

Larry Pritchett

From: Larry Pritchett <larrypritchett.council@gmail.com>
Sent: Tuesday, December 08, 2015 21:13
To: 'Bill Jillson'
Subject: RE: Moratorium
Attachments: 2015_12.04
_City_Atty_Moratorium_Grid_Scale_Power_Generation_Jillson_Pritchett_Edits_Ver_2.pdf

Hi Bill,

Attached is a PDF with revisions. I did not "show the changes" (i.e., any deletions struck through, additions underline), but I can easily send a markup version over if you would like.

I attempted to add more specific issues in the "Whereas" part to show the community "Council is attempting to address the questions raised." These should make the moratorium more defensible legally defensible. I also beefed up the "next steps" provisions.

Thoughts?
Larry

From: Bill Jillson [<mailto:billjillson.council@gmail.com>]
Sent: Monday, December 07, 2015 14:48
To: Larry R. Pritchett
Subject: RE: Moratorium

That sounds good to me we can see where it goes tonight and talk more later

On Dec 7, 2015 2:36 PM, "Larry Pritchett" <larrypritchett.council@gmail.com> wrote:

Hi Bill,

I have not had a chance to really think this through as much as I would like. Glad to work with you some tomorrow (or Wednesday) to refine the language some more if there seems to be interest this evening. I am inclined to think this can be focused more clearly on issues raised locally.

Thoughts?
Larry

From: Bill Jillson [<mailto:billjillson.council@gmail.com>]
Sent: Sunday, December 06, 2015 19:11
To: Larry R. Pritchett; Louise MacLellan-Ruf; Valli Geiger; William Clayton
Subject: Fwd: Moratorium

----- Forwarded message -----

From: "Kevin Beal" <kbeal@ci.rockland.me.us>

Date: Dec 4, 2015 4:15 PM

Subject: Moratorium

To: <billjillson.council@gmail.com>

Cc: <jchaousis@ci.rockland.me.us>, <jroot@ci.rockland.me.us>, "Stuart Sylvester" <ssylvester@ci.rockland.me.us>

Councilor:

I attach a draft ordinance establishing a moratorium on grid-scale power generation facilities, for your review and comment.

See you Monday.

Kevin

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #48

IN CITY COUNCIL

December 14, 2015

**ORDINANCE AMENDMENT: Establishing Moratorium On
Site Plan Applications For New
Grid-Scale Power Generation Facilities**

WHEREAS, properties within the City of Rockland have become a focus for a proposal to construct a gas-fired, combined-cycle electric power generation facility; and

WHEREAS, if not properly sited and designed and regulated, grid-scale power generation facilities can be a source of considerable air, water and noise pollution that can adversely impact the neighborhoods and communities where these facilities are located, thereby endangering public health, safety, and welfare; and

WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds generated by grid scale combined cycle power generation facilities; and

WHEREAS, the City has no specific ordinance provisions governing acceptable sources or disposal options for the potentially large volumes of water needed for cooling grid scale combined cycled power generation facilities; and

WHEREAS, the City has no specific regulations governing potential impacts from the air emissions associated with large volume open cooling water towers that are utilized at many grid scale power generation facilities; and

WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

WHEREAS, appropriate zoning limitations, site plan and performance standards, and other municipal regulations can ameliorate the impacts of grid-scale power generation facilities by requiring their location in industrial areas; by limiting noise, vibration, and emissions; and by requiring appropriate buffering and screening from public ways, residential areas, and other incompatible uses; and

WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:

THAT, pursuant to Title 30-A, Maine Revised Statutes, Section 4356, a moratorium is hereby established barring the acceptance of new site plan applications, and the processing of and action upon site plan applications filed with the City on or after December 14, 2014, for the construction of electrical power generation facilities having a capacity in excess of 10 megawatts in the City of Rockland for 180 days. The provisions of this moratorium do not apply to businesses constructing heating or power generation systems to meet on-site heating and/or power needs; and

THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading the City Manager is directed to provide options to Planning Board for technical experts to advise the Board as the Board may choose; and

THAT, no later than ??? (provide specific date that would allow to go into effect before end of moratorium) the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than ??? (provide specific date from December 14th that would allow to go into effect before and of moratorium), to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

Sponsor: Councilor Jillson
Originator: Councilor Jillson

Larry Pritchett

From: Larry Pritchett <larry.r.pritchett@outlook.com>
Sent: Thursday, December 10, 2015 09:21
To: 'Stuart Sylvester'
Cc: 'billjillson.council@gmail.com'; 'Kevin Beal'; 'James D Chaousis II'
Subject: RE: Ordinance Amendment > Grid Scale Power Generation > Possible Moratorium
Attachments: 2015_12.04
_City_Atty_Moratorium_Grid_Scale_Power_Generation_Jillson_Pritchett_Edits_KB_Review.doc

Hi Stu,

I just accepted all changes and then did one more read through. I think I found one (it might have been two) clerical errors and no other changes. Unless Bill has thought of an additional tweak, as best I can tell this is ready for the packet.

Bill or I will send this to all of Council this evening so others have the "packet version" before the it is distributed and are aware the "Meeting Agenda version" has been refined from the draft circulated on Monday. Kevin, thanks for the copy editing as well as working out the dates.

Larry

From: Kevin Beal [<mailto:kbeal@ci.rockland.me.us>]
Sent: Wednesday, December 09, 2015 18:22
To: 'Larry Pritchett'; billjillson.council@gmail.com
Cc: 'Stuart Sylvester'
Subject: RE: Ordinance Amendment > Grid Scale Power Generation > Possible Moratorium

Larry and Bill:

I think those are really great refinements.

I have added March 6, 2016, as a tentative pre-agenda setting meeting deadline for proposed site plan, street opening, and other regulations to be submitted for adoption effective comfortably within 180 days after December 14, or by June 11, 2015. The Clerk can confirm, but I think if necessary second reading could be in May, on May 9, 2016, with such ordinances becoming effective June 8 – three days before expiration of the 180 day moratorium. In that case, first reading could be as late as April 11, with a due date of, say, April 1. But that seems a little tight, viz. Council debate, revision, etc. Plus, a couple clerical things. Attached.

It may be well to keep the City Manager informed of these revising efforts, but I'll leave that to your discretion.

Kevin

From: Larry Pritchett [<mailto:larry.r.pritchett@outlook.com>]
Sent: Wednesday, December 09, 2015 3:46 PM
To: Kevin Beal
Cc: 'Stuart Sylvester'; 'Bill Jillson'
Subject: Ordinance Amendment > Grid Scale Power Generation > Possible Moratorium

Hi Kevin,

When Bill and I met yesterday, we also talked some more about REC and the moratorium question. I have attached a revised copy of the proposed ordinance with some revisions to language.

The revisions under "whereas" attempt to be more specific to the issues identified in this process to date and the revisions in the "therefore" section attempt to lay at a more specific path forward. I defer to Bill as sponsor, but I think we both concurred on the text.

Could you review and let the two of us know if any language seems like it needs more refinement before being added to the packet for the meeting on Monday? Thanks for your work developing this language.

Larry
594-8806

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #48

IN CITY COUNCIL

December 14, 2015

**ORDINANCE AMENDMENT: Establishing Moratorium On
Site Plan Applications For New
Grid-Scale Power Generation Facilities**

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WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds originating from grid scale combined cycle power generation facilities; and

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WHEREAS, the City has no specific regulations governing potential impacts from the air emissions associated with large volume open cooling water towers that are utilized at many grid scale power generation facilities; and

WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

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WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

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THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading the City Manager is directed to provide options to Planning Board for technical experts to advise the Board as the Board may choose; and

THAT, no later than March 4, the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than March 4, 2016, to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

Sponsor: Councilor Jillson
Originator: Councilor Jillson

Amy Files

From: Amy Files <amy@wilderbydesign.com>
Sent: Thursday, December 10, 2015 12:27
To: Larry Pritchett
Subject: Moratorium on Power Plant Proposal

Hi Larry,

I heard a rumor that you may be meeting with John Root regarding the power plant proposal — and that you may be on the fence regarding the moratorium.

