



*City of Taunton
Municipal Council Meeting Minutes*

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*Temporary City Hall, 141 Oak Street, Taunton, MA
Minutes, September 13, 2016 at 8:35 O'clock P.M.*

Regular Meeting

Mayor Thomas C. Hoye, Jr. presiding

A moment of silence was held for Charlie Flannery, who was a great member of our Taunton community and also a member of the Historical District Commission who passed away.

Prayer was offered by the Mayor

Present at roll call were: Councilor's Croteau, Carr, Pottier, Quinn, McCaul Dermody, Borges, Cleary, and Marshall

Record of preceding meeting was read by Title and Approved. So Voted.

Motion was made to go out of the regular order of business to pages 7-8 of Communications from Citizens. So Voted.

Com. Dennis Proulx, Vice President, Taunton Area Vietnam Veterans Association stating that they will be holding their 34th Annual POW/MIA Remembrance Vigil September 17th and 18th on Church Green, Taunton, MA. Vigil starts at noon on Saturday and concludes with a special ceremony at noon on Sunday. The TAVVA will be camped out the entire time and welcome people to join and participate. **Motion was made to invite the parties into the enclosure to speak. So Voted.** Bob Silvia, President, Taunton Area Vietnam Veterans Association and Henry Mello, Recording Secretary were present to speak. Mr. Silvia stated that he is here tonight to remind everybody about this coming weekend which is the 34th Annual POW/MIA vigil that starts at noon time on Saturday and runs until noon time on Sunday. Every half hour, an oversized dog tag with a flag will be put up in memory of one of the 39 still missing from Massachusetts. There are still 1,614 missing nationwide. There are 90,000 still missing from all the wars. He stated that the Council has a list of the 39 missing people. The last set of remains that came home was on March 7, 2016 which was the gentleman's birthday who was from Montana. He encouraged everyone to come down, join them and put a dog tag or a flag up and talk to members of the group. He spoke about what the purpose of the group is and how they want to keep this going. He stated that they are a non-profit organization and all of the money that they raise is used to help veterans and their families. He discussed how the group was founded and what services that they provide. He stated that

the main thing is to ensure the continuance and remembrance of our fallen brothers and sisters and those still listed as MIA's. He spoke about how people are still searching and have taken DNA samples from family members that are still alive to speed up the process. Councilor Borges wanted to thank them for their service and dedication with continuing this from year to year. She stated that she looks forward to the ceremony. Councilor Marshall thanked them and wanted to point out something that they get overlooked for. He stated that our veterans that return home now are treated as heroes because of all of the work that they have done. He spoke about how they have changed an entire generation and the way that they look at soldiers. Mayor Hoye stated that the Council has its very own Vietnam Veteran, Councilor Cleary. Councilor Cleary stated that if anyone knows a Vietnam Veteran even if they are not a member of the Taunton Area Vietnam Veterans Association, they can come down and get a pin. Mr. Silvia stated that there are posters that have been put up around the City about what is going to happen with the pins this weekend. Councilor Cleary spoke about how he appreciates their efforts. Mr. Silvia encourages everyone to come. He stated that this year, Mass Vigil will be displaying their big American flag along with their POW flag on Church Green. Councilor Croteau spoke about how he has known Henry and Councilor Cleary since he came to Taunton and he thanked them. He can't get over the thought that it has been 50 years. Councilor Carr commended the organization for their dedication to this every year. She suggested that they put out a donation jar. Mr. Silvia stated that there is one and spoke about fundraisers that have been held throughout the year. Council President Quinn stated that she has attended this event for several years and last year she had brought a couple of people who had never attended. It is a very moving event that makes people think. It really gives a realization of what the veterans went through. She encouraged people just to stop by as this is a great event. Councilor Dermody thanked them for their service and what they are doing is absolutely fantastic. He spoke about how he and his son attended a vigil in Illinois for the Vietnam Veterans. When they came back, the Vietnam Veterans Marker Program was going on and his son is completely into it. He stated that it is very important for families to bring their children down so they can understand exactly what is going on. Mr. Silvia stated that there is a ceremony being held on Friday at the National Cemetery. Councilor McCaul thanked them for their service and spoke about the POW/MIA chair that was brought into the Council Chambers a couple of years ago. Mr. Silvia spoke about how they will have 100 pins for that ceremony for anybody who is a Vietnam Veteran or a Vietnam Era Veteran. They hope they run out of them and if they do they will take names down and will get them a pin. Councilor Carr asked what years that a veteran would have had to serve to fall into that era. Mr. Silvia stated that it would be until May of 1976. Mayor Hoye thanked them for everything that has been done and what they continue to do.

Motion was made to recess at 8:50PM. So Voted.

Motion was made to come back to order at 10:00PM. So Voted.

Motion was made to go out of the regular order of business to Hearings. So Voted.

Hearings:

The City Clerk read a Com. from Atty. William Rounds stating that he represents Safeway Development Corp. regarding the 377-379 Bay Street Special Permit

Application. On behalf of his client, he respectfully requests that the hearing scheduled for Tuesday, September 13, 2016 be postponed until Tuesday, October 25, 2016. The reason for this request is that the Planning Board has not yet made its recommendation to the Council. They have not done so because my client has continued his meeting with them until their next meeting on October 6, 2016. This was done in order to consider changes to the proposed plan to address concerns raised by members of the Planning Board. Therefore, they respectfully request that the Council's hearing be continued until October 25, 2016. **Motion was made to continue to October 25, 2016. So Voted.**

Communications from the Mayor:

Mayor Hoyer stated that the Miles with the Mayor will be coming up on Saturday, October 22. There is information on the website or the Mayor's Office can be called. Mayor Hoyer read a Com. from Irene Fernandes which thanked the Mayor and the City Council for attending their special dinner and fundraiser for supporting their 9/11 at John Shea Court. A special thanks to the members of the City Council who worked so hard to make this a great success. She is truly blessed to have such great people to carry on with their upcoming event on September 11th. The monies earned are to donate to a well-deserved scholarship in memory of Peter A. Gay. **Motion was made to make part of the record. So Voted.**

Appointments:

Reappointment of Lawrence Newman, 144 White Pine Drive, Taunton to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.**

Reappointment of Brian Friary, 790 Norton Avenue, Taunton to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.**

Reappointment of Thomas Hoyer, Sr., 133 Eldridge Street to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.** Mayor Hoyer stated that his father was appointed by Bob Nunes originally and he wishes to continue. He wanted to state that for public record.

