

August 17, 2009

09-18

A regular meeting of the City Council was held at 7:00 p.m. on Monday, August 17, 2009, in Council Chambers with the following members present: Mayor Kenneth G. Murchison, Jr., Christopher A.R. Bell, R. Mark Goughan, Karla M. Bell, David Martin, Mary Kate Barbosa, and Miles R. Williams.

Steven R. Buck, City Manager, and David Ouellette, Director of Public Works, were present.

Also attending the meeting were John Swanberg, Joe Bouchard, Jim Cyr, Troy Haney, Doug Morrell, Philip McDonough, Vernon Leavitt, Paul Theriault, Bryan Harper, Douglas Lagasse, Wilfred Martin, Milo and Priscilla Haney, and Wayne Belanger.

Barbara Scott, representing the Aroostook Republican; and Time Warner covered the meeting.

Council Agenda item #1: Public Input. No Public Input.

Council Agenda item #2: Sesquicentennial Update

John Swanberg, Jim Cyr and Joe Bouchard each provided information on several upcoming events such as the semiformal Sesquicentennial Ball on August 22<sup>nd</sup> at the Caribou Inn & Convention Center, which will dinner and dancing to a seventeen piece orchestra. A “150<sup>th</sup>” play will be performed on August 29<sup>th</sup> and 30<sup>th</sup> at the Performing Arts Center, and September 5<sup>th</sup> will feature a parade with 110 entries, followed by a barbecue, and fireworks at the high school. Details on these and other events can be found on the website at [www.celebratecaribou.com](http://www.celebratecaribou.com).

Council Agenda item #3: Consider authorizing the Minutes of the following meetings:

- a. July 13, 2009 Council Meeting
- b. July 13, 2009 Council Workshop

Motion made by C. Bell, seconded by K. Bell, to accept the minutes of the July 13, 2009 Council meeting as printed. (7 yes) So voted.

Motion made by C. Bell, seconded by D. Martin, to accept the minutes of the July 13, 2009 Council workshop as printed. (7 yes) So voted.

Council Agenda item #4: Public Hearing to receive written and verbal comment on a Malt Liquor License and Special Entertainment Permit for Troy Haney, d/b/a Spud Speedway, Inc., 209 Thompson Road.

7:19 p.m. Public Hearing opened.

The City Manager reported that Chief Gahagan reviewed the application and has been working with Mr. Haney to see that all requirements are met. The recommendation would be to consider approval of the request.

Mr. Haney provided information on his plans to take advantage of the potential business opportunities at the track that have been underdeveloped for a long time. He anticipated revitalization of the business would attract more people to the area with additional venues such as concerts, truck pulls, demolition derbies, snow sled racing, etc. In turn, he thought this would also generate more business for others in the area, motels and restaurants for example. When asked if he knew of any possible problems with neighbors, Mr. Haney said he had received positive input and support, adding that some neighbors

would actually be working at the track.

Bryan Harper, a resident at 966 Access Highway, spoke against holding concerts at Spud Speedway. He said he could see the track (approximately a quarter of a mile away) from his backyard. When he moved there the track was closed. Now, he feels “like a prisoner in his own home” having to shut windows and doors to lessen the noise. Realizing that he can’t do much about the racing or the malt liquor, he was adamantly opposed to concerts being held, particularly late at night. He asked the Council to table consideration of the Special Entertainment Permit and do further research before deciding on issuing it out of respect for those with health issues. Noting that he was not in good health himself and requires his rest, especially at night, he envisioned the loud amplified music would further interrupt his peace and take away his quality of life.

When asked by Councilor C. Bell how often he planned to hold concerts, Mr. Haney replied there would be one or two a year; none were planned for this year.

Mayor Murchison asked Mr. Haney if there would be a way to build some kind of sound barrier to lessen the impact. Mr. Haney said he had plans to do something like that and to also position the speakers toward the audience and away from the opposite side of the track. Agreeing that noise would be created, he said that he wanted to be respectful of his neighbors and hoped to find a way to run his business in a manner that would work for everyone.

