regard to hot mix asphalt plant stack emissions and does not regulate the chemical compounds released from the stack; and

WHEREAS, Other states place additional testing requirements on hot mix asphalt plant emissions for chemical compounds with known health effects;

NOW THEREFORE BE IT RESOLVED, That the Augusta City Council requests that the State Legislative delegation make efforts to cause the Maine State Legislature to investigate the need for additional air quality standards related to the chemical composition and odor from hot mix asphalt plant stack emissions adjacent to residential uses, to ensure adequate public health, safety, and welfare.

NEW BUSINESS (Con't)

052 Councilors Coffin and Rollins

ORDERED, That the City Council authorize the City Manager to reallocate Capital Improvement Funds in the amount of Ten Thousand Dollars (\$10,000.00) from the Civil War Monument Repairs to the Williams Park Skate Park.

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

053 City Manager

BE IT ORDAINED, By the City Council of the City of Augusta, that Chapter 13, Section 5. Offenses and Miscellaneous Provisions, of the Revised Code of Ordinances 1990, as amended, be further amended as follows:

Sec. 13-5. Parades; permit required.

(a) ~~No less than thirty (30) days~~ Prior to an intended parade, march or other use of public ways within the city, a permit must be applied therefor to the City Police Chief or his designee. ~~The City Manager may allow a shorter time frame for good cause shown.~~

(b) The application shall set forth the name, address and phone number of the person seeking the permit, the date and time for which sought and the intended route.

(c) Within ten (10) days of applying for the permit, as a condition to its issuance, the applicant must meet with or provide information by any other means to the Police Chief or his designee so that the Applicant and the City may ~~to discuss and attempt to agree on the details of the route and other logistics.~~

(d) The Police ~~Chief~~ Department may deny the permit or alter the route for traffic or safety reasons and impose reasonable conditions including, but not limited to, time limits, requirement to keep moving and on route, no amplification or sound truck, no explosives, fireworks or other artificial noise.

(e) The cost of the permit shall be one hundred dollars (\$100.00), plus the costs of traffic control per city collective bargaining agreement and clean up costs, as estimated by the Police Department. The permit fee will not include the cost of police protection for public safety. The one hundred dollar (\$100.00) fee is payable at the time the application is submitted and the balance at the time of its issuance. The City Council may modify this fee from time to time by Order.

(f) If the permit is denied or modified, the applicant may appeal in writing within five (5) days to the City Clerk's office for determination by the City.

NEW BUSINESS (Con't)

053 Continued

~~(g) If the permit is denied or modified, the applicant may appeal in writing within five (5) days to the City Clerk's office for determination by the City Council.~~

054 Mayor Katz and Councilor Munson

WHEREAS, The City of Augusta is endeavoring to ensure compatibility of neighboring mineral extraction and residential uses; and

WHEREAS, The City Council finds that the existing Land Use Ordinance, Mineral Extraction Ordinance, and other regulations are inadequate to prevent serious public harm from the development of bituminous mix plants or ready mix concrete plants as associated mineral extraction uses; and

WHEREAS, The City Council has formed a council subcommittee to research, evaluate, and propose additional standards to enhance the compatibility of these uses in proximity to neighboring uses; and

WHEREAS, An emergency exists affecting health, safety, and property, being the possibility that bituminous mix plants or ready mix concrete plants could be built without adequate Planning Board review and consideration of neighboring uses.

NOW THEREFORE BE IT ORDAINED, By the City Council of the City of Augusta, that no bituminous mix plant or ready mix concrete plant shall be reviewed or permitted by City staff, the Planning Board or under any other authority pursuant to the Land Use Ordinance or as an associated use in the Mineral Extraction Ordinance.

Bituminous mix plants and ready mix concrete plants listed in previously approved permits for licensed mineral extraction sites, where no specific information about the associated uses was provided to, or reviewed by, the Planning Board shall be subject to this Moratorium and prohibited from starting operation.

This moratorium retroactively applies to any applications currently pending or received by the City after January 28, 2010, including but not limited to applications which have not received substantive review by the Planning Board.

This moratorium shall be in effect until August 11, 2010, effective immediately as of the time of its enactment.

COMMUNICATIONS

Committee Reports

City Manager's Report

Respectfully submitted,

Barbara E. Wardwell, City Clerk  
March 29, 2010