Reappointment of James Moran, 83 Oak Street, Taunton to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.**

Reappointment of Dyann Nunes, Taunton to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.**

Reappointment of Robert Casey, 88 Duffy Drive, Taunton to the Parks, Cemeteries, and Public Grounds Commission for a term of three (3) years expiring September 30, 2019. **Motion was made to move approval. So Voted.**

Communications from City Officers:

Com. from Chairman, Taunton Planning Board stating that they have received a Modification of a Site Plan Review for property at 397 Winthrop Street for the expansion of the existing auto sales business to include 109 display spaces and 8 employee/customer spaces, submitted by the applicant Jean Chedid, owned by Cullen 138 North Walker Street LLC. The DIRB will be meeting to review this petition on Tuesday, September 20, 2016 at 9:30AM in the Taunton Planning Board Office, 15 Summer St., Annex Bldg., and the Taunton Planning Board will meet to review the petition on Thursday, October 6, 2016 at 5:30PM in the Chester R. Martin Municipal Council Chambers, 141 Oak Street, Taunton, MA. **Motion was made to receive and place on file. So Voted.**

Com. from Chairman, Taunton Planning Board stating that they have received a Site Plan Review for property at 580 Myles Standish Boulevard to construct a new curb cut entrance and 3 additional parking spaces to service an existing building, submitted by Rex Ventures, LLC. The DIRB will be meeting to review this petition on Tuesday, September 20, 2016 at 10:00AM in the Taunton Planning Board Office, 15 Summer Street, Annex Bldg., and the Taunton Planning Board will meet to review the petition on Thursday, October 6, 2016 at 5:30PM in the Chester R Martin Municipal Council Chambers, 141 Oak St., Taunton, MA. **Motion was made to receive and place on file. So Voted.**

Com. from Assistant City Solicitor requesting to discuss strategy with respect to litigation in the matter of: In re: City of Taunton Department of Public Works, NPDES Appeal No. 15-08. Please note that it is expected that the chair will declare that an open meeting may have a detrimental effect on the litigating position of the public body and that this discussion will be held in executive session. **Motion was made to refer to the end of the meeting. So Voted.**

Communications from Citizens:

Com. from Michael Sweeney, Executive Director, Massachusetts State Lottery Commission, 60 Columbian St., Braintree, MA stating that they are offering a KENO monitor to existing KENO to Go agents to display the game at their location. In accordance with M.G.L. c 10, section 27A, as amended, they are notifying of the Lottery's intent to install a monitor at the following KENO to Go agent in the community. Home Plate, 224 Middleboro Avenue, East Taunton, MA. **Motion was made to receive and place on file. So Voted.**

Com. from Colleen Simmons, Director Downtown Taunton Foundation and Taunton BID, 8 Trescott St., Suite 1, Taunton requesting that Trescott Street be closed to vehicle passage for the 2nd annual "Fall Fest Block Party" event to be held on September 17, 2016 from 6PM-10PM. The restricted access need only be from Main Street and Trescott to the entrance to the Trescott Street Lot. This will allow for cars to park in the Trescott Street Lot and exit right turn only. In order to set the event up, they would like to have Trescott Street closed to vehicles on September 17 at 12PM through 12AM (to allow for cleanup) Mayor Hoye stated that this communication had gotten lost in translation and should have been given to the Clerk's office several weeks ago. This is an event similar to what was held last year and they are asking to do the same event again. **Motion was made to move approval. So Voted.**

Com. from Colleen Simmons, Director Downtown Taunton Foundation and Taunton BID, 8 Trescott St., Suite 1, Taunton requesting use of portable stage and waiver of the fee to install it for the 2nd annual "Fall Fest Block Party" event to be held on September 17, 2016. **Motion was made to move approval. So Voted.** Councilor Borges stated that they have enjoyed it every year and wanted to promote the event and let the public know that tickets can be purchased online through the Downtown Taunton Foundation. Mayor Hoye stated that it is a wonderful event.

Petitions:

Petition submitted by Thomas Quinn on behalf of Society of Saint Vincent DePaul Taunton District Inc. –dba- Pennies from Heaven for a RENEWAL of their Second Hand Article License located at 141 Washington St., Taunton (Requesting waiver of fee). **Motion was made to waive the fee. So Voted. Motion was made to refer to the Committee on Police and License and the Chief. So Voted.**

Claim submitted by Konstantinos Babanikas, Esquire, Babanikas, Ziedman, & King, PC 1247 Belmont St., Brockton on behalf of his client, Thomas Salvesen regarding personal injuries he sustained in a motorcycle/automobile accident allegedly due to inoperable traffic control lights at the Bay Street/Route 495 overpass. **Motion was made to refer to the Law Department and Mass DOT. So Voted.**

Committee Reports:

Motion was made for Committee reports to be read by Title and Approved. So Voted. Recommendations adopted to reflect the votes as recorded in Committee Reports. So Voted.

Unfinished Business:

Councilor Cleary made a motion to refer to the Committee of the Whole the situation regarding back pay for Mark Terra and for it to be expedited to come to a resolution so he can give the gentleman a response. So Voted. Mayor Hoye stated that he is willing to meet with Councilor Cleary on this matter.

Continued from September 6, 2016 Municipal Council Meeting:

Meet to discuss a personnel matter in the Human Resource Department – Executive Session is contemplated pursuant to G.L. c. 30A § 21 (a)(1). Mayor Hoye stated that he would like to hold off on this until the end of the meeting.

Orders, Ordinances and Resolutions:

Order for a second reading to be ordained on a roll call vote

Ordered That,

\$26,000,000 is appropriated for the purpose of financing the construction of various improvements to the City's wastewater system, including without limitation (i) the development of a sewer capacity model and infiltration inflow (I&I) and a sewer system evaluation survey (SSES) update; (ii) the final environmental impact report (EIR) and comprehensive wastewater management plan (CWMP); (iii) a wastewater treatment

plant capacity analysis (anti- degradation); (iv) for municipal separate storm sewer system (MS4) permitting and compliance activities; (v) for sludge transfer containers; (vi) sewer and drain improvements design; (vii) Sewer and drain improvement construction; (viii) main lift pump station design; (ix) for the main lift pump station design; and (x) WWTF Preliminary Design Report, including but not limited to the construction of the projects, the payment of engineering and legal services for planning, surveying, design, permitting, testing, bidding, construction administration, material testing, resident inspection services, and all costs incidental or related thereto; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow **\$26,000,000** and issue bonds or notes therefor under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws, or any other enabling authority; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the projects; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes. **Motion was made to move approval. On a roll call vote, nine (9) Councilors present, nine (9) Councilors voting in favor.**

New Business:

Councilor Pottier made a motion to refer to the DPW to send the street sweeper to Stevens Street and Pinehill Street. So Voted.

Councilor Pottier made a motion to refer to the DPW to send the flail mower to Burt Street and Bradshaw Way. So Voted.

Council President Quinn announced that the Mass Nurses Association will hold an informational rally on September 24, 2016 at 1:30pm on the Taunton Green.

Council President Quinn stated that she had received a letter from Ms. Romano stating that she is concerned regarding the dangerousness regarding the intersection of Herbert and Pratt Streets. There are no street lights and it makes for a dark and dangerous corner and at nightfall some unsolicited activity happening there. **Motion was made to refer to the Police Chief and the TMLP to look into whether it would be appropriate to install street lighting there. So Voted.**

Councilor Borges stated that last night there was a public hearing at BCC in the mall on South Coast Rail and several Councilors were there and testified that they are in

opposition to the Middleboro Route. Councilor Cleary spoke about all of the people who were in favor of the Stoughton Route who were in attendance. Mayor Hoye stated that the Middleboro Route pretty much cuts Taunton out completely. He will meet with former Mayor of New Bedford, Scott Lang next week. He stated that he has some different scenarios. He thinks that we have an open mind but as it was presented, we do not support the Middleboro alternative. **Motion was made to send a letter to Mass DOT stating the opposition to the Middleboro Route and the support of the Stoughton Route. So Voted.**

Councilor McCaul stated that he has attended South Coast Rail meeting last night and did make a copy of the presentation that was given to him. **Motion was made to place on the City's website. So Voted.** Councilor Pottier stated that he appreciates the black and white copies but he will get the actual color copies of the slides. Councilor McCaul stated that he has a color copy of the slides. Mayor Hoye stated that if we can get a copy of the PDF it is much easier and clearer. Councilor McCaul stated that he will forward them tonight. Mayor Hoye asked if he could please send it to Alyssa so it can be put on the website.