I hope that you will consider supporting the moratorium as it's one of the first sentiments, I feel in a while, where residents feel that the Council is hearing them on their concerns.

As you know, our Industrial zone provides for uses that are fairly vast — and because it wasn't designed with specific uses in mind, a moratorium would allow for careful study to ensure that appropriate protections are in place for noise, smell, plume and more.

If rumor is correct, you may be considering quick changes to our zoning which don't allow for proper study or input.

I would hope that if a moratorium were in place, that the City would take the time and investment to hire a consultant, perhaps an engineer, familiar with these developments and issues that we need to consider.

I also feel strongly that this power plant is not our only concern — a potential pipeline, compressor stations, or even the LNG traffic that already occurs in Rockland should be issues we study when considering whether or not our current zoning has adequate protections for residents.

As you well know, a 25-35 MW plant is not large enough to justify building a pipeline extension and much more likely to result in more LNG or compressed gas being trucked in and out of Rockland — LNG traffic is a concern that residents have already brought up in light of the discussion of the power plant proposal and something that Council should take seriously. We should perhaps be taking a look at truck routes to ensure that hazardous materials are kept off of residential streets and out of densely populated neighborhoods as part of the review for this power plant and its required infrastructure.

To summarize—I hope that you will support the moratorium—proposing an alternative list of variances or changes would feel like a quick band-aid as opposed to a proper study.

Thank you for your consideration,

Amy Files

542-4858

MSW & Recycling
Administrative Structure of Harbor & Waterfront Department

With the above discussion completed, and with no further business to come before the City Council, the meeting was adjourned, without objection from the Council, at 7:59 p.m.

A TRUE COPY.

ATTESTED: _____ City Clerk

REGULAR MEETING

AGENDA

December 14, 2015

1. Roll Call
 2. Pledge of Allegiance to the Flag
 3. Public Forum (5 min. limit each speaker)
 4. Meeting Notice
 5. Reading of the Record
 6. Reports:
 - a. City Manager's Report
 - b. City Attorney's Report
 - c. Other Official's Report
 - d. Mayor's Report
 7. Licenses and Permits:
 - a. Lodging House License – Limerock Inn
 - b. Lodging House License – 250 Main
 - c. Liquor & Entertainment Licenses – Rockland Elks Lodge
 - d. Liquor & Entertainment Licenses – The Strand Theatre
 - e. Taxi Company License – Reed's Taxi (1 vehicle)
 8. Resolves:

#50 Re-Appointments to Boards, Commissions & Committees	Mayor MacLellan-Ruf
#51 Accepting Donations – Library	City Council
#52 Establishing Position & Confirming Appointment – Asst. Director Public Services	City Council
#53 Establishing Position & Confirming Appointment – Asst. City Manager	City Council
#54 Accepting Donation – Fire Department/Emergency Management	City Council
 9. Ordinances in Final Reading and Public Hearing:

#41 Chapter 11, Section 11-210 Short-Term Rentals	City Council
#42 Chapter 19, Article III Short-Term Rentals	City Council
#43 Chapter 19, Section 19-304 "DT" & "TAAOZ" Setbacks	Frm. Mayor Isganitis
#44 Authorizing Bill of Sale – Reconveyance of 105 First Street	City Council
#45 Chapter 17, Section 17-802 15 Min Limit – Thorndike Parking Lot (2 Spaces)	Frm. Mayor Isganitis
 10. Ordinances in First Reading:

#46 Chapter 8, Section 8-708 GA Maximum Levels of Assistance	City Council
#47 Authorizing Quit Claim Deed – Reconveyance of 258 Rankin Street	City Council
#48 Moratorium – Grid Scale Power Facilities	Councilor Jillson
 11. Orders:

#88 Authorizing Blanket Letter of Approval – Games of Chance Licenses	City Clerk
#89 Authorizing Blanket Letter of Approval – Beano/Bingo Licenses	City Clerk
#90 Casting Ballot – MRC Board of Directors	City Council
#91 Authorizing Mutual Agreement – Termination of REC Option	City Council
#92 Authorizing License Agreement – Winter Street LLC	City Manager
#93 Authorizing License Agreement – ABRI Pregnancy Center	Councilor Clayton
- Regular Meeting, Agenda continued:
- December 14, 2015

12. Adjournment.

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, William Jillson, Valli Geiger, City Manager Chaousis, and City Attorney Beal.

Pledge of Allegiance to the Flag: All present joined in the Pledge of Allegiance to the Flag.

Public Forum: During the public forum, the following persons spoke on the following issues:

- Esther "Tess" Kilgour, 19 Beech Street, spoke in opposition to the proposed moratorium on grid-scale power generation facilities, saying that Rockland is a City of industry and was built on growth. She said that the City needs growth to relieve the tax burden on residents. She said the City is heading down a dangerous path by discouraging development in this way. She said Thomaston would be happy to take this plant, and if that happens, Rockland would still get all of the negative things proponents have been complaining about without any of the economic benefits.

- Steve Roberts, 11 Acadia Drive and member of the City's Economic Development Advisory Committee, said that everyone wants what's best for the City and cares about the future. However, he said he was concerned about the reputation of the City. He said he is troubled to read articles attacking City government when he knows that the allegations are false, and that the level of public discourse needs to be raised. He added that the City should wait until it has the full proposal from the developer before making any decisions. Only then will the City know if its regulations are sufficient to address the concerns expressed over this proposal. He said there would still be time to take action at that time, and urged the Council to be patient.

- Amy Files, 39 Pleasant Street, spoke in support of the moratorium, saying that there are too many unanswered questions concerning this proposal, and now is the best time to take a step back and look at what regulations are in place before a final plan is presented. She added that when the developer decided not to purchase the city-owned property for this proposal, the City lost any bargaining power in this matter. She argued that the moratorium is necessary to do what the City would have done in negotiations with the developer in the purchase and sales agreement.

- Chris Whytock, 387 Old County Road and a member of the City's Fire Department, spoke in opposition to the proposed moratorium, referencing a letter from the Rockland Professional Firefighters Local 1584 expressing concern about the proposed moratorium. He said that the Council should wait until it sees the full plan before making any decisions on this subject. He said the fear is that the plant will be built in Thomaston and Rockland will still have to deal with the negatives of the project without any of the tax benefits.

- Steve Miller, 25 Maple Street, spoke in opposition to the proposed Short-Term Rental ordinances, saying that in the 25 years he has been involved in this "industry", he has never had any complaints about the properties he operates. He said that the number one reason people rent out rooms in their homes is to make some extra money to help pay the bills. He said that the City should focus on the real problem of the aging housing stock in the City and the vacant houses and uninspected apartment houses in the City.

- Nathan Davis, 10 Fulton Street, spoke in support of the proposed moratorium, saying that supporting the use of fossil fuels belongs to the moral past, noting the recent Paris global framework to reduce dependence on fossil fuels. He said this is an opportunity for the City to discharge part of its global responsibility in this area. He added that the economic vitality of the City is not dependent on this power plant.

- Zander Shaw, 39 Pleasant Street, also spoke in support of the proposed moratorium, saying that the City's current zoning ordinances are inadequate to regulate this kind of development. He said that a moratorium would give the City time to develop sufficient regulations to protect the residents.

- David Myslabodski, 54 Broad Street, spoke in support of the proposed moratorium, reading an excerpt from an article in the New York Times concerning the recent Paris accord for reducing global dependence on fossil fuels, which said that the accord is a signal to industry to "go green: in an era of carbon reduction. He added that the City does not currently have a clear energy ordinance or policy in place to address the concerns expressed about the proposed energy plant. He said now is the time for a moratorium to give time for the City to establish such policies, and renewed his call for the final decision to be left to the people of Rockland by referendum vote.

At this time, noting that the 30 minutes allotted for the public forum had elapsed, Councilor Geiger moved to Suspend the Rules to extend the public forum for up to an additional 15 minutes. The motion was seconded by Councilor Jillson.

Vote: 5 for.

The public forum was extended for up to an additional 15 minutes.

