

CITY OF RUTLAND, VERMONT
Board of Aldermen Minutes
Monday, December 18, 2017

Members present; President Davis, Aldermen Notte, Humphrey, Ryan, Etori, Tommola, Mattis, Cook, Larson and Donahue. Also present, Mayor Allaire, Attorney Bloomer and Clerk Heck. Alderman DePoy arrived at 7:04 PM.

7:00 PM BOARD OF ALDERMEN MEETING

President Davis called the meeting to order at 7:00 PM.

MINUTES OF PREVIOUS MEETINGS (December 4, 2017)

A motion was made and seconded, (Larson, Mattis) approving the minutes of the previous meeting. **Motion passed.**

OUTSIDE THE RAIL

No one spoke from outside the rail.

COMMUNICATIONS FROM THE MAYOR

Untable Mayoral Appointment; Mary Markowski as Interim-Treasurer

President Davis noted a motion to untable the nomination. This request was so moved and seconded (Etori, Larson). **Motion passed.** A motion was made and seconded (Notte, Larson) to circulate the ballot box. **Motion passed.** President Davis asked Clerk Heck to circulate the ballot box and Attorney Bloomer would verify the results. The President moved on in the agenda.

ADDITIONS AND DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

REPORTS AND LETTERS FROM DEPARTMENT HEADS AND OFFICIALS

President Davis noted the three (3) requests for executive session and moved them to the end of the agenda, per the Board's normal practice.

Attorney Bloomer; Request for Executive Session, Real-Estate Contract

DPW Commissioner Wennberg; Request for Executive Session, for the purpose of receiving professional legal advice with respect to new combined sewer overflow requirements

Attorney Bloomer; Request for Executive Session, Pending Litigation

Zoning Administrator Kelly; Request to Sell City Owned Property

Zoning Administrator Kelly introduced her request to have the Board approve the recent sale of two city owned properties. Zoning Administrator Kelly reviewed the history of the process and noted the winning bids of 46 Kingsley Avenue of \$55,000 and 118 Gibson Avenue of \$25,000. A motion was made and seconded (Mattis, Notte) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Mattis, Tommola) approving the City Owned Property Committee's recommendation as described in the memo. Attorney Bloomer asked for an amendment to include the wording "authorize the sale", Alderman Mattis agreed. Mayor Allaire spoke on the issue briefly. **Motion passed.** Alderman Etori moved to refer the City Owned Property process back to the CDD? for further discussion. Alderman Notte seconded. **Motion passed.**

President Davis read the results of the Markowski vote noting the approval 10 YES and 0 No. Mary Markowski has been approved as the new city treasurer.

DPW Commissioner Wennberg; Digester Cover RFP

Commissioner Wennberg introduced the requests noting the need to replace the remaining two digester covers at the Waste Water Treatment Plant. Commissioner Wennberg explained the process and history on the replacement of the other three (3) covers and noted the cost to replace the two requested covers would be around \$1 million

dollars. A motion was made and seconded (Larson, DePoy) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Larson, DePoy) authorizing the Mayor seek proposals from qualified consulting engineers to investigate, design, prepare bid documents and oversee construction of repairs or replacements for the remaining two (2) digester covers at the wastewater treatment plant. **Motion passed.**

DPW Commissioner Wennberg; Conduit Requests

President Davis noted the request and sought a rules suspension. The request was so moved and seconded (DePoy, Larson). Commissioner Wennberg reviewed the requests and gave a brief overview of the requests, noting one exception of the 13 standard conditions. Alderman Mattis moved to approve the requests to install conduit within the City right-of-way with the 13 Standard Conditions except in both cases authorize waiver of the \$10,000 bond. The two (2) requests are from FairPoint Communications between 9 and 21 Merchants Row and Martin Ray at 18 East Street. There was brief debate as the motion to suspend had not been voted on first. **The motion to suspend passed and the motion to approve passed.**

Treasurer Markowski; Treasurer's Report

Treasurer Markowski thanked the Board for their support and started her report by reviewing the outline that she had previously sent to the Board. Treasurer Markowski noted the highlights and answered all questions from the Board.

Clerk Heck; Social Service Name Change, March Ballot 2018

President Davis introduced the request and noted a name change request. Alderman Larson was concerned about the request noting the request letter was not signed and wanted to make sure it was an authentic request. President Davis explained the Board Policy on service requests for being placed on the ballot. A representative of New Story Center was present to explain the change and update the board on how New Story Center was functioning in the City. With no questions from the Board President Davis stated a motion to receive and file would be in order. The request was so moved and seconded (Notte, Larson). **Motion passed.**

REPORTS OF STANDING COMMITTEES

There were no standing committee reports.

REPORTS OF SELECT COMMITTEES

Fire Chief Search Committee

President Davis noted the search was continuing.

REPORTS OF REPRESENTATIVES

There were no reports of representatives.

PETITIONS, LETTERS, MISCELLANEOUS COMMUNICATION

There were no petitions letters or miscellaneous communications to come before the Board.