Mayor Hoye stated that there are two items for Executive Session. There will be a separate vote for each one to go into and out of Executive Session. He stated that the Council will not reconvene here. Any votes that are taken will be reported within their appropriate timeframe. He doesn't imagine any votes being taken but wanted to report that to the public. He stated that the first one is to meet to discuss a personnel matter in the Human Resource Department – Executive Session is contemplated pursuant to G.L. c. 30A § 21 (a)(1). **Motion was made to go into Executive Session. On a roll call vote, nine (9) Councilors present, nine (9) Councilors voting in favor.** Mayor Hoye stated that the second item was already read into the record regarding the NPDES appeal. **Motion was made to go into Executive Session. On a roll call vote, nine (9) Councilors present, nine (9) Councilors voting in favor.**

Meeting adjourned at 10:30 P.M.

A true copy:

Attest:



City Clerk

RMB/SJS

CITY OF TAUNTON
MUNICIPAL COUNCIL
SEPTEMBER 13, 2016

RECEIVED
CITY CLERK'S OFFICE
2016 SEP 23 10:31

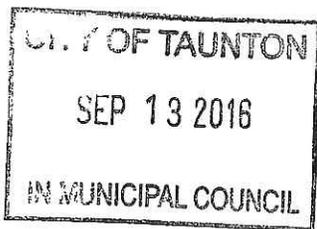
THE COMMITTEE ON FINANCE AND SALARIES

PRESENT WERE: COUNCILOR GERALD CROTEAU, CHAIRMAN AND COUNCILORS
CARR AND CLEARY

MEETING CALLED TO ORDER AT 5:51 P.M.

1. MEET TO REVIEW THE WEEKLY VOUCHERS & PAYROLLS FOR CITY DEPARTMENTS
MOTION: MOVE APPROVAL OF THE INVOICE WARRANT IN THE AMOUNT OF
 \$1,269,267.96. SO VOTED.
MOTION: MOVE APPROVAL OF THE PAYROLL WARRANT IN THE AMOUNT OF
 \$9,025.69. SO VOTED.
MOTION: MOVE APPROVAL OF THE PAYROLL WARRANT IN THE AMOUNT OF
 \$1,221,987.52. SO VOTED.

MEETING ADJOURNED AT 5:53 P.M.



RESPECTFULLY SUBMITTED, .

Colleen M. Ellis
 COLLEEN M. ELLIS
 CLERK OF COUNCIL COMMITTEES

REPORTS ACCEPTED, RECOMMENDATIONS ADOPTED.

Rm Blackwell
 CITY CLERK

CITY OF TAUNTON
 MUNICIPAL COUNCIL
 SEPTEMBER 13, 2016

RECEIVED
 CITY OF TAUNTON OFFICE

2016 SEP 23 1 A 8:31

THE COMMITTEE OF THE COUNCIL AS A WHOLE

PRESENT WERE: COUNCIL PRESIDENT JEANNE QUINN AND COUNCILORS CLEARY, DERMODY, MCCAUL, POTTIER, CARR, CROTEAU, BORGES AND MARSHALL. ALSO PRESENT WERE CITY SOLICITOR JASON BUFFINGTON, ATTORNEY JOHN ZAJAC, ATTORNEY DAVID GAY, SCHOOL SUPERINTENDENT DR. JULIE HACKETT, SCHOOL COMMITTEE MEMBER CAROL DOHERTY AND T.E.A. PRESIDENT NANCY EVERIDGE

MEETING CALLED TO ORDER AT 6:09 P.M.

1. MEET WITH REPRESENTATIVES OF THE BUSINESS OWNER AT 120 BERKLEY STREET TO ADDRESS CONCERNS OF NEIGHBORS

The Council President said that 2 weeks ago a neighbor group was here to express their concerns and there was a long conversation in regards to some of those concerns. At that time the matter was referred to various Department Heads as well as to the business owners themselves to respond within 2 weeks with their comments on some of the questions that were raised by the neighbors.

The Council President received communications from several Department Heads.

The first letter was from the Department of Public Works Engineering Division. The letter said that as per the City Council's request, the City's Earth Removal Ordinance and relevant Mass. General Laws as they pertain to the activities at 120 Berkley Street were reviewed. Chapter 14, Article II of the City Ordinances regulates earth removal activities. This ordinance references M. G. L. Ch. 40, Sect. 21(17), and M. G. L. Ch. 131 Sect 40.

The Earth Removal Ordinance serves two purposes. It allows for the removal of earth materials without a permit in specific situations, while regulating earth removal activities in others. In the Engineer's opinion the Ordinance refers to removal of native materials from a particular site. It does not regulate bringing materials onto a site. It has been suggested that the Ordinance is relevant because of its reference to "relocation" of earth materials. However, references to "relocation" of earth materials only deal with the City's authority to regulate earth removal activities (M.G.L. Ch. 40, Sect. 21 (17), and regulation of these activities relevant to water bodies (m. G. L. Ch., 131 Sect 40).

The activities at 120 Berkley Street involve the trucking in of raw materials for processing, and trucking out of a finished product. In his opinion, these are not regulated by the Earth Removal Ordinance.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

The next letter was from the Taunton Fire Chief. He said that the Fire Department has limited dealings with the Company located at 120 Berkley Street. They are licensed by the City for two 10,000 gallon underground storage tanks for combustible liquids. They also have a license for 2 smaller 500 gallon tanks for flammable liquid storage. They have active permits from the Fire Department for stored diesel fuel and gasoline. All permits, inspections and fees are currently up to date.

Neither the Command Staff of the Department nor the Fire Prevention Office has had any issues with this property regarding suppression, inspection or enforcement issues.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

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SEPTEMBER 13, 2016

THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

The next letter was received from the Board of Health. The letter stated that the Board of Health does not regulate the daily operations at 120 Berkley Street, and they feel that the enforcement of the MA DEP regulations are best left in the hands of the primary enforcement agency.

They did reach out to the Massachusetts Department of Environmental Protection, as they are the primary enforcement agency on this matter. Daniel Gavin, from MA DEP, informed the office that the response to the Notice of Noncompliance from Redi-Mix Services was what is deemed by the DEP an "insufficient response". This brings the DEP to their next step, which is called "Additional Enforcement". A letter regarding the additional enforcement has gone out to Redi-Mix, according to Mr. Gavin.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

A letter from the Police Chief was also read. He said regarding the issue of hours of operation, the City of Taunton has Ordinance 12-2 that addresses hours of operation. Specifically the Ordinance requires a permit issued by the Municipal Council for "shops, stores, or other places of trade or entertainment" to be open between the hours of 1:00 a.m. to 4:00 a.m. Looking at the language, the only possible definition that could be assigned to the facility under this ordinance is "places of trade". Places of trade is not defined within the Ordinance but common definition would lead him to believe that it is a location where items are exchanged, not manufactured unless the sale of the manufactured item is occurring at the same time. Looking at the Ordinance, he does not see it applicable to the facility.

Regarding Disturbing the Peace, Massachusetts General Laws chapter 272, Section 53 makes it a criminal offense to disturb the peace. The current law was added in 1943, basically codifying the previous common law. He has reviewed the case law and does not feel that it would be appropriate in this instance. Additionally one could make a public nuisance argument, but that would more appropriately fall under the authority of the Board of Health.