- Ron Huber, 148 Broadway, spoke in favor of the proposed moratorium, saying that he agreed with the comments of the other supports of the moratorium. He said now is the time to get regulations on the books that will adequately regulate this kind of development before the plans are submitted. He said short-term gains are not always good for long-term future. He also suggested that the City look to other communities that have energy policies for guidance.

- Everett Spear, 120 Summer Street, spoke in opposition to the proposed moratorium, saying that the City has regulations and procedures in place that are sufficient to protect the community, and the Planning Board has the tools that it needs to review such a proposal and place appropriate conditions on the development. He added that the proposal is not inconsistent with the City's Comprehensive Plan, which calls for support of commercial and industrial development in appropriate areas. He also objected to some of the wording in the proposed moratorium, saying that the proposal would not be "unregulated", and noting that the Planning Board already has the authority that the moratorium would seek to establish. He said that the City needs to provide fair and proper consideration of any proposal put before it seeking to develop in the City.

- Sandra Schramm, 16 Broad Street, spoke in support of the proposed moratorium, saying that the City has been presented with little to no information on this plant, and that Mr. Coleman is trying to bully the City into acquiescing to its wishes. She said thus far, everything with regards to this proposal has been shrouded in secrecy, and that the Council now has a decision to make. She said that first and foremost, the City needs to protect the residents.

Hearing no other speakers, the public forum was closed.

Meeting Notice: It was noted that this meeting had been given proper notice.

Reading of the Record: Reading of the Record was waived, and the Record of prior City Council Meetings deemed accepted, without objection from the Council. Anyone wishing to review the Record may do so at the City Clerk's Office at Rockland City Hall during regular business hours.

Reports:

a. City Manager's Report: The City Manager reported on the following issues:

- An important policy issue will be discussed at a workshop to be hold on Wednesday, December 16, 2015 at 5:00 p.m. with the Council will be discussing Municipal Solid Waste and Recycling issues. The City Manager added that this would be a high level discussion to identify issue and plan a strategy for going forward.

b. City Attorney's Report: The City Attorney reported that he has been working on the sale of properties authorized by the Council, as follows:

- 19 Franklin Street, with approximately \$25,000 being deposited into the City Land Sale Reserve account after taxes, sewer fees and other charges were deducted from the sale price.

- 35 Broadway, with approximately \$21,000 being deposited into the City Land Sale Reserve account after taxes, sewer fees and other charges were deducted from the sale price.

- 99 West Meadow Road, with approximately \$5,000 being deposited into the City Land Sale Reserve account after taxes, sewer fees and other charges were deducted from the sale price.

c. Other Official's Report: None.

d. Mayor's Report: Mayor MacLellan-Ruf reported that in an attempt to improve communication with the Council, the agenda list created from her meeting with the City Manager, City Attorney and City Clerk prior to the agenda-setting meeting will be distributed to the Council prior to the information being released to the media so that the Council will be aware of the items being brought forward for consideration.

She also wished all Happy Holidays.

#42 Chapter 19, Article III Short-Term Rentals

(See pages 253-255 for text as amended 11/09/15)

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Councilor Pritchett moved passage and moved to postpone Ordinance Amendment #42 until the January 11, 2016 Regular Meeting. Vote: 5 for.

Ordinance Amendment #42 was postponed until the January 11, 2016 Regular Meeting.

#48 Establishing Moratorium – Grid-Scale Power Generation Facilities

WHEREAS, properties within the City of Rockland have become a focus for a proposal to construct a gas-fired, combined-cycle electric power generation facility; and

WHEREAS, if not properly sited and designed and regulated, grid-scale power generation facilities can be a source of considerable air, water and noise pollution that can adversely impact the neighborhoods and communities where these facilities are located, thereby endangering public health, safety, and welfare; and

WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds originating from grid scale combined cycle power generation facilities; and

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WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

WHEREAS, appropriate zoning limitations, site plan and performance standards, and other municipal regulations can ameliorate the impacts of grid-scale power generation facilities by requiring their location in industrial areas; by limiting noise, vibration, and emissions; and by requiring appropriate buffering and screening from public ways, residential areas, and other incompatible uses; and

WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

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THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance

to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading the City Manager is directed to provide options to Planning Board for technical experts to advise the Board as the Board may choose; and

THAT, no later than March 4, 2016, the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than March 4, 2016, to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

Sponsor: Councilor Jillson

Originator: Councilor Jillson

Councilor Jillson moved passage.

Councilor Pritchett said that the forums held on this matter raised many questions that needed to be addressed. At the time, he said amendments to the City's Ordinances were not necessary because any concerns could be addressed in any purchase and sales agreement established between the City and REC. However, now that REC has announced that they will be looking a private property in the City for this development, the City needs time to make sure its Ordinances are sufficient to address the concerns, and if not time to make the necessary changes. He said that a moratorium is the perfect vehicle to accomplish this. He said that the City has not received any information from the developer on this project, so the City is taking steps to make sure that the appropriate protections are in place. He said this is not a deal killer. He said that the City can still work with the developer during the moratorium to establish rules and regulations that are fair and acceptable to everyone.

Councilor Geiger said that she has been going back and forth on this proposal, but for her it comes down to a gut reaction. She said that she was not necessarily opposed to a 25 megawatt facility, saying that was more appropriately sized for this community, but will support the moratorium. She said that there has to be good faith on both sides of the discussion, but has been uncomfortable with the lack of forwardness from the developer. She said that she believes in the concept of as combined generation power plant, but this may be the last opportunity for the City to have some control over the details of the project. She said this is not saying no to development, rather it's saying yes to appropriate development. She added that waiting until February to make a decision on the moratorium, as was requested by the developer, may be too late for the City to have any effect on this proposal.

Councilor Clayton said that the proposed moratorium was scheduled to late the maximum of 180 days. He asked Councilor Jillson why he chose to begin with the maximum number of days allowed.

Councilor Jillson said that he wanted to make sure there was sufficient time for the City to do whatever it needed to do to have the appropriate ordinance provisions in place before the proposal moves forward.

Councilor Clayton said that ordinance amendments typically take effect 30 days after final passage. He asked what date the moratorium would become effective if passed in final reading.

The City Attorney said that the moratorium would become effective 30 days after final passage just like any other ordinance amendment, however, the moratorium would be retroactive to December 14, 2015.

Councilor Clayton then asked if the moratorium would extend to any and all power generation facilities, not just the REC proposal.

Councilor Jillson said that the moratorium would extend to any proposed power generation facility of 10 megawatts or more, regardless of type of facility.

Councilor Clayton then noted the statement "The provisions of this moratorium do not apply to businesses constructing heating or power generation systems to meet on-site heating and/or power needs" and asked if this was a restriction on existing businesses.

The City Attorney said that the moratorium would not apply to existing businesses that wished to establish a power or heat generation facility for its own on-site power or heating needs.

Councilor Clayton then said that the Council needs to be careful of the real reason for the moratorium. He asked if the real reason for the moratorium was as stated, or was it to keep REC from constructing their facility in Rockland. He said if it is the first, that can be accomplished without a moratorium. He added that if it is the first reason, why would it allow existing businesses to do the same thing.

The City Manager said that the City has a Comprehensive Plan, and that it is a good document. He said that the Plan tries to not give direction in a vacuum, and focuses on economic development. He said such development needs to fit the vision

values and objectives of the community. He said that the sale of the City Hall and Public Services properties was an opportunity that was not communicated effectively by administration, and is an opportunity now lost. He said that the City needs to be predictable in the business community to attract development. He said that vision needs to be clarified moving forward. He said that, as mentioned in the City Attorney's opinion letter, that the City has the ability to establish moratoriums, and that the City has a history of establishing moratoriums but not necessarily defending them. He said the Maine Municipal Association publishes information regarding moratoriums, and pointed out that the underlying reasons for a moratorium was either (1) to prevent a shortage or overburdening of public facilities (e.g. sewers, water, roads, schools, public safety), or (2) because existing plans, ordinances or regulations, if any, are inadequate to prevent serious public harm. He said that either rationale will suffice, though a municipality should cite both as justification for a moratorium if there is a factual basis for doing so. He said in order to create a record for a reviewing court in the event the ordinance is challenged, every moratorium ordinance should include a preamble that recites the facts which demonstrate the necessity for the moratorium. He said while factual justification is critical, courts will not second-guess a municipality's determination of necessity; a moratorium, like any other municipal ordinance is presumed valid, and the challenger must establish the complete absences of any facts supporting the need for a moratorium. While the legal basis of whether the City can establish a moratorium on development is one aspect. Economic development, taxable value and appropriate level of taxation is another. Neither should be the determining factor without accompaniment from the other. Use three paths of development forecasting (minimal growth, modest growth, and aggressive growth), mill rate projects range from 30.10 to 22.15, respectively, by 2025, points out the economic advantages of a development like the power plant could have on the City's tax structure. The point is not to flaunt any of the models as predictive but to illustrate that intervention in taxable value, if it is the intent of the City Council, needs to happen sooner rather than later to affect the tax rate. This data is not empirical since it draws linear assumptions. Usually, as tax rates increase economic development stalls.