A motion was so moved and seconded (Mattis, DePoy) to move into the Board of Control Commissioners. **Motion passed.**

BOARD OF CONTROL COMMISSIONERS

First Class Liquor Request; Olympic Pizza

President Davis noted the request for a first class liquor license from Olympic Pizza and stated a motion to circulate the license would be in order. The request was so moved and seconded (Larson, Mattis). **Motion passed.**

A motion was made and seconded (Ettori, DePoy) to Move out of the Board of Control Commissioners. **Motion passed.**

UNFINISHED BUSINESS

Attorney Bloomer sought to have the LAZ Budget untabled so the Board had an opportunity to approve it if they desired. The request was so moved and seconded (Ettori, Ryan). **Motion passed.**

MISCELLANEOUS MOTIONS, RESOLUTIONS, NEW BUSINESS

There were no miscellaneous motions, resolutions or new business to come before the Board.

President Davis then sought a motion from Attorney Bloomer based on which executive session he wanted to discuss first.

Attorney Bloomer asked to start with Commissioner Wennberg's request for an executive session and sought a motion that finds premature general public knowledge regarding probable litigation, to which the City is a party, would clearly place the City at a substantial disadvantage because the discussion will divulge the City's strategy in such probable litigation and will include confidential attorney-client communications made for the purpose of providing professional legal services to the City. This motion was so moved and seconded (Ettori, DePoy). **Motion passed.**

The second motion needed was to enter into executive session (with the inclusion of the City Attorney, Commissioner and the Mayor), to discuss probable litigation, as allowed under Title 1, Section 313(a)(1)(E) and Title 1, Section 313(a)(1)(F). The language was so moved and seconded (Ettori, DePoy). **Motion passed.**

At 7:29 PM the Board stood down to clear the room.

At 7:33 PM the Board entered executive session.

At 7:47 PM a motion was made and seconded (Ettori, Ryan) to come out of executive session. **Motion passed.**

A motion was made and seconded (Notte, Ettori) suspending the rules and taking the issue up that evening. **Motion passed.**

A motion was so moved and seconded (Notte, Mattis) authorizing the city to file an appeal of the ANR, November 30, 2017 enforcement order, pertaining to combined overflow, if the Commissioner, City Attorney and Mayor deem it appropriate to do so. **Motion passed.**

President Davis then asked Attorney Bloomer what the next executive session was. Attorney Bloomer asked the Board to hear the parking garage lease next and provide the language for the motion.

Attorney Bloomer noted a motion would be to find that premature general public knowledge regarding the negotiation of a contract would clearly place the City at a substantial disadvantage because the discussion will divulge the Board's position on the items to be negotiated. That language was so moved and seconded (Ettori, Ryan). **Motion passed.**

Attorney Bloomer then stated a motion to enter into executive session (with the inclusion of the City Attorney and Mayor) to discuss the negotiation of a contract as allowed under Title 1, Section 313(a)(1)(A). This language was so moved and seconded (Ettori, Ryan). **Motion passed.**

At 7:49 PM the Board moved back into executive session.

At 7:59 PM a motion was made and seconded (Larson, Mattis) to come out of executive session. **Motion passed.**

A motion was made and seconded (Larson, Ettori) to suspend the rules and take the issue up that evening. **Motion passed.**

Attorney Bloomer offered a motion for the Board, stating to authorize the Mayor to sign the lease with the State of Vermont as presented. This language was so moved and second (Ettori, Notte). **Motion passed.**

President Davis asked if the Board wanted to approve the LAZ Budget which was untabled earlier in the meeting. There was some debate before the Board decided to gather more information and to further discuss the issue at their Wednesday meeting. Ray Lamoria of LAZ was present to answer any questions. The Board briefly went through the budget before deciding to talk more on Wednesday.

President Davis then asked if we were still doing the pending litigation (Child Safety Ordinance Appeal) executive session. Attorney Bloomer stated we should and then provided language for that executive session. Finding

premature general public knowledge regarding pending litigation, to which the City is a party, would clearly place the City at a substantial disadvantage because the discussion will divulge the City's strategy in such pending litigation and will include confidential attorney-client communications made for the purpose of providing professional legal services to the City. This motion was so moved and seconded (Mattis, Notte). **Motion passed.**

The second motion needed was to enter into executive session (with the inclusion of the City Attorney and the Mayor), to discuss pending litigation, as allowed under Title 1, Section 313(a)(1)(E) and Title 1, Section 313(a)(1)(F). The language was so moved and seconded (Ettori, Ryan). **Motion passed.**

At 8:05 PM the Board moved back into executive session.

At 8:38 PM Alderman Donahue left the meeting.

At 8:42 PM a motion was made and seconded (DePoy, Ryan) to come out of executive session. **Motion passed.**

A motion was made and seconded (DePoy, Tommola) directing the City Attorney to appeal the decision by Superior Court on the Rutland City Child Safety Ordinance being invalid. A roll call vote was requested by Alderman Tommola. President Davis asked the Clerk to call the roll.

Alderman Notte		NO
Alderman Humphrey		NO
Alderman Ettori		NO
Alderman Ryan		NO
Alderman Tommola	YES	
Alderman Mattis		NO
Alderman Cook		NO
Alderman Larson	YES	
Alderman DePoy	YES	

Alderman Donahue had left the meeting.

Three (3) YES and six (6) NO **Motion failed.**

A motion was made and seconded (Larson Ettori) to refer the issue of the Child Safety Ordinance to Public Safety for further review and recommendations. **Motion passed.**

AT 8:45 PM a motion was so moved and seconded to adjourn to a time certain of Wednesday, December 20, at 5:30 PM. **Motion passed**

Respectfully submitted,

Henry A Heck
Rutland City Clerk