The Police Chief also said that he does not believe that the City of Taunton has in place an adequate remedy for this situation. The City does not have a Noise Ordinance. His recommendation relative to this is if the Municipal Council is concerned with noise levels, that it follow what many other communities have done and institute an appropriate Noise Ordinance. He attached Boston's as an example.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

A letter from Kevin Scanlon, Director of Planning and Conservation was read. He said that he was requested to address the zoning status of the commercial operation at 120R Berkley Street. The site is located in the Urban Residential District. The commercial use is a prohibited use under Section 440 Attachment 2 Business and Industrial Table of Use Regulations. However, the operation has been in existence since 1917 and pre-dates zoning so it is considered a pre-existing non-conforming use. The use was expanded in 1987 in ZBA case #1382, which he attached to the letter.

There is an entire body of zoning law in Massachusetts on the issue of expansion of pre-existing uses. If the use of the site has undergone further expansion since the 1987 ZBA approval this could be determined to be an expansion of use which might require a new special permit from the ZBA as occurred in the 1987 case.

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

The process for zoning enforcement for a violation is through the Building Department who upon receipt of a complaint alleging a violation will then investigate and issue an enforcement decision based on that complaint. Said complaint is appealable to the ZBA by either party and any appeal decision issued by the ZBA is then appealable to Court.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

A letter from Robert Pirozzi, Building Commissioner was read. The letter stated that the Building Department has been in receipt of complaints that the business located at 120 Berkley Street has been operating beyond the hours allowed by City Ordinance. Written notice was sent to Gregory Keelan, President of Southern Redi-Mix, on September 4, 2014. More recent complaints had again been received in August. While Southern Redi-Mix had originally agreed to apply for a permit to extend their hours of operation they eventually decided to alter the work schedule to resolve the issue.

The office is not aware of any zoning violations on the property, nor have any written complaints against any alleged violations been received. If they do receive a complaint, they will investigate in accordance with Massachusetts General Law, Chapter 40A section 7.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

A letter from Michele Restino, Conservation Agent was then read. She attached a copy of her letter to Mark Hampston, CEO of Reid-Mix Services, Inc. located at 120 Berkley Street. In investigating whether or not there are violations of the Wetlands Protection Act as they pertain to the protection of the ground water supply, she found that the ponds that are in question appear to be mad-made. She could find no historical evidence that these ponds or any wetlands existed within this property in the late 1800's. Her concern is whether there is possible groundwater contamination from the slurry disposal method the Company currently uses.

She and Mark Slusarz, City Engineer, visited the site on September 13, 2016 and met with Mr. Hampston and Henry Holler, Operations Manager, to discuss their concerns. She voiced her concerns regarding possible leaching of contaminants into the groundwater and recommended that they test the water and soils within the ponds and inform her of the results. They agreed to do this. In addition, Mr. Hampston stated that the bank required his company to perform a 21E on the property prior to purchase and that the results of the 21E were clean.

The test results will dictate the Company's next steps in ensuring a safe environment for the neighbors and a safe work environment for their employees.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

The Chairman then read a letter dated 5/18/2015 to the Mayor and Council from Paul White, Building Inspector/Zoning Enforcement Officer regarding 120 Berkley Street. He noted a letter dated 9/4/2014 addressed to Mr. Gregory Keelan, President of Southern Reid-Mix. The letter addresses the hours of operation for a commercial establishment, (no work between the hours of 1:00 a.m. to 4:00 a.m.). To his knowledge, the plant has abided to the hours of operation ordinance and therefore has no enforceable violations.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

Lastly, a letter from The Lopes Companies, LLC to the neighbors of 120 Berkley Street was read. The letter said that they recognize that their neighbors have some valid concerns about noise, dust and hours of operation at 120R Berkley Street. There has been a sand,

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SEPTEMBER 13, 2016

THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

gravel and concrete operation at this location for about 100 years. At the time they fully took over operations in 2013, the former owner represented to them that the business was being lawfully operated and in full compliance with any and all licensing authorities and local zoning laws, with which they agreed.

Making concrete requires mixing stone, sand, cement powder and water. All of the components are loaded into a truck in the batching process, and then the truck mixes them in the drum. Before that can happen, sometimes earth materials need to be processed (crushed) to make the various products (sand and stone) used in the concrete. This is the noisier of the two operations at the property. Not all material is crushed on site. They often seek to truck in material that is ready to be utilized for concrete, instead of crushing it at 120 Berkley Street. For many years, gravel, the product used to make stone and sand, was also mined at 120 Berkley Street. However, that has ceased since the 1980's.

The letter also said that they recognize that servicing the large construction project at Amazon caused an inconvenience to their neighbors, the likes of which had not been seen since McCabe supplied the concrete to build the Braga Bridge. This brought issues to a head. Over the past 90 days they have further sought - and continue to seek - ways to reduce the hours of operation (including turning down night and early morning work), to better reduce dust through greater utilization of watering and road-sweeping, and have fully updated their dust filtration system at the concrete plant, prior to completing the Amazon project. They have instructed all personnel to take measures to reduce noise and operate vehicles in a safe and respectful manner. As promised, they firmly believe that things have been much quieter since the work at Amazon stopped and they hope that the neighbors agree.

In light of the City Council meeting, they are 100% committed to stay focused on these issues and to minimize any inconvenience to the community while continuing to lawfully operate their business. Their efforts will voluntarily include (1) only operating the crushing plant, as necessary, between the hours of 8 a.m. and 4 p.m., and not on weekends or holidays; (2) only operating the concrete plant between the hours of 5 a.m. and 6 p.m. (or less as work dictates), with more limited hours on Saturdays and none on Sundays or holidays; (3) continually utilizing a watering truck to suppress dust whenever either plant is running; and (4) seeking truck routes that will be less burdensome on neighbors whenever possible. Please understand that there may still be some limited, less intrusive activity outside of the hours of plant operation, such as trucks returning for the night or being refueled or repaired.

They are doing these things out of respect for their neighbors and their City, as they believe the very best resolution for all concerned will come through cooperation and a greater understanding of each party's position; not threats or posturing. It is not their goal to operate at the threshold of what the law may allow, to the detriment of their neighbors, but to exceed its requirements for their general good. They remain open to and invite a continued dialogue to achieve this.

It is important they add that nothing you may read on any social media reflects the opinion or position of the Lopes Family or its businesses. They employ almost 400 people, all of whom have family and friends in the community. They cannot monitor their statements or regulate their free speech.

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MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

The Chairman said that the Committee has gotten the responses from the City Departments and now will invite representatives of the Lopes Company to speak.

Attorney John Zajac addressed the Committee. He represents the Lopes Companies, Reid - Mix Services, G. Lopes Construction. Also present tonight was Joseph Touch, Vice President of Lopes Companies, Mark Hampston, CEO of Reid-Mix Services, Operations Manager David Day at 120 Berkley Street, Deborah Dutra the Treasurer of the Lopes Companies and at his request, David Gay is also here.

Attorney Zajac provided a letter from Robert Murphy, the former operator of McCabe Sand and Gravel for approximately 40 years.

Mr. Murphy's letter said that no one is more familiar with the property and commercial operations at 120 Berkley Street. As he was unable to attend the Municipal Council meeting he respectfully submits this letter in an effort to clear up some questions and misunderstandings by the City of Taunton, the neighbors of 120 Berkley Street and perhaps even its current owners.