Councilor Pritchett said that the City would be hard pressed to turn the questions raised about this proposal into actionable items in less than 180 days, noting that it takes time to establish good legislation. He said if the City finds that its ordinances are sufficient, or new ordinances are enacted sooner, the moratorium can be lifted by further action of the Council before the expiration of the 180 days. He added that if a large existing business wanted to construct a power generation facility on its property for its own needs, this moratorium would not affect that business.

Councilor Geiger said that over the past 9 months they have been discussing two separate issues; the cake and the icing. She said that icing would be the \$400 - \$500 thousand dollars in tax revenues this project could generate, but they need to look at whether the cake is any good or not. She said that she did not know if this project would be good for the City or not, and wished the developer had been more forthcoming with a clear proposal and details about the project. She said that the developer has not done that, and now the City must take action to ensure sufficient protections are in place should this proposal move forward.

Councilor Clayton said, just to be clear, that this moratorium would prohibit the submission of site plan applications for any type of power generation facility, whether it is a gas-powered plant, or wind or solar power proposals.

Councilor Jillson said that Councilor Clayton was correct, that the moratorium would prohibit submission of any site plan application for any power generation facility of 10 megawatts or more, regardless of the type of facility.

Councilor Clayton said that if the reasoning for the moratorium was to establish regulations for such a project, that can be accomplished without a moratorium. He said that he was not sold on the power plant proposal, but said that the Council needed to see the details of the plan before making any decisions on how best to proceed. He added that if the Energy Committee would be required to make recommendations to the Planning Board within 14 days of the moratorium becoming effective, and the City Manager to provide technical assistance within 30 days, why was the moratorium being proposed for 180 days. He noted that it was not a coincidence that these timelines correspond with the February date when the developer said they would have plans ready to submit to the City Council for review. He also said that the moratorium itself is vague, and could open the City to legal action. He said while the developer said that they would not pursue legal action against the City over a moratorium, there is a private landowner who has a stake in the project who may. He said that he was worried about the precedent that the City would be setting and the message it would send to other developers. He said that the Council cannot base its decisions on personalities, and asked if any of the Council would feel differently about this proposal if a different company were proposing it. He said that he can understand Mr. Coleman's frustration with this process given the large sums of money tied up in this proposal. He said that he would not support this moratorium, and urged the Council to wait and see the plans before making a decision.

The City Manager said that this is an important policy topic to find out the sentiment of the Council. He said there have been 9 months of time vested in this policy. As soon as the Council votes and sets the policy, administration will go out and implement that policy decision. He said that the City has always had the authority to set zoning regulations and site plan standards, and the Planning Board has been working on updated site plan standards that are nearly ready for presentation to Council. He said these kinds of policy discussion should start at the grass-roots level, not at the legislative level.

Vote: 3 for, 2 opposed.

(Clayton, MacLellan-Ruf)

A public hearing was set for January 11, 2016 at 6:00 p.m.

At this time, Mayor MacLellan-Ruf declared a 5 minute recess.

The meeting was reconvened at 7:35 p.m. and the order of the agenda was resumed.

Resolves:

#50 Re-Appointments to Boards, Commissions & Committees

BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

THAT the re-appointments by the Mayor of the following persons to the following Boards, Commissions and/or Committees for the listed terms are hereby confirmed:

PLANNING BOARD:

Peta vanVuuren, 287 Broadway (2018)

PERSONNEL BOARD:

Rudolf P.J. Walter, 96 Limerock Street (2018)

ZONING BOARD OF APPEALS:

Carol Maines, 186 North Main Street (2018)

COMPREHENSIVE PLANNING COMMISSION:

Ann Morris, 60 Lake Avenue (2018)

Michelle Gifford, 57 Pacific Street (2018)

HARBOR MANAGEMENT COMMISSION:

Melissa Maker , 130 Thomaston Street (2018)

Richard Whitman, 29 State Street (2018)

Howard Edwards, Jr., 146 Rankin Street (2018)

PARKS COMMISSION:

Alison Weaver, 30 Chestnut St. Apt. C (2018)

COAST GUARD CITY ADVISORY COMMITTEE:

Nancy Jeffers, 15 Tea Street (2018)

Deborah McNeil, 67 Waldo Avenue (2018)

ENERGY ADVISORY COMMITTEE:

Anthony Coyne, 41 Highland Street (2018)

LIBRARY ADVISORY COMMITTEE:

Carol Miller, 17 Katahdin Avenue (2018)

Gregory Pinto, 195 Broadway (2018)

Sponsor: Mayor MacLellan-Ruf

Originator: Mayor MacLellan-Ruf

Councilor Clayton moved passage.

Both Councilor Geiger and Councilor Pritchett thanked those willing to serve on the various boards and committees of the City. It was also noted that anyone wishing to serve on boards, commission or committee can contact any of the members of the Council, the Mayor or the City Clerk.

Vote: 5 for.

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #48

IN CITY COUNCIL

December 14, 2015

**ORDINANCE AMENDMENT: Establishing Moratorium On
Site Plan Applications For New
Grid-Scale Power Generation Facilities**

WHEREAS, properties within the City of Rockland have become a focus for a proposal to construct a gas-fired, combined-cycle electric power generation facility; and

WHEREAS, if not properly sited and designed and regulated, grid-scale power generation facilities can be a source of considerable air, water and noise pollution that can adversely impact the neighborhoods and communities where these facilities are located, thereby endangering public health, safety, and welfare; and

WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds originating from grid scale combined cycle power generation facilities; and

WHEREAS, the City has no specific ordinance provisions governing acceptable sources or disposal options for the potentially large volumes of water needed for cooling grid scale combined cycled power generation facilities; and

WHEREAS, the City has no specific regulations governing potential impacts from the air emissions associated with large volume open cooling water towers that are utilized at many grid scale power generation facilities; and

WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

WHEREAS, appropriate zoning limitations, site plan and performance standards, and other municipal regulations can ameliorate the impacts of grid-scale power generation facilities by requiring their location in industrial areas; by limiting noise, vibration, and emissions; and by requiring appropriate buffering and screening from public ways, residential areas, and other incompatible uses; and

WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:

THAT, pursuant to Title 30-A, Maine Revised Statutes, Section 4356, a moratorium is hereby established barring the acceptance of new site plan applications, and the processing of and action upon site plan applications filed with the City on or after December 14, 2015, for the construction of electrical power generation facilities having a capacity in excess of 10 megawatts in the City of Rockland for 180 days. The provisions of this moratorium do not apply to businesses constructing heating or power generation systems to meet on-site heating and/or power needs; and

THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading the City Manager is directed to provide options to Planning Board for technical experts to advise the Board as the Board may choose; and

THAT, no later than March 4, 2016, the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than March 4, 2016, to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

First Reading 12/14/15
First Publication 12/24/15
Public Hearing 1/11/16
Final Passage _____
Second Publication _____
Effective Date _____

Sponsor: Councilor Jillson
Originator: Councilor Jillson

Amy W Files

From: Amy W Files <amy@wilderbydesign.com>
Sent: Sunday, January 10, 2016 15:52
To: Larry Pritchett
Subject: Re: Order #4

Hi Larry,

Thank you for your response. This makes me feel much better — I'll look forward to learning more about the process.