7:32 p.m. Public Hearing closed.

Council Agenda item #5: Consider acting upon the application by Troy Haney, d/b/a Spud Speedway, Inc. for the following:

- c. Malt Liquor License
- d. Special Entertainment Permit

Motion made by C. Bell, seconded by D. Martin, to approve the Malt Liquor License application by Troy Haney, d/b/a Spud Speedway, Inc. (6 yes, 1 abstention, M. Williams) So voted.

Motion made by D. Martin, seconded C. Bell, to approve a Special Entertainment Permit for Troy Haney, d/b/a Spud Speedway, Inc. for two concert events per year, and if he wants more than two, he would be required to come before the Council for approval. There was a discussion on limiting the hours of concerts. This was not seen as easily accomplished when contracting bands that have their own schedules to meet. Pointing out the fact that this permit would be reviewed annually, Councilor C. Bell said he had faith that Mr. Haney would do his best to be a good neighbor. Councilor Goughan agreed with Councilor Bell’s reasoning that Mr. Haney would be diligent in respecting his neighbors and in knowing that this permit would be reviewed annually. He also was mindful of Mr. Harper’s legitimate concerns and said, “This is a tough one, Mr. Harper, this is one of those tough ones.” Mr. Haney did say that he would try to see that concert events ended by 11:00 p.m. if possible. There was a discussion on what constitutes a concert. For instance, having a band playing during intermission or at the beginning of a racing event was not seen as a concert and was not thought to generate more noise than the racing itself. (7 yes) So voted.

Council Agenda item #6: Public Hearing to receive written and verbal comment on a proposed Building Demolition Ordinance Section 4-101.3.

7:43 p.m. Public Hearing opened.

The City Manager related that the ordinance, as amended, appeared to have included all of the Council's modifications. He noted that the Planning Board had held a public hearing and is recommending its approval.

Troy Haney, a member of the Planning Board, thought this ordinance was a positive move that would eliminate the problem of buildings left half torn down and depreciating property around it.

Councilor Williams, referring to the fact that the fire department working hours are 7 days a week, asked if the 5 day notification period meant regular business days. The City Manager replied that the intention was to refer to business days. Councilor Williams wondered if this should be worded more clearly.

Councilor K. Bell asked for clarification that the Fire Chief could approach a property owner about possibly burning a building rather than having the request only initiated by the property owner. The City Manager said this information would be included as part of the demolition permitting process.

7:49 p.m. Public Hearing closed.

Council Agenda item #7: Consider acting upon the adoption of the proposed Building Demolition Ordinance Section 4-101.3.

Motion made by C. Bell, seconded by K. Bell, to approve the adoption of the new Caribou Building Demolition ordinance Section 4-101.3 as presented. (7 yes) So voted.

Council Agenda item #8: Consider authorizing the Financial Statements for the period ending July 31, 2009.

The City Manager reported the month of July ended with Revenues closing at 62.44%, or 4.11% ahead of projections and Expenses closing at 56.02%, or 2.31% under budget YTD. He covered the major factors contributing to the final figures. Due to the fact that the legal fees incurred during the Howes Corner settlement process were higher than anticipated and an overdraft was probable, he requested that \$5,000 be transferred from Overlay to offset any unanticipated additional legal expenses.

Mayor Murchison, referring to information in the financial report, commended the city employees for their efforts, which resulted in realizing no liability for Unemployment and in the receipt of approximately \$5,000 in rebate for the low loss ratio in Workers' Compensation.

Motion made by M. Williams, seconded by D. Martin, to accept the Financial Statements for the period ending July 31, 2009. (6 yes, 1 no, M. Goughan) So voted.

Motion made by D. Martin, seconded by M. Williams, to authorize \$5,000 from the 2009 Municipal Overlay to account E-10-01-005 General Government Legal. (6 yes, 1 no, M. Goughan) So voted.