In the early 1900's James McCabe began a gravel removal operation at 120 Berkley Street which he ran until his death in the early 1930's. In 1932, Joseph and Edna Rose purchased the property and business from his estate and in 1934 entered into the ready-mixed concrete business as "McCabe Sand and Gravel." Mr. Murphy began his career at McCabe in 1965 and in 1973 purchased the business, land and related properties from them which he operated until 2013.

Any type of earth removal operation at 120 Berkley Street had long since ceased prior to his involvement in the business in 1965. During his 40 plus years at McCabe, business consisted of processing earth materials for retail sale and use in ready-mixed concrete. That is not to say that he, or those before him, did not own other real estate in Taunton or surrounding towns where earth materials were removed and trucked to 120 Berkley Street for processing. Such sites have been referenced in the letters attached to the City Council minutes of August 30. For example, Earth Removal Location #31, as referenced in his letter of 7/29/1975 was another property that he owned on Berkley Street although it was not the same property where the business was located. Similarly, Earth Removal Operation #32, as reference in the letters dated 8/29/1975, 5/21/1979, 8/18/1981 and an undated letter, as well as the Police Report dated 3/29/1976, was on a property that he owned on Pratt Street which was not part of 120 Berkley Street. A permit to remove gravel at said location was obtained until gravel removal ceased in the early 1980's and the property was eventually sold.

As shown in the letter dated 8/29/1975, the concrete batching plant as well as the sand and gravel processing plant were on what was referenced as Site #30, not #31 or #32. It was not, and could not be, in violation, as earth removal operations were discontinued many years ago. He never applied for an Earth Removal Permit for the property where the plants were located due to the fact that all removal had ceased long before his ownership of the business.

He operated the business, as did his predecessors and the present owners, as a pre-existing, non-conforming use. As such, no permit was necessary. In 1987 he appeared before the ZBA for permission to enlarge an existing garage so that all trucks and equipment could be

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garaged/serviced inside thus improving the appearance of the business for the benefit of the neighborhood. At that time, McCabe had over 25 pieces of heavy equipment of its own. At its peak, McCabe has as many as 20 concrete transit mixers and 7 tractor trailers in addition to other industry related equipment. When he sold the business in 2013, there were approximately 19 trucks or pieces of heavy equipment.

The recent project serviced by the present owners for the Amazon warehouse in Fall River was quite large, but by no means unprecedented for the facility at 120 Berkley Street. In past years, McCabe has serviced projects similar in scope including the Braga Bridge, Silver City Galleria and Jordon's Furniture Warehouse. It is important to note that during his 40 plus years of ownership at McCabe, hours of operation only became a concern while supplying concrete for the Braga Bridge. This was a schedule mandated by the Commonwealth of Massachusetts and determined to be within McCabe's right to operate without restriction by the City of Taunton Municipal Council. From the 1980's until 2013, McCabe also supplied concrete to most of the over 100 companies that built facilities in the Myles Standish Industrial Park; several of which were often under construction simultaneously with schedules similar to what was seen more recently at Amazon. Additionally, during those years, McCabe ran the sand and gravel processing plant on a daily basis in order to supply material for McCabe itself as well as two other ready-mixed concrete companies and daily retail sales.

In conclusion, the present operation is not significantly different in nature or scope than when he operated McCabe Sand and Gravel Co., Inc. at 120 Berkley Street for 40 years prior. He did not operate McCabe without any necessary permits, nor do his successors today. He hopes that this brief history of McCabe Sand & Gravel and the property located at 120 Berkley Street helps to clarify any misunderstandings or misinformation that has plagued its current owners.

MOTION: LETTER TO BE PART OF THE RECORD. SO VOTED.

Attorney Zajac again stated that Attorney David Gay is present and he was actually City Solicitor at the time that some of those enforcement letters were sent to Mr. Murphy. And subsequently, in the 1980's he became Counsel to McCabe Sand and Gravel which he represented for about 30 years until Mr. Murphy's sale and retirement in 2013, so if necessary he would be available to answer any questions that the Council or the neighbors may have.

Attorney Zajac further said that having heard the letters submitted by various Department Heads, he is questioning whether it is necessary for him to go into a detailed presentation, and it is also the operator's position that it is not necessary for them to have any Earth Removal Permit at 120 Berkley Street nor that they are operating in anything that requires any other type of permit due to its pre-existing non-conforming use. However, he will do so if the Council and the neighbors would like him to.

Councilor Croteau said that in reference to Attorney Zajac's recent comments, there is a difference of opinion relative to opinions stated in some of the letters, so he would think that given the difference of opinion, that Attorney Zajac should make his presentation and then also Attorney Workman should be given the opportunity to respond. In his mind the first issue is not the Earth Removal Board, the first issue is a Zoning authorization, license permit, whatever you want to call it. It has been stated here that at one point the operation

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ceased and that means that after 2 years the permit lapses. He has previously made a comment that the grandfather died, and if the grandfather died there is need for a permit. If in fact those different opinions cannot be resolved then there is still a situation with the permit authorization, license or whatever you want to call it, the permit being discussed, and for a long time they were told there was a permit when there wasn't, the permit being discussed only covers the extent of the operation at the time. That is referenced in Kevin Scanlon's letters. Councilor Croteau said that in Mr. Murphy's packet it says there has been no change in the size of the operation, but his letter doesn't mention any specifics as to how many trucks, etc. There definitely has been a change in the size of the operation because the plant is operating more hours.

Councilor Pottier said he made a motion 2 weeks ago to have City Officials, the experts, people who are on the City payroll who are relied on to give their expert opinion to weigh in on this. There were contentions made 2 weeks ago that were matter of fact and the Council was asked to accept those as a matter of fact, but he was happy that the Councilors agreed to ask for these other letters. Mr. Slusarz who is a Professional Engineer states that a permit is not needed because there is no removal of earth going on, so they don't need an Earth Removal Permit. Mr. Scanlon does draw into question the issue of pre-existing uses and suggests that it has undergone further expansion but it was with a permit from the ZBA that was given in 1987. Since the Council just received Attorney Zajac's documents today, he would like him to do his presentation.

Councilor Carr also said that she would like the presentation and also requested that the City Solicitor be here.

Councilor Marshall said that he would like to hear the information, but also does not want to give a sense of false hope to the neighbors. The Council may have no authority regarding this matter. For example, wetlands issues need to go before the Conservation Commission, if an Earth Removal Permit is not needed, then that should be appealed to the Board, and if there are questions regarding a Special Permit, there is a clear avenue that must be taken and it does not involve the City Council. The Council should hear the concerns, but the Council does not have the authority to issue a cease and desist.

Councilor Quinn said that she agrees and that one of the reasons the Committee chose to undertake this was to allow the neighbors an opportunity to be heard, hopefully come to a resolution with the Business Owner, and she thinks that they are well headed in that direction, but as Councilor Marshall indicated the Council is very limited. The Council's job is to make laws and the enforcement of those laws is in another branch of our government and that is who the Committee has heard from in the letters read earlier. The Earth Removal Board has jurisdiction over whether a special permit is to be issued and any complaint with regard to the fact that whether there should or should not be a permit needs to be addressed to the Earth Removal Board and then appeals go from there for anyone aggrieved by those decisions. The same with the zoning issue, the complaints would be to the Building Department and the Building Inspector and then he would make his decision and any aggrieved parties could appeal. There is a process. The purpose that we are here for today and 2 weeks ago, and over the past 6 or 8 months, is to just hear the concerns, have them addressed and hopefully come to a resolution.