Amy

> On Jan 9, 2016, at 11:29 AM, Larry Pritchett <larrypritchett.council@gmail.com> wrote:

>

> Hi Amy,

>

> The order to which you refer is just a routine authorization of funds (& it uses that language). The provisions in the ordinance amendment (i.e., the moratorium) would govern the process. Planning Boards typically choose the experts the Board wants to use.

>

> I am mulling a tweak to the moratorium language to make the process as related to the selection of consultants clearer. Based on a very quick conversation, JimC appeared to concur that the Manager's role in this is administrative (i.e., executing contracts and issuing payments on behalf of the City) and neutral and not substantive.

>

> Larry

>

>

> -----Original Message-----

> From: Amy W Files [<mailto:amy@wilderbydesign.com>]

> Sent: Wednesday, January 06, 2016 09:56

> To: Larry Pritchett

> Subject: Order #4

>

> Hi Larry,

>

> Could you explain what Order #4 that was in the agenda setting this week means?

>

> Is it to be voted on next week?

>

> When I read it, it sounds like the City Manager would be in charge of hiring someone to evaluate our zoning/code and in charge of the recommendation process from that expert for the power plant.

>

> If this is the case, I find it very disturbing. I don't think it would be appropriate to have this process in the hands of our manager who both does not support the moratorium and has done everything he could to push the power plant project through. He has made it clear at every opportunity that he feels business interests should be un-impeded, even when there is valid community concern.

>

> I think you likely understand the importance of resident trust in this process — whoever we spend money on hiring should be someone that people trust to review our code/zoning for resident concerns in light of this development — the process of hiring and review will need to be transparent and should not be in the hands of the City Manager.

>

> I hate to recommend that a special committee may be needed — but I'm not sure that without residents feeling they have access to the process you'll end up with a satisfied result.

>

> I'll look forward to hearing your thoughts.

>

>

> Thanks,

>

> Amy

>

> 542-4858

>

James D Chaousis II

From: James D Chaousis II [<mailto:jchaousis@ci.rockland.me.us>]
Sent: Sunday, January 10, 2016 19:41
To: Larry Pritchett
Subject: Re: Moratorium > Selecting Technical Experts > Minor Amendment?

Larry,

I have no reservations. I am not as conflicted as some might imagine.

Jim C

Sent from my iPhone

From: Larry Pritchett [<mailto:larrypritchett.council@gmail.com>]
Sent: Sunday, January 10, 2016 18:28
To: 'James D Chaousis II'
Subject: FW: Moratorium > Selecting Technical Experts > Minor Amendment?

Any reservations/suggestions on amendment?

LP

From: Larry Pritchett [<mailto:larrypritchett.council@gmail.com>]
Sent: Sunday, January 10, 2016 18:27
To: 'Bill Jillson'
Subject: Moratorium > Selecting Technical Experts > Minor Amendment?

Hi Bill,

There were some questions at the Agenda Setting Meeting about the process for selecting any technical experts needed by the Planning Board to development relevant standards during the moratorium.

The proposed amendment would capture what was discussed at the Agenda Setting Meeting (& likely would have occurred anyway). The only changes are on the second page in red. Let me know what you think (or if you have better ideas).

Larry

Bill Jillson

Subject: FW: Moratorium > Selecting Technical Experts > Minor Amendment?

From: Bill Jillson [<mailto:billjillson.council@gmail.com>]

Sent: Sunday, January 10, 2016 21:29

To: Larry R. Pritchett

Subject: Re: Moratorium > Selecting Technical Experts > Minor Amendment?

I'm all good with y
The change's Larry thank you

From: Larry Pritchett [<mailto:larrypritchett.council@gmail.com>]

Sent: Sunday, January 10, 2016 18:27

To: 'Bill Jillson'

Subject: Moratorium > Selecting Technical Experts > Minor Amendment?

Hi Bill,

There were some questions at the Agenda Setting Meeting about the process for selecting any technical experts needed by the Planning Board to develop relevant standards during the moratorium.

The proposed amendment would capture what was discussed at the Agenda Setting Meeting (& likely would have occurred anyway). The only changes are on the second page in red. Let me know what you think (or if you have better ideas).

Larry

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #48

IN CITY COUNCIL

December 14, 2015

**ORDINANCE AMENDMENT: Establishing Moratorium On
Site Plan Applications For New
Grid-Scale Power Generation Facilities**

WHEREAS, properties within the City of Rockland have become a focus for a proposal to construct a gas-fired, combined-cycle electric power generation facility; and

WHEREAS, if not properly sited and designed and regulated, grid-scale power generation facilities can be a source of considerable air, water and noise pollution that can adversely impact the neighborhoods and communities where these facilities are located, thereby endangering public health, safety, and welfare; and

WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds originating from grid scale combined cycle power generation facilities; and

WHEREAS, the City has no specific ordinance provisions governing acceptable sources or disposal options for the potentially large volumes of water needed for cooling grid scale combined cycled power generation facilities; and

WHEREAS, the City has no specific regulations governing potential impacts from the air emissions associated with large volume open cooling water towers that are utilized at many grid scale power generation facilities; and

WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

WHEREAS, appropriate zoning limitations, site plan and performance standards, and other municipal regulations can ameliorate the impacts of grid-scale power generation facilities by requiring their location in industrial areas; by limiting noise, vibration, and emissions; and by requiring appropriate buffering and screening from public ways, residential areas, and other incompatible uses; and

WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:

THAT, pursuant to Title 30-A, Maine Revised Statutes, Section 4356, a moratorium is hereby established barring the acceptance of new site plan applications, and the processing of and action upon site plan applications filed with the City on or after December 14, 2015, for the construction of electrical power generation facilities having a capacity in excess of 10 megawatts in the City of Rockland for 180 days. The provisions of this moratorium do not apply to businesses constructing heating or power generation systems to meet on-site heating and/or power needs; and

THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading the City Manager, in consultation with the Energy Committee, is directed to provide options for technical experts from which the to Planning Board can select ~~for technical experts~~ to advise the Board as needed the Board may choose in this process; and

THAT, no later than March 4, the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than March 4, 2016, to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

Sponsor: Councilor Jillson
Originator: Councilor Jillson

Stuart

From: Stuart <ssylvester@ci.rockland.me.us>
Sent: Monday, January 11, 2016 11:00
To: 'Larry Pritchett'; 'Lousie MacLellan-Ruf'; 'James D Chaousis II'
Cc: 'Will Clayton'; Valli.citycouncil@gmail.com; 'Bill Jillson'; 'Kevin Beal'; 'Audra Bell'
Subject: RE: Ordinance Amendment #48 > Moratorium > New Power Generation Facilities > Over 10 Megawatts

I have the copies for tonight's meeting and will leave them at the Councilors' desks.

Stuart H. Sylvester
Rockland City Clerk
270 Pleasant Street
Rockland, Maine 04841
(207) 594-0304 Office
(207) 594-9481 Fax
ssylvester@ci.rockland.me.us
www.ci.rockland.me.us

From: Larry Pritchett [<mailto:larrypritchett.council@gmail.com>]
Sent: Monday, January 11, 2016 8:08 AM
To: Lousie MacLellan-Ruf; 'James D Chaousis II'
Cc: Will Clayton; Valli.citycouncil@gmail.com; 'Bill Jillson'; 'Stuart Sylvester'; Kevin Beal; 'Audra Bell'
Subject: Ordinance Amendment #48 > Moratorium > New Power Generation Facilities > Over 10 Megawatts

Morning All,

As you are aware, there was a question (or two?) from the podium at the agenda setting meeting as well as questions in emails as to what the selection process would be for any outside experts needed to assist the Planning Board in reviewing current standards and drafting any proposed revisions.

In the attached version is a minor language amendment in the third from the last paragraph. I wanted to check with Bill, as the originator and sponsor of the Ordinance Amendment, before proposing any revisions to the language as passed in first reading. Bill reviewed this small revision yesterday and concurs with the proposed change.

This amendment simply captures what the likely process would have been, but makes that process explicit in the actual moratorium language. I would ask the Clerk (or the Manager) to have copies of this on Council member's desk and available for the public this evening.