Council Agenda item #9: Consider a legal review and necessary actions on a Certified Petition for changes to City Charter Section 5.06 Budget.

The City Manager related information received from MMA legal and the City's attorney concerning the petition, the steps that have been taken so far, and the legal opinions as to whether the change would be considered an amendment or a revision. The requirements of the law as to what remain to be done were spelled out. Both legal opinions were that the proposed amendment would constitute a charter revision, since it would change the operation of City government in general and the Council's authority. The Council had the option to vote to concur or not concur that the proposed change was an amendment or a revision. If the Council decided that this constitutes a revision, they would have to let the voters decide on the establishment of a Charter Commission at either a special election, no earlier than

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November 15<sup>th</sup> or at the next regular election on June 8, 2010. The law's specified time line would not allow putting this question on the ballot for the November 3<sup>rd</sup> election. If the Council decides that this change would constitute a revision, they would have to act within thirty days of the certification of signatures on August 3, 2009.

Doug Morrell spoke on behalf of the petitioners said, "This is a win, win situation, the best scenario." He added that the group would be pleased to see a Charter Commission formed.

A discussion ensued. Councilor K. Bell had several questions about the issue, what the process is to establish a Charter Commission, and how any change in government would affect the taxpayers. She preferred to take it up in a workshop session before acting on this and asked if the other Councilors would be agreeable. She said she was also troubled by the fact that the Council had not been given the chance to work "in a proactive and cooperative manner" with the group to address any of their issues or concerns before this petition process began. Councilor Williams agreed, adding that he was not prepared to act on this without further discussion. Councilor Martin and Councilor C. Bell were both under the impression that the Council was obligated by law to act on this and send it to the voters. The City Manager confirmed this to be true and action would need to be taken within the specified thirty days. Since the Council would not be meeting until after the thirty days and the legal opinion is that this would be a revision, Councilor C. Bell suggested the Council had no choice but to go ahead with a vote. Relating that he was not comfortable with a Charter Commission, Councilor C. Bell pointed out that the current charter has worked well with "only a little tweaking" since 1967 when Caribou moved away from town government to become incorporated as a city.

Motion made by C. Bell, seconded by K. Bell, to support the legal determination that the Petitioners' Certified request for a change to Caribou Charter Section 5.06 constitutes a Charter Revision and to act upon the Petition as a request for the establishment of a Charter Commission. There was a discussion about what steps would need to be taken next. For example set an election date and hold a workshop to discuss the details of how charter members are chosen, etc. (7 yes) So voted.

Motion made by D. Martin, seconded by C. Bell, to submit to the voters of Caribou the following referendum question: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?" at the next regular election anticipated to be June 8, 2010. (7 yes) So voted.

Council Agenda item #10: Consider acting upon Bids for 4,500 cubic yards of Winter Sand for the 2009-2010 season.

Motion made by D. Martin, seconded by K. Bell, to accept the bid by Carvell Goodine & Sons in the amount of \$8.60 per cubic yard for the supply of winter sand. (7 yes) So voted.

Council Agenda item #11: Consider acting upon Bids for the CIP purchase of a rolling chassis for a snow plow/dump truck.

The following bids were received:	Portland North Truck Center	\$95,130.00
	Morrison & Sylvester Inc. (FOB – Auburn)	\$97,663.60
	Daigle & Houghton Inc.	\$90,552.58

Motion made by D. Martin, seconded by K. Bell, to accept the bid of Daigle & Houghton Inc. in the amount of \$90,552.58 for a new 2009 International Model 7600 rolling chassis as per specifications outlined in the bid documents. Councilor Goughan said this was one of the reasons he had voted against

this year's CIP program. He had thought that other options should have been explored before buying a new truck. (6 yes, 1 no, M. Goughan) So voted.

Council Agenda item #12: Consider modifications to the 2009 CIP scope of works for road maintenance to the West Gate Road and High Street.

The City Manager had been working with the Public Works Director to address the many calls they both have been receiving from residents complaining about the poor condition of the West Gate Road.