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Councilor Croteau said that this Council can remand the issue to the Zoning Board for a thorough review of the permit authorization, license or whatever people want to call it. There is enough question here, whether or not the permit is in effect, and second even if it is, and he does not think it is, there has been a significant expansion of that business – a sufficient expansion of hours.

Attorney David Gay said that he represented McCabe Sand and Gravel for several years. He did look at the paperwork that was submitted to the Council a couple of weeks ago and he wants to comment on a couple of things. First, Councilor Marshall accurately and succinctly outlined what he believes to be the situation here. He was City Solicitor for almost 9 years, and has also been on the other side representing clients such as McCabe, and Councilor Marshall is absolutely correct. There is a process for every one of the issues that have been raised and that process does not involve the Municipal Council. To get before the Zoning Board, there is no way that the Municipal Council can refer things to the Zoning Board; it has to be done pursuant to the statutes of the Commonwealth.

Attorney Gay also said that if you look carefully at the letters that were submitted, dated 1975 from William Chandler and Stuart McNamara, the then City Planner, and City Engineer, and if you read those in sequence, you will see, although the first letter seems to imply that some type of permit was existing for earth removal at 120 Berkley Street, three letters later, the one dated 8/29/1975 signed by William Chandler, by certified mail, the second paragraph clearly clarifies his first error. Site 30 of your concrete batching plant and sand and gravel processing plant are not presently in violation of the revised Ordinance pertaining to the removal of earth materials and so accepts your letter of explanation as to site 30. That is because site 30 has not had gravel removed from it since the early 1900's. If you look carefully at Mr. Murphy's letter the earth removal process at 120 Berkley Street had occurred before Mr. Murphy was 16 years old. That was in 1963 or so. The site is exactly the same now as it was then as to the size and what happened. The only differences are he actually purchased Standish Oil which was located there, in the 1970's and also purchased some land from Joseph Terra, which is now part of the McCabe Sand and Gravel area. There was never an Earth Removal Permit for McCabe Sand and Gravel because it does not need one because it never removed earth except prior to the time when there was such a thing as an Earth Removal Permit. It is not an earth removal operation, and he would defer to the present City Solicitor on the interpretation of the new Ordinance, but his opinion is that it does not apply. There has never been a permit there, there is no need for a permit there and therefore it cannot expire. Also, when Mr. Murphy said something about that the business ceased, that was the 2 other permits that are referred to in these letters, permits for 31 and 32. 31 was on the other side of Berkley Street, down below from property that was or is still owned by the Fishers. When Mr. Murphy took over there had been a gravel operation there, many years before. He was advised that the permit had lapsed, he responded in his letters that the permit was no longer going to be active and he was going to reclaim the land, which he did and it was ultimately sold. The other permit was on Pratt Street, but it was on the other side of Pratt Street, not the side that abuts 120 Berkley Street. That was operated as a gravel removal permit, it had a permit, that permit lapsed, and it was never renewed and that property is no longer owned by them. There is

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not a permit, there is no need for a permit and there is nothing that can lapse. McCabe Sand and Gravel

has never been out of business so the grandfather has not died, as was stated earlier. There has been no 2 year lapse. As Mr. Murphy points out in his letter, there are times when the concrete batching plant is busier than at other times. Big jobs come in. They were in front of the Council sometime around the Braga Bridge project. The Braga Bridge project was causing some issues because it was a mandated night project. It was the only time Mr. Murphy ran that business at night. He did not want to do it but it was a project he bid on, he got the job, he was in business and those of you who run businesses understand sometimes you have to run the business to make the concrete for that project. They did come in here and the Council voted that there was no jurisdiction over this and they left. Mr. Murphy did apply for one permit to expand the business. He did not expand the business in the way you might want to think. What he did is he took a building that was there and wanted to make it larger to put all of the trucks in the building for service and overnight. It improved the site, it improved the atmosphere, it cut down on the noise and everybody was in favor of it.

Councilor Carr said that this body does vote to grant or not grant special permits for earth removal, so if in fact an Earth Removal Permit were required then the council would have a part in it.

Attorney Gay said that is correct but again, the Council takes their guidance from the City Attorney on that, but based on everything that has happened in the past and what he knows about the law and reading the City Ordinance, it is his opinion that it is not an earth removal operation. But if it were one, the Council would have to approve it.

Councilor Carr said in her opinion right now she is still not sure whether or not a permit is required then the Council would have a part in it.

Attorney Gay said that is correct but again, the Council takes their guidance from the City Attorney on that, but based on everything that has happened in the past and what he knows about the law and reading the City Ordinance, it is his opinion that it is not an earth removal operation. But if it were one, the Council would have to approve it.

Councilor Carr said in her opinion right now she is still not sure whether or not a permit is required.

Councilor Croteau said that while he was Superintendent of Schools he spoke to the Staff at Walker School and people who lived on Berkley Street and he never heard one word of complaint for 21 years. Two years ago he was asked to attend a meeting at Lopes and we are still talking about it 2 years later. Where do these people go to get heard, if not here do they go to the Zoning Board. There are serious questions that have to be answered.

Councilor Carr said that our current City Ordinance states that you need an Earth Removal Permit if you remove earth or relocate it, so she would like Attorney Buffington's opinion on whether or not an Earth Removal Permit is required based on the operations that take place at 120 Berkley Street.

Attorney Buffington said that our Ordinance does not require a permit for relocation, so what has been submitted to the Council by those advocating for the position that such a permit is required is reliance upon Section 14-35 of the Ordinances. What that says is *pursuant to the provisions of General Laws, Chapter 40, Section 21(17), the removal or relocation of all earth materials within the city is hereafter regulated or prohibited as herein*

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provided. It is a one sentence Ordinance. As he understands, the argument being made is that the relocation of earth materials within the City requires a permit. There are a couple of issues: (1) is initially what does that statement mean in our Ordinances. First while the Ordinance does state that relocation of earth materials is regulated it doesn't say anywhere in the Ordinances how it is regulated or the manner in which it is regulated. Usually what you see in a regulatory Ordinance, and he brought just a few examples with him, is a statement to the effect of *no person shall do x, y and z without first obtaining a permit.* The Earth Removal Ordinance consists of a number of sections, 14-34 through Section 14-38, but nowhere will you see something that says nobody shall relocate earth materials without first getting a permit. Some examples of that, and there are many as you go through the Ordinance books, Section 12-18 says *Whoever without a license keeps a table for the purpose of playing billiards or pool, or a bowling alley, for hire, gain or reward shall be punished.* It clearly indicates that you can't do those things without having a license. Section 12-37 says *No jukebox, music device or coin-operated music bolt shall be kept, maintained or operated for public amusement unless a license for the same has first been obtained.* Section 12-74 says *No person shall go from place to place within the city selling or bartering, or carrying or exposing for sale or barter, goods, wares or merchandise in or from any cart, wagon or other vehicle* and this goes on and on, and it is a hawkers and peddlers license – *without first getting a license.*

Attorney Buffington said there are many more, and perhaps the most recent one that the Council is familiar with is just last year the City rewrote its Ordinances regarding licenses for Class II motor vehicles. An example of that is Section 12-215 which says *No person shall engage in the business of buying, selling or exchanging second hand motor vehicles without first securing and maintaining in full force and effect a license.*