Thank You,
Larry
594-8806

REGULAR MEETING

AGENDA

January 11, 2016

1. Roll Call **All members present.**
2. Pledge of Allegiance to the Flag **All present joined in the Pledge of Allegiance to the Flag.**
3. Public Forum of not more than 30 minutes (5 min. limit each speaker)
4. Meeting Notice
5. Reading of the Record
6. Reports:
 - a. City Manager's Report
 - b. City Attorney's Report
 - c. Other Official's Report
 - d. Mayor's Report
7. Licenses and Permits:
 - a. Liquor & Amusement Device Licenses – Pizza Hut
Granted. Vote: 5-0.
 - b. Liquor License – Main Street Markets
Granted. Vote: 5-0.
 - c. Lodging House License – The Lindsey Hotel
Granted. Vote: 5-0.
 - d. Liquor & Entertainment Licenses – Suzuki's Sushi
Granted. Vote: 5-0.
 - e. Liquor License (Bottle Club – State License Only) – Penobscot School
Granted. Vote: 5-0.
8. Resolves:
 - #49 Adopting Vision Statement (Postponed 11/14/15) City Council
Defeated. Vote: 0-5.
 - # 1 Commendation – A. Miceli City Council
Passed. Vote: 5-0.
 - # 2 Commendation – C. Young City Council
Passed. Vote: 5-0.
 - # 3 Accepting Donation – Holiday Decorations City Council
Passed. Vote: 5-0.
 - Regular Meeting, Agenda continued: January 11, 2016
 - # 4 Accepting Donations – Library City Council
Passed. Vote: 5-0.
 - # 5 Appointments to Mid-Coast Regional Planning Commission Mayor MacLellan-Ruf
Passed as Amended. Vote: 5-0. Amended to appoint Audra Caler-Bell and Mayor Louise MacLellan-Ruf as Rockland representatives to the Commission. Vote on amendment: 5-0.
 - # 6 Re-Appointments to Boards & Commissions Mayor MacLellan-Ruf
Passed. Vote: 5-0.
9. Ordinances in Final Reading and Public Hearing:
 - #41 Ch. 11, Sec. 11-210 Short Term Rentals (Postponed 12/14/15) City Council
Postponed until the 03/14/16 Regular Meeting. Vote: 4-1 (Pritchett). The amendment was postponed after a series of amendments were made to incorporate changes previously discussed. The amendments would provide for the following:
 - allow short-term rentals to be licenses only to property owners
 - require the license applicant for a single family structure to be a resident of Rockland or have a local property manager who can respond around the clock.
 - allow the rental of accessory apartments as short-term rentals only if the owner lives in the primary structure on the same lot.
 - require the license application of a duplex or two-unit condominium to be a resident of Rockland or have a local property manager who can respond around the clock.
 - require that the conditions applicable at the time of application be maintained for the entire time that the property is licensed as a short-term rental.

- clarify that initial approval would be by the Planning Board, but subsequent approval would be by the Code Enforcement Officer.
- revised implementation schedule.

#42 Ch. 19, Art. III Short Term Rentals (Postponed 12/14/15)

City Council

Postponed until the 03/14/16 Regular Meeting. Vote: 5-0.

#47 Authorizing Quit Claim Deed – Reconveyance of 258 Rankin St.

City Council

Passed. Vote: 5-0. Eff. Date: 02/10/2016.

#48 Establishing Moratorium – Power Generation Facilities

Councilor Jillson

Passed as amended. Vote: 3-2 (MacLellan-Ruf, Clayton). Eff. Date: 02/10/16. Amended to charge the Energy Advisory Committee with supplying a list of technical experts for the Planning Board to choose from. Vote on amendment: 3-2 (Jillson, MacLellan-Ruf).

10. Ordinances in First Reading:

#46 Ch. 8, Sec. 8-708 GA Max Levels of Asst. (Postponed 12/14/15)

City Council

Passed as amended: Vote: 5-0. Public Hearing Date: 02/08/16 at 6:00 p.m. Amended to delete the changes to the Maximum Levels of Assistance allowable for food expenses. Vote on amendment: 5-0. (NOTE: The proposed changes for food allowance from the State would have reduced the amounts that the City could provide for food).

1 Ch. 2, Sec. 2-1202 & 2-1203 Personnel Code

Councilor Jillson

Passed. Vote: 5-0. Public Hearing Date: 02/08/16 at 6:00 p.m.

2 Authorizing Quit Claim Deed – Sale of 224 Old County Road

Councilor Pritchett

Postponed until the 02/08/16 Regular Meeting. Vote: 5-0.

11. Orders:

1 Accepting Forfeited Assets – Natale/Walsh

City Manager

Passed. Vote: 5-0.

2 Establishing Ad Hoc Committee – RSU #13/Education Options

Mayor MacLellan-Ruf

Passed. Vote: 5-0.

3 Authorizing RFPs – Production of Cable Access Channels

City Manager

Passed. Vote: 5-0.

4 Authorizing Use of Undesignated Fund Balance – Prof Services

City Manager

Passed. Vote: 5-0.

5 Authorizing Data Reporting – Short Term Rentals

Councilor Pritchett

Passed. Vote: 5-0.

12. Adjournment. Adjourned without objection from the Council at 9:03 p.m.

The meeting was called to order by the Mayor at 6:00 p.m. with the following members answering the roll call: Mayor Louise MacLellan-Ruf, Larry Pritchett, William Clayton, William Jillson, Valli Geiger, City Manager Chaousis, and City Attorney Beal.

Pledge of Allegiance to the Flag: All present joined in the Pledge of Allegiance to the Flag.

Public Forum: During the public forum, the following persons spoke on the following issues:

- John Grondin, 1 Rankin Street, announced that the 6th Annual Share the Love Community Auction will be held at St. Peter's Episcopal Church on February 6, 2016 beginning at 5:00 p.m. He said that all proceeds from the auction go to support local charities that provide food, health and heat to needy local residents. He added that over the past five years, the auction has earned more than \$45,000 for these charities.

- Kathryn Fogg-Hill, 84 Grace Street, spoke concerning the proposed Vision Statement, saying that she was somewhat distressed with what is currently going on in the City, and added that the Vision Statement does not reflect where the City is now or where it will be in 2 ½ years.

- Steve Carroll, 326 Old County Road, said that he was very concerned about the personnel issues that have been going on in the City recently, specifically the firing of the Harbor Master just two weeks before his announced retirement. He said that Mr. Glaser has been with the City a long time and by all accounts has been a good employee. He said there are

many good employees in the City, and while you may not like the answer you received from them, it is always delivered cordially and professionally. He said what is going on right now is bad form.

- Chris Whytock, 387 Old County Road, spoke concerning the proposed moratorium on power plants, saying that he was opposed to the moratorium, and that the benefits of the plant would most likely outweigh any negatives. He added that the moratorium would kill the project in Rockland and probably see the plant sited just over the town line in Thomaston, where the City would still get all the negatives but none of the benefits. He also said that such a moratorium could have a negative effect on other developers coming to the City. He urged the Council to at least delay the moratorium until after the City sees the plans, which were promised to be submitted to the City in just a few weeks.

- Sandra Schramm, 16 Broad Street, spoke in support of the proposed moratorium on power plants, saying that Maine already produces more electricity than it uses, so there is no need for this additional power plant. She also said that local industry is not on board with this project.

- David Myslabodski, 54 Broad Street, spoke in support of the proposed moratorium, saying that the era of fossil fuels is over, and that the City should take the lead in exploring renewable energy sources.

- Nicole Fuller, 21 Holmes Street, spoke concerning the Short-Term Rental ordinances, saying that the main sticking point is still the minimum stay requirement. She said people have been renting rooms in their homes on a nightly basis for many years without incident, and the City should allow them to continue to do so. She also said that the non-owner occupied rentals are a different issue, and as written these ordinances do not address the real concerns.

- Debby Atwell, 81 Pleasant Street, spoke in support of the proposed moratorium on power plants, saying that the proposed 180 days is a short period of time to review the impact that such a development would have on the life of the City's residents. She said that the City's current zoning was not contemplated to regulate such a development as this.