Although removed from the CIP projects list for 2009, West Gate Road will be part of the request for consideration in 2010. In the meantime, Director Ouellette has proposed a two-year plan to remedy the situation. The request was to use \$20,680 from Streets and Roads Reserve to do a grading process this fall on the worst part of the road and to complete the project under the 2010 CIP.

At the request of the Council, the City Manager and Public Works Director had conferred with MDOT Regional Director Bob Watson to address the problems with High Street. As a result of a request for funding from Mr. Watson, the Transportation Committee has denied funding at this time and may delay any funding for reconstruction until possibly 2012 or 2013. Cost estimates were sought to have a shim and overlay done to repair the street in the meantime. The Council was presented with two proposals: Public Works to do a shim followed by a vendor contracted 1.5" overlay estimated to last four to five years at a cost of \$39,192.60, or a shim followed by a 1" overlay estimated to last three to four years at a cost of \$27,990.97. The Council discussed the issue with Director Ouellette. The poor condition of Main Street and the fact that MDOT no longer has funding for that project either brought up the question of which of the two roadways was in the most need of work before winter. Director Ouellette said, although he really wanted to see Main Street done, the general condition, especially the deep wheel ruts, was probably the worst on High Street.

Motion made by D. Martin, seconded by M. Williams, to authorize Phase I of the West Gate Road reconstruction from the Streets and Roads Reserve G 1-388-00 in 2009, estimated at \$20,680 and to budget for the remaining work within the CIP program for 2010, and to authorize the repair of High Street from the Streets and Roads Reserve G 1-388-00 in 2009 to perform a shim and a 1.5" overlay and have the Public Works Director contract the same with Lane Construction. A lengthy discussion ensued. Councilor Goughan thought that the original plan for CIP road projects should be adhered to. Mayor Murchison pointed out that State roads are not considered in the CIP and this was being considered because of a dire need to rectify the situation. Councilor Goughan, although agreeing to the bad road conditions and the safety issue, suggested possibly considering some State roads next year in the CIP. Councilor Williams and Councilor Martin both stressed that things happen that are out of anyone's control and must be addressed. Councilor Bell saw the need to act on the issue for safety reasons, but he also agreed with Councilor Goughan's concept of strengthening the 2010 CIP. He said, "The pressure is on us to minimize taxes and reduce expenses." The City Manager pointed out additional savings of \$22,409 realized from the asphalt bidding process that will be carried forward for next year. There was further discussion with Director Ouellette and his perception of the best strategy to remedy the entire West Gate Road. (6 yes, 1 no, M. Goughan) So voted.

Council Agenda item #13: Consider setting a Public Hearing date of September 14, 2009 to consider the re-zoning of Map 32 Lots 175 & 64 Sweden St. from R-2 & R-1 to C-2.

Motion made by C. Bell, seconded by D. Martin, to set a Public Hearing date of September 14, 2009 to consider the re-zoning of Map 32 Lots 175 & 64 Sweden St. from R-2 & R-1 to C-2. (7 yes) So voted.

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Council Agenda item #14: Consider setting a Public Hearing date of September 14, 2009 (Shoreland Zoning)

Motion made by K. Bell, seconded by D. Martin, to set a Public Hearing date of September 14, 2009 (Shoreland Zoning). (7 yes) So voted.

Council Agenda item #15: Consider authorizing a Congratulatory Letter to the Citizens of Caribou for the Sesquicentennial.

Motion made by C. Bell, seconded by M. Williams, to authorize a Congratulatory Letter to the Citizens of Caribou for the Sesquicentennial. (7 yes) So voted.

Council Agenda item #16: Consider authorizing a communication to MDOT requesting a two-year approach to constructing the entire Segment 4 corridor thereby addressing landowner and business concerns.