Attorney Buffington said the first issue that he sees is that there is no clear statement that relocation of earth materials requires a permit. It just says it is regulated as herein provided and it is not herein provided as to how it is regulated. The second issue is whether or not the Earth Removal Ordinance could be rewritten in a way to regulate the relocation of earth materials in the City in the absence of activity going on at the sight that also involves stripping of top soil, excavation or severing of material from the land. Cities and towns are authorized by the Legislature to pass Earth Removal Ordinances by a very specific enabling statute. So, if we were to pass an Ordinance that goes beyond the scope or goes beyond the authority of what is granted by the Legislature that Ordinance would not be enforceable. Mass. General Laws Chapter 40, Section 41 clause 17 authorizes municipalities to pass Ordinances for prohibiting or regulating the removal of soil, loam, sand or gravel from land. It does not talk about prohibiting or regulating the relocation of earth material. That General Law was inserted by an act of the Legislature in 1949. That term, removal of soil, loam, sand or gravel from land, isn't really defined in the statute so you look to case law. There is a fair amount of case law out there. The bottom line is, and he really does not know what's going on at that parcel of land, but if there is stripping of top soil going on, if there is severing material from the land going on, if there is excavation going on than that is the type of activity that can be regulated by the City in a clear manner in its earth removal ordinance. In 1953 the Supreme Judicial Court, and they are the arbiter as to what laws mean, said that the purpose of the law was to regulate the stripping of top soil, to

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prevent the effects of cases Attorney Buffington had cited. It is very clear that the Legislature granted cities and towns authority to pass Earth Removal Ordinances and by-laws when there was in fact severing of material from the ground, excavation, removal of top soil. Like he said, he does not know what is going on out there. The owners of the Company say that is not going on out there, He does not hear anybody suggesting otherwise, he has not heard anybody suggest that that type of activity is going on, so trying to regulate this and impose conditions such as hours of operation and that sort of thing by means of granting an Earth Removal Permit under the Earth Removal Ordinance is not something that is available.

Councilor Carr did say that the city does require permits from other operations in the City that do remove things from the earth, whether it is top soil or rock, whatever such as the Aggregate Company, cranberry bogs, things like that, but if our Ordinance does not speak to how we regulate it, is it understood that we take that from Mass. General Law that they are required to get a permit. Our Ordinance itself does not say that they have to get a permit.

Attorney Buffington said the General Laws of Massachusetts do not say and do not impose a requirement. Chapter 40, Section 21 is a provision of the General Laws that basically says that Cities and towns can pass Ordinances for these specific purposes, and this happens to be purpose number 17. That clause 17 does not mandate that anyone must get an Earth Removal Permit. What it does say is that cities and towns if they want to pass an Ordinance for the prohibiting or regulating the removal of soil, loam, sand or gravel from land not in public use then you can do that if you want to. You could prohibit it if you want to.

Councilor Carr said our own Ordinance does require a permit to do that, to which Attorney Buffington said he would suggest to the Council, who makes the laws, that some attention be paid to this Ordinance because for example, if he were the people who run the quarry on the other side of town, he could make a convincing argument that nowhere in the Ordinances does it say no person shall do this without getting an Earth Removal Permit. It does not say that.

Attorney Buffington further said if the Council was looking to pass an Ordinance only to regulate the relocating of earth materials on a particular site, that you could not use as the source of your authority to pass that Ordinance as law.

Councilor Carr then said that the law speaks nothing to relocating, to which Attorney Buffington said correct.

Councilor Carr asked what guidance the City Solicitor would provide to put conditions on a Company that has issues with the neighbors, such as pollution, hours of operation and those types of things.

Attorney Buffington said you cannot pass a new Zoning Ordinance that would affect this business or any other business that is currently in operation. So, a Zoning Ordinance is not something that you would be able to enact in order to accomplish that goal. Most of the time conditions are placed upon the granting of some kind of zoning approval. That is the most typical place where you see that. Any Ordinance that the Council passes under the general police powers cannot conflict with any other General Law and also, they have to be Ordinances of general applicability throughout the entire City.

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Attorney Zajac said that he wants to address zoning questions that have been raised. With regard to the potential discontinuance, Attorney Gay spoke regarding this, and it was in Mr. Murphy's letter that there was a period of time between the death of James McCabe and the purchase of the property by Joseph and Edna Rose. This was entirely prior to the adoption of zoning so even if there was a period of discontinuance in the 1930's it would be irrelevant because there was no zoning then, and the use was reinstated before there was zoning. There would be no lapse that would be relevant. He also said that, as Mr. Murphy said in his letter, there has been a continuous use of that property for aggregate processing and concrete manufacture prior to the institution of the Zoning Ordinance in Taunton. He also addressed the issue of any extension of that use, because there was some talk at the last meeting concerning that. He said non-conforming use can incrementally increase over time and the law does honor that when it is an incremental increase over a relatively lengthy period of time. It is the same type of use, there was no change in character. It is a pre-existing non-conforming use and unlikely exceeded non-conforming use except incrementally.

Attorney Zajac also said that they have submitted voluntary changes. Things have been better since the Amazon project ended. They are still holding out an olive branch and being willing to voluntarily make the hours of operation and other changes in operation as an accommodation, not because they feel that they are required to but they want to be good neighbors. They would like the opportunity to be good neighbors and see if that resolves the problems. They also respectfully submit that there are no grounds for the Council to do anything.

Attorney Workman said if the Council would prefer he could defer his comments till next week as it is getting late.

Councilor Marshall said that he would prefer to hear brief comments this evening.

Councilor Pottier asked if Attorney Workman could respond to items that he just heard tonight.

Attorney Workman said there are some things he would like to look into including some cases that Attorney Buffington referred to. He also said a newspaper article in the Taunton Gazette dated 7/13/2013 states that they already increased the fleet of trucks in Taunton from 7 to 32. It was stated that they needed to expand and they needed more volume, and volume is what this business is all about. So, to now suggest that there is no difference in the volume, given a fourfold increase in the number of trucks and changing the schedule from what was a 7:30 to 4:00 schedule to a schedule that went to 21 hours a day, which is from 4 a.m. to 1 a.m., then Attorney Zajac came to this Council in September of 2014 and asked to expand the hours to allow them to operate between 1 a.m. to 4 a.m. They have the minutes showing that the expanded hours were asked for then they withdrew that request. There was a petition from the neighbors at the time in opposition, however it was believed by the Council that this situation had been rectified.

Another question was have they increased the volume. They went from 7 trucks to 32. They went from 8 hours a day to 21 hours a day. They reminded also that they are no longer mining the stuff out of the ground there, they are bringing it in from the outside, crushing it and then bringing it out so for every ton of material that goes out a ton comes in, so the truck traffic has doubled. He also said Taunton maintains a GIS system that is

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sophisticated. It also maintains a satellite view. You will see, looking at the Berkley Street site, a road being constructed. That road is now further constructed and in order to construct a road you have to move earth so there is excavation going on.

Councilor Quinn noted that this is getting into the zoning issues and the Council does not have jurisdiction on zoning issues. She also said that the letter from the Lopes Company itemizes 4 compromises that they are willing to make. She does not know what the opinions of the neighbors are, but as been stated a few times, this Council does not have the jurisdiction to require a special permit. They have asked the opinion of the City Solicitor and the Department Heads and City Engineer who is Chair of the Earth Removal Board, so she thinks that is what the Council can do at this point. In light of all that, she feels that the proper procedure is that if anyone is aggrieved by the Earth Removal Board not requiring a permit then that appeal is to that Board, likewise to the Zoning Board. Councilor Quinn asked Attorney Workman and the representatives from the Lopes Company if they are still looking at those 4 suggestions and if so, she thinks that this Council would be supportive in encouraging that and perhaps seeing how that goes and look at it again in 4 to 6 months, to see if those have been met. At the same time, if you are still an aggrieved party you can take those other actions.

Attorney Workman said that there are about 100 individuals that live in the area and organizing and simply figuring out how to get that number of people to come into a room or meet or give their input, he does not have the ability to evaluate what they propose and give an answer.

Councilor Cleary said that the Lopes Company did submit a letter with proposed compromises. There was no response to the Lopes proposal from the neighbors. The Council is trying to be open, listen to both sides but it seems nobody wants to work this out. Councilor Marshall said that the Lopes Company has made four concessions. They will only use the crusher from 8 a.m. to 4 p.m. Monday through Friday, they will only process/make concrete Monday through Friday from 5 a.m. to 6 p.m., they will reduce the dust, they will work with the neighbors in developing better truck routes and there will be no work on Sunday. This is better than what brought this matter here. These concessions, at least on face value, are a step in the right direction. There are regulatory agencies that can handle these issues and the Council has no authority to make the Lopes Company do what they said they are going to do.

Attorney Workman said he wants the business to comply with the same rules and regulations as anyone else who opens up that type of a business would have to comply with. There is a list of rules and regulations and those rules and regulations govern how a pit should basically do business.

Councilor Quinn said that would be a proper letter to the Earth Removal Board, not to this Council. The Council is limited on what it can do.

Councilor Marshall said that if the Council could, they would regulate this under zoning rules now, if it were a new business. But this is a pre-existing use. The Council cannot do what Attorney Workman is asking for.

Councilor Carr said that she does not accept that the Council can do nothing. The bottom line is that without a permit of any kind or without an Ordinance that oversees business hours, the next big thing that comes along, the next Amazon, the next Braga Bridge,

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whatever it might be, they will be operating at 2 or 3 a.m. or whatever time in the morning. This is unfair to those people. There has to be a way, whether we have some type of a permit that is not an Earth Removal Permit but some other kind of business permit that would give the Council the option to put conditions on businesses.

Councilor Croteau said he will endorse what Council Carr said.

Councilor McCaul said the neighbors have a right of quality of life, and their quality of life is being hurt. Anyone can, in writing, request Zoning to investigate. He asked if a business increased in volume, increased their business does that warrant it going back to the Zoning Board to re-evaluate their business to the point that they might have to change their hours or make any kind of restrictions that might be needed.

Attorney Buffington said that it has been discussed at length tonight whether or not there is a zoning issue is respectfully beyond the purview of the Council, and noted that there are many cases on pre-existing non-conforming uses and they tend to be very fact specific, so it really depends upon what has happened prior to the enactment of zoning, what has happened at various points in time since then, precisely what it is that is going on there now. This is not a Court and this is not a Board of Appeals, if that issue is to be decided it is to be decided by the Zoning Board of Appeals preliminarily or first by Mr. Pirozzi, then to the Zoning Board of Appeals, then to the Superior Court or the Land Court. Each side has the right to call witnesses, present documents and all of those sorts of things. That is not in any way shape or form something that is going to be decided here tonight or before the Council on any other night. That is something that is not under the jurisdiction of the Council. He hears that there are many effected individuals out there, and any one of them has the right to request in writing that the Building Inspector take enforcement action. It does not require some large group meeting and a consensus among that group. Any single person has the right to do that. Mr. Pirozzi is a professional, is well-respected and will do his job, go out there, investigate and render a decision. And if the person who makes the complaint does not agree with his decision they have the right to appeal that to the Zoning Board. If he comes down and says he thinks this business is in violation for the following reasons, the business has the right to go to the Zoning Board.

Councilor McCaul asked if the Council, as a body, could recommend this back to the Zoning Board to evaluate, along with the Building Commissioner.

Attorney Buffington said that this requires an in depth analysis of what is going on there. He also said he knows that the Councilors want to try to assist the neighbors and try to come to a resolution, but the resolution of this issue is before the Zoning Board.

Councilor McCaul made the following motion:

MOTION: REFER THIS MATTER TO THE ZONING BOARD TO LOOK AT IT AND BRING IT BACK TO THE COUNCIL AFTER THEIR REVIEW

The motion was seconded by Councilor Croteau, and on discussion he said that he believes the City Solicitor stated that any single individual on Berkley Street or as a group who also signed that petition could develop a cover letter, attach it to the petition and send it to the Building Department, is that correct?

Attorney Buffington said no, he did not say that. He said the process is somebody says Mr. Building Commissioner, I think that on this parcel of land there is a zoning violation because of x,y and z, so I would like you to investigate it and render a decision and enforce these

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

particular zoning issues.

Councilor Croteau asked if someone had to live on Berkley Street to do that.

Mr. Buffington said there is the issue of standing; it must be somebody with standing.

Councilor Croteau said he does not understand why the Council cannot ask the Building Department to look into this.

Attorney Buffington said the Council could do that, but that would be separate and distinct from the procedure that the General Laws of Massachusetts set up that results in a person aggrieved going to the Zoning Board and going to a Court of competent jurisdiction. He further said what Councilor Croteau is saying is permissible, but it is not the initiation of the process.

Councilor Croteau said that puts Councilor McCaul's motion as appropriate.

Councilor Pottier said that he does not want this to turn out like the cell tower issue did.

Councilor Cleary asked why doesn't Attorney Workman file a complaint with the Building Department, then if not satisfied, take it to Court.

Councilor Marshall said that this motion does not get the parties where they need to go. Sending this to Zoning negates the first step, and regarding sending this to the Building Department, Attorney Workman can do this himself as an aggrieved party. He again said he believes the neighbors have been promised false hope. But, now they have an avenue, there is a process in place and they need to follow the proper steps.

Councilor Croteau said all they want to do is send a letter expressing concern.

THE MOTION WAS VOTED ON WITH COUNCILORS CROTEAU, MCCAUL AND CARR VOTING IN FAVOR, COUNCILORS POTTIER, DERMODY, BORGES, CLEARY, MARSHALL AND QUINN VOTING IN OPPOSITION. MOTION DOES NOT CARRY.

Councilor Borges said that the Committee has made recommendations to Departments to look into things and they also have made a point of not stepping on the toes of other Boards. She understands the frustrations and concerns of the neighbors, but the Council is not the regulatory board.

Councilor Marshall made the following motions:

MOTION: THAT THE COUNCIL GO ON RECORD IN SUPORT OF AND IMPLORING THE BUSINESS OWNER OF 120 BERKLEY STREET TO FOLLOW THROUGH WITH THE RECOMMENDATIONS THAT THEY VOLUNTARILY PROVIDED, THE CONCESSIONS THAT WERE STATED IN THEIR LETTER, TO TRY TO MITIGATE THIS ISSUE. SO VOTED.

MOTION: TO REFER THE NOISE ORDINANCE AND THE HOURS OF OPERATION ORDINANCE TO THE LAW OFFICE AND THE COMMITTEE ON ORDINANCES AND ENROLLED BILLS FOR FURTHER REVIEW. SO VOTED.

MOTION: TO RECESS THIS MEETING, AND GO TO FULL COUNCIL MEETING. SO VOTED. (8:30 P.M.)

MOTION: TO CALL THE MEETING BACK TO ORDER. (8:47 P.M.)

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2. MEET WITH THE T.E.A. PRESIDENT TO DISCUSS THE ISSUES INVOLVING CHARTER SCHOOLS IN THE CITY AND COMMONWEALTH OF MASSACHUSETTS

Councilor