- Ron Huber, 148 Broadway, said that the proposed Vision Statement for the City appears to have gaps in it that should be addressed before proceeding. He said that the harbor is the City's biggest asset and should be protected. He also spoke in support of the proposed moratorium on power plants and suggested that the City contact the Conservation Law Foundation as a resource for information on this issue.

At this time, Councilor Geiger noted that the time set aside for the public forum was nearly expired, and asked that the time for the public forum be extended for up to an additional 20 minutes to allow any other persons who wish speak to do so. Without objection from the Council, it was so ordered.

- Susan Barbour, 645 Old County Road, spoke concerning the proposed sale of 224 Old County Road, saying that questions remain on the ownership of this property, and the City should address those questions before voting to proceed with this measure. She said that the City cannot sell what the City does not own. She added that the original tax lie certificate on which the City foreclosed on this property was improper, therefore, the City's claim to the property was may not have legal standing. She suggested that the Council postpone action on this measure until these issues can be cleared up.

- Phyllis Merriam, 72 Mechanic Street, spoke in support of the proposed moratorium on power plants, saying it would give the City the time it needs to establish any ordinances necessary to protect the public.

- Kendall Merriam, 72 Mechanic Street, spoke in support of the proposed moratorium, saying that he was afraid of the pollution that such a plant would create. He also spoke concerning recent actions taken by the City Manager, noting that he was a veteran and should live by the veteran's code of honor and act in a professional and friendly manner to employees and citizens alike.

- Eileen Wilkinson, 38 Gay Street, spoke in support of the proposed moratorium, saying that the length of the moratorium should be doubled to make sure the City has enough time to understand what the company could mean to the City. She said that there is absolutely no economic reason for this company to what to locate in Rockland for the expressed purpose. She said there must be some underlying reason for their interest in Rockland and the City needs to find out what that reason is before proceeding.

Hearing no other speakers, the public forum was closed.

postpone it at that time. He suggested that the Council move forward with the amendment and see how it plays out. He said that the Code Officers feels that this is a "pretty good" ordinance as it is now constituted. He said there are still concerns about whole-house rentals, but reminded the Council that there are currently no standards to regulate this activity. He said at least this ordinance would establish some standards in place to give the Code Officer some tools to use in this matter.

Councilor Geiger agreed with both Councilor Clayton and Councilor Pritchett, and said that she has struggled with this proposal. She said some feel that regulations on this activity are needless, but she understands the concerns of the residents of encroachment of commercial activities into residential neighborhoods. She said that she is uncomfortable with how complex this ordinance have become, and taking a step back and collecting more data may be a good idea.

Councilor Clayton moved to postpone Ordinance Amendment #41 until the March 14, 2016 Regular Meeting.

Councilor Geiger asked how further postponing this amendment would affect the Code Officer's enforcement in this matter.

The City Manager said lacking City Council action, the City would suspend enforcement action administratively.

Councilor Pritchett asked Councilor Clayton why he is proposing postponement until the March meeting.

Councilor Clayton said he felt this would give staff sufficient time to do the necessary work on this matter.

Vote: 4 for, 1 opposed.

(Pritchett)

Ordinance Amendment #41 was postponed until the March 14, 2016 Regular Meeting.

#42 Chapter 19, Article III Short-Term Rentals (Postponed after public hearing 12/14/15)

(See pages 253-255 for text as amended 11/09/15)

It was noted that this amendment was postponed after public hearing being held on 12/14/15, and received a motion for passage at that meeting.

Councilor Clayton moved to postpone Ordinance Amendment #42 until the March 14, 2016 Regular Meeting.

Councilor Geiger said that she realizes that this matter has been dragging on too long, but wanted to assure everyone who operated short-term rentals would be allowed to proceed as they did last season.

Vote: 5 for.

Ordinance Amendment #42 was postponed until the March 14, 2016 Regular Meeting.

#47 Authorizing Municipal Quit Claim Deed – Reconveyance of 258 Rankin Street

(See pages 270-272 for text)

A public hearing was opened. Hearing no speakers for or against, the public hearing was closed.

Councilor Pritchett moved passage.

Vote: 5 for.

The Ordinance will become effective February 10, 2016.

#48 Establishing Moratorium – Grid-Scale Power General Facilities

(See pages 264-265 for text)

A public hearing was opened with Amy Files, 39 Pleasant Street, speaking in favor of the moratorium, saying that the proposal captures many of the concerns raised by the public over this proposal, and that she did not being the moratorium would have any effect on businesses coming to Rockland. She said she was concerned about one provision of the proposal, and asked that the Council remove the City Manager as the entity that choose the list of possible technical experts for the Planning Board. She said that the City Manager has already been identified as a support of the proposal, and it would make for a more open process to have someone else compile the list.

- Kathryn Fogg-Hill, 84 Grace Street, said that getting assistance from the Conservation Law Foundation on this measure, as suggested by a speaker during the Public Forum, was a good idea. She also said that the City should take a look at current economic conditions, and consider if this plant is still economically viable.

Hearing no other speakers, the public hearing was closed.

Councilor Jillson moved passage.

Councilor Pritchett moved to amend Ordinance Amendment #48 as follows: "That, within 30 days of the Council's adoption of this ordinance in second reading the City Manager, in conjunction with the Energy Committee, is directed to provide options for technical experts from which to the Planning Board can select for technical experts to advise the Board as needed ~~the Board may choose in this process~~; and"

Councilor Geiger said that she liked the direction this amendment takes the proposal, but said that she did not think it was strong enough. She said that it should be the Energy Committee that makes the recommendations to the Planning Board for the technical experts, and the Planning Board could then choose whomever they wish. She said that this would ensure transparency in this matter.

Vote on amendment: 5 for.

Councilor Pritchett move to further amend Ordinance Amendment #48 as follows: delete "...~~the City Manager, in conjunction with~~..." so that the paragraph would read "That, within 30 days of the Council's adoption of this ordinance in

second reading ~~the City Manager, in conjunction with the Energy Committee~~ is directed to provide options for technical experts from which to the Planning Board can select for technical experts to advise the Board as needed ~~the Board may choose in this process; and...~~

Councilor Clayton said that he did not agree with this amendment. He said that the original amendment already adopted took care of the concern expressed during the public hearing, making the Energy Committee the “watchdog” of the process. He said this amendment was not necessary.

The City Manager said that this is a bit of semantics, adding that he saw his role in this as delivering the Energy Committee’s recommendations to the Planning Board. He said that he would give deference to the Committee anyway. He also said that he has no bias in this matter whatsoever and would do whatever the Council wishes.

Councilor Pritchett said that he was not uncomfortable with the City Manager being in this process, adding that he saw the Manager’s role as largely administrative. He said that the Planning Board will choose whatever experts they wish to use.

Councilor Geiger said that she did not think that the City Manager was biased on this issue, but to ensure the public that the list of experts were chosen by the Energy Committee, which has the expertise to perform this function.

The City Manager said that in the end, the Council is really saying the same thing. He said that he would support the Council action on this matter.

Vote on amendment: 3 for, 2 opposed.

(Jillson, Clayton)

Councilor Geiger acknowledged that this is a departure on how standards and ordinance are crafted and adopted, charging the Planning Board with creating the ordinance. She said that task is usually assigned to the Comprehensive Planning Committee, and wondered why there was a change in this instance.

Councilor Clayton thanked both Ms. Atwell and Ms. Files for the discussions they had on this issue, adding that they had a very nice back and forth on the matter and wished to see more of that kinds of interaction. He said he also agrees with Mr. Myslabodski that Rockland should be a leader in green energy. However, he said this moratorium would also prevent a green energy project from submitting a site plan application. He said the question has been asked if this will hurt business in the City. He said that there are a number of significant developments taking place, but each one encountered resistance when proposed. He said there is a segment that is opposed to any development in general. He said he hoped to see the entire proposal for the power plant before making any decisions on it. He said he has no additional information on this proposal upon which to base any decision. He said that a moratorium is the wrong way to proceed, adding that all of the things cited in the moratorium can be accomplished without a moratorium. He said the City should see the plans first, and then establish a moratorium if it is deemed necessary.

The City Manager said that he will give his opinion on matters before the Council and offer guidance on how the Council should proceed, but once the Council makes its decision he will carry out the Council’s wishes. He said that he fervently advocates for investment in the City, and it is up to the Council to determine the type of investment that is appropriate for the community. He said that he respects the grassroots efforts on this issue, and that they need collective voices to figure out policy.

Councilor Pritchett said that he has no recollection of the Planning Board, or other entities, crafting standards.

The City Attorney said that the Planning Board has been working on revised Site Plan Standards for some time and are nearly ready to present them to Council.

Vote as amended: 3 for, 2 opposed.

(MacLellan-Ruf, Clayton)

The Ordinance will become effective February 10, 2016.

The order of the agenda was resumed.

Resolves:

#49 Adopting Vision Statement (Postponed 11/14/15)

(See pages 244-245 for text)

It was noted that this Resolve was postponed until this meeting and was given a motion for passage at the November 14, 2015 Regular Meeting.

Councilor Jillson said that he had a lot of problems with how this was written, and said he thought it should go back to the drawing board. He said that this proposal should be postponed for further workshops.

Councilor Clayton said that the City Manager is recommending that the Council defeat this proposal.

Councilor Pritchett said that there are still a number of issues with this statement that need to be resolved. He suggested that the Council look to the 2015-16 Work Plan that was adopted last year as a starting point. He added that there is a lot of community vetting that must take place as well, but the Work Plan is a good starting point.

Councilor Geiger said that her understanding was that the “vision statement” that came out of the October 22nd meeting was a rough draft that would be a starting point for community discussion and input to establish a final vision statement. She said that she was somewhat taken aback when the draft appeared on an agenda for adoption.

education while minimizing costs, including, but not limited to, a municipal kindergarten through eighth grade system with students attending a multi-town regional high school, a municipal kindergarten through twelve grade system, as well as possible changes to the funding and governance structure of RSU 13. Said Committee shall consist of not more than eleven members appointed by the Mayor and confirmed by the City Council, and shall report its finding to the City Council no later than April 11, 2016.

Sponsor: Mayor MacLellan-Ruf

Originator: Mayor MacLellan-Ruf

Councilor Clayton moved passage and said that he liked the increase to the membership of this committee as it gives the City options and flexibility. He said that he would like to see seven voting members of the committee and four non-voting members. He also said he would like to see a school board member as an ex-officio non-voting member as well.

Councilor Geiger said that she was trouble that the order still focuses on withdrawal when the withdrawal question was defeated so soundly by the voters. She said the focus of this committee should be on educational outcome rather than on costs.

Councilor Pritchett said that the order was drafted from the Education Options referendum question that was overwhelmingly passed by the voter, and was intended to get the ball rolling. He said that the Council could give the additional focus that Council Geiger is looking for to the committee when it makes appointments to the committee.

Vote: 5 for.

#3 Authorizing RFP – Production of Government & Educational Access Channels

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is hereby authorized to issue a Request for Proposals for the production and operations of the City's Government Access and Educational Access channels.

Sponsor: City Manager

Originator: City Manager

Councilor Pritchett moved passage and asked if the RFP would include estimates on upgrades to the systems.

The City Manager said that would be part of the RFP. He also said that he has been in discussions with Reade Brower, owner of VSTV who has expressed interest in producing the Government and Educational Access Channels. He said at this point the City needs to do a request for proposals to determine if this is a direction in which it wants to go.

Councilor Pritchett said he saw two options for the City; upgrade the system and continue operating as is, or have someone else do it.

The City Manager said that is the question that needs to be answered; would the City own the equipment or would the operator bring in the necessary equipment.

Councilor Pritchett asked if the City would find out the cost of upgrading the system.

The City Manager said that information would be part of the RFP, but wants to keep the RFP as open-ended as possible to see what alternatives are available to the City.

Vote: 5 for.

#4 Authorizing Undesignated Fund Balance Expenditure – Professional Services

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is hereby authorized to expend up to \$20,000 from the City's Undesignated Fund Balance Account to cover the cost of professional services for the development of Site Plan standards related to the moratorium on grid-scale power generation facilities.

Sponsor: City Manager

Originator: City Manager

Councilor Pritchett moved passage and asked if the \$5,000 already appropriated for this purpose from the Option Agreement payments from REC would be spent first.

The City Manage said that they would.

Vote: 5 for.

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #48

IN CITY COUNCIL

December 14, 2015

**ORDINANCE AMENDMENT: Establishing Moratorium On
Site Plan Applications For New
Grid-Scale Power Generation Facilities**

WHEREAS, properties within the City of Rockland have become a focus for a proposal to construct a gas-fired, combined-cycle electric power generation facility; and

WHEREAS, if not properly sited and designed and regulated, grid-scale power generation facilities can be a source of considerable air, water and noise pollution that can adversely impact the neighborhoods and communities where these facilities are located, thereby endangering public health, safety, and welfare; and

WHEREAS, public and professional comments have raised questions as to whether the City's current noise standards are an appropriate tool for addressing the specific types of sounds originating from grid scale combined cycle power generation facilities; and

WHEREAS, the City has no specific ordinance provisions governing acceptable sources or disposal options for the potentially large volumes of water needed for cooling grid scale combined cycled power generation facilities; and

WHEREAS, the City has no specific regulations governing potential impacts from the air emissions associated with large volume open cooling water towers that are utilized at many grid scale power generation facilities; and

WHEREAS, community members have questioned whether the City's commercial and industrial ordinance standards, which were developed for large volume retail and specialty manufacturing, provide appropriate regulation for a grid scale power generation facility when this type of generation facility is located on parcels abutting residential zones or historic districts; and

WHEREAS, appropriate zoning limitations, site plan and performance standards, and other municipal regulations can ameliorate the impacts of grid-scale power generation facilities by requiring their location in industrial areas; by limiting noise, vibration, and emissions; and by requiring appropriate buffering and screening from public ways, residential areas, and other incompatible uses; and

WHEREAS; the development of natural gas fired combined cycle power generation facility would require the construction of a natural gas distribution line into the City to provide fuel; and

WHEREAS; the City's street opening ordinances do not include provisions that provide for adequate inspection of natural gas piping as it is being installed to insure leaks are avoided; and

WHEREAS, the City Council hereby finds that, to avoid the serious public harms that reasonably may ensue from the unregulated siting and development of grid-scale power generation facilities in the City, a moratorium is needed while the City studies, drafts, and adopts one or more zoning or other ordinance amendments to establish reasonable municipal regulations for grid-scale power generation facilities to avoid and/or ameliorate such public harms,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:

THAT, pursuant to Title 30-A, Maine Revised Statutes, Section 4356, a moratorium is hereby established barring the acceptance of new site plan applications, and the processing of and action upon site plan applications filed with the City on or after December 14, 2015, for the construction of electrical power generation facilities having a capacity in excess of 10 megawatts in the City of Rockland for 180 days. The provisions of this moratorium do not apply to businesses constructing heating or power generation systems to meet on-site heating and/or power needs; and

THAT, within 14 days of the Council's adoption of this ordinance in second reading the City's Energy Committee is directed to convey to the Planning Board a summary of any issues that the Committee recommends be considered by the Planning Board based on the forums held by the Committee and the Energy Committee is also directed to provide advice or assistance to the Planning Board as may be requested by the Board's Chairman; and

THAT, within 30 days of the Council's adoption of this ordinance in second reading ~~the City Manager, in consultation with the Energy Committee,~~ is directed to provide options for technical experts from which the Planning Board can select ~~for technical experts~~ to advise the Board as needed the Board may choose in this process; and

THAT, no later than March 4, the City Manager is directed to bring before Council for its consideration a draft of a street opening ordinance that addresses the technical questions, inspection requirements, and responsibility for costs related to the installation of natural gas distribution lines and any other infrastructure changes that should be made in tandem with this work; and

THAT, the Planning Board is directed, no later than March 4, 2016, to draft for City Council consideration, an ordinance or ordinances regulating the siting and development of grid-scale power generation facilities in the City of Rockland.

Sponsor: Councilor Jillson
Originator: Councilor Jillson