The Council reviewed a draft letter composed by the City Manager. Several suggestions to reword letter were discussed. Mayor Murchison, wanting to address the possible impact to Moir Farms as well as Cavendish, suggested some wording that consideration should be given to all impacted landowners along the route. Councilor Martin was concerned about specifying when and where construction should start each of the two years, especially with the overpasses being the biggest jobs that could slow up progress on one end versus the other. There was a discussion about Cavendish's time line for relocating and how it could affect the project. Councilor C. Bell suggested not over thinking the situation with too many specifics, he wanted to see the communication move forward. Councilor Goughan was concerned that the project would, in the end, create more traffic by the hospital. Referring to past experiences with the State, he was skeptical about what would actually take place.

Motion made by D. Martin, seconded by M. Williams, to authorize the modified letter to MDOT requesting a two-year approach to constructing the entire Segment 4 corridor thereby addressing landowner and business concerns. (5 yes, 2 no, M. Goughan, K. Bell) So voted. See Exhibit "A"

Council Agenda item #17: Consider a request for Municipal Officials to disseminate information on the Excise Tax and TABOR II referendum questions.

Councilors, as elected officials, were invited to attend a training session at the Bangor Ramada Inn on August 20<sup>th</sup> from 5:30 to 6:30 p.m. Councilors would then be equipped speak to groups on the two questions. Steve would also bring that information on the two questions to the September 14<sup>th</sup> Council meeting. In addition, the Councilors were invited to attend an MMA sponsored session on Tuesday, September 1<sup>st</sup> from 9:00 a.m. to 12:00 p.m. at NMCC to hear Geoff Herman speak on the two referendum questions.

Council Agenda item #18: Consider issuing a Quitclaim Deed for the purchase of Tax Acquired Property Tax Map 11 Lot 31B, Bid paid in full.

Motion made by K. Bell, seconded by C. Bell, to issue a Quitclaim Deed for the purchase of Tax Acquired Property Tax Map 11 Lot 31B, Bid paid in full. (7 yes) So voted.

Council Agenda item #19: Consider issuing Quitclaim Deeds for taxes paid in full for the following:

- e. Timothy Guerrette – Tax Map 10 Lot 50-107
- f. Timothy Guerrette – Tax Map 10 Lot 50-87

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Motion made by M. Williams, seconded by D. Martin, to issue Quitclaim Deeds for taxes paid in full to Timothy Guerrette for Tax Map 10 Lots 50-107 and 50-87. (7 yes) So voted.

Council Agenda item #20: Consider the renewal of the following for John Wong, Great Wall Inc. d/b/a Jade Palace, 748 Skyway Plaza:

- g. Restaurant Class XI Liquor License
- h. Special Entertainment Permit

Motion made by K. Bell, seconded by D. Martin, to approve the renewal of a Restaurant Class XI Liquor License and a Special Entertainment Permit for John Wong, Great Wall Inc. d/b/a Jade Palace, 748 Skyway Plaza. (6 yes, 1 abstention, M. Williams) So voted.

Council Agenda item #21: Consider the issuance of a Peddler's and Hawker's License for Dale Kempt d/b/a TAP Enterprises for the Caribou Inn & Convention Center, August 20<sup>th</sup> & 21<sup>st</sup>.

Motion made by D. Martin, seconded by C. Bell, to approve a Peddler's and Hawker's License for Dale Kempt d/b/a TAP Enterprises for the Caribou Inn & Convention Center, August 20<sup>th</sup> & 21<sup>st</sup>. (7 yes) So voted.

Council Agenda item #22: Consider the renewal of a Bingo Game of Chance license for the Lister-Knowlton VFW Post 9389, 253 Van Buren Road.

Motion made by C. Bell, seconded by K. Bell, to approve the renewal of a Bingo Game of Chance license for the Lister-Knowlton VFW Post 9389, 253 Van Buren Road. (7 yes) So voted.

Council Agenda item #23: Consider the issuance of a Texas Hold'em Game of Chance License for the American Legion Post #15, 67 Sweden Street.

Motion made by D. Martin, seconded by K. Bell, to approve the issuance of a Texas Hold'em Game of Chance License for the American Legion Post #15, 67 Sweden Street. (7 yes) So voted.

Council Agenda item #24: Updates

The City Manager provided information on several topics, some of which included the following:

- Transportation Committee – No agreement on how to fund the \$25 million liability of MDOT projects
- Wind Farm Lawsuit – Mars Hill residents are suing two construction companies for the noise generated by the wind farm
- State Revenue – \$11.8 million below projections for July but considered better than anticipated – Legislature still looking for \$30 million to fill gaps from budget cutting – Currently a \$50 million gap in the State Budget
- Health Insurance – Meeting held with representative from MMA Health Trust to discuss City's anticipated claim changes for 2010 - Some form of health reimbursement account claim expected to be introduced by MMA – Caribou's needs in regard to a potential plan was discussed – Details of an HRA were explained – City expected to be able to examine such a product by mid September in time to educate the employees for consideration for this year's negotiations.
- Meeting with Governor – Positive and productive session included Bill Flagg, Peter Edgecomb, Kris Doody, DHHS Commissioner Brenda Harvey and VMS, Inc. representative – Discussion on how

VMS could play a roll in realizing monetary savings within the MaineCare system – Peter Edgecomb to assist in continuing to work toward developing a contract with VMS

- Mobilize Maine – Steve continues to work on a goal setting committee for the Mobilize Maine Initiative to develop six regional economic development plans into a single plan for the State – Committee to hold wrap up meeting September 9<sup>th</sup> – County wide meeting September 17<sup>th</sup> expected to include participation of 200 or more – Caribou to have a decision matrix to assist in developing future economic development decisions pertaining to the overall goals of this region and the State
- Airport – Meeting July 21<sup>st</sup> with FAA and BRSA for final inspection of Taxiway project – Positive results -Still work to be done on agreed upon final punch list – BRSA to do final inspection upon completion of punch list – 2010-2011 projects discussed via phone conference – Projects listed as prioritized phases were outlined
- Stimulus Funds – Community Development has been assisting in an application for improvements to Pines Health Services – Possible funding for an \$8.5 million dollar project – Application submitted August 6<sup>th</sup> - Response expected by October 1st
- Rail Services – Montreal, Maine & Atlantic Railway to abandon 241 miles of tracks mainly in Aroostook County – Anxious to have State acquire for \$17 million – Upgrades would cost \$6 million with annual maintenance of \$2.5 million - Funding would have to have legislative approval - Response from MDOT on State’s decision to purchase rail bed not yet known
- Tax Acquired Property – Tax Assessor, Code Enforcement and Tax Collector have been working together to develop a data base to sort properties – List down from 57 to 38 – Final list and action plan for 19 properties to be brought to next regular workshop meeting.

Council Agenda item #25: Other Business

i. Next Meetings

i. Council Meeting, September 14, 2009 7:00PM Council Chambers

ii. Cary/Council Workshop, August 18th 5:00PM Chan Center

j. First Read Howes Corner Plymouth Waste Oil Site Settlement

Councilors received notes from the June 25<sup>th</sup> and August 4<sup>th</sup> PRP Group meetings to review. All settlement and cash out documents, including the Consent Decree, the Natural Resource Damages Restoration Plan and Settlement Agreement, and the Escrow Agreement, should be available in September. The City is unlikely to be reimbursed for any past settlement costs.

k. Discussion of potential Committee meetings or workshops

It was decided to hold a workshop session following the regular Council meeting on September 14, 2009.

l. Other Business

Councilor Barbosa, a Nylander Board committee member, said she had not been notified about any meetings. Steve would contact Jeanie McGowan to see that Councilor Barbosa is included in the future. Councilor Goughan asked the City Manager for a copy of the correspondence that was sent to the Governor concerning the City’s dissatisfaction with the RSU penalty issue.

10:29 p.m. Motion made by M. Williams, seconded by K. Bell, to adjourn. (7 yes) So voted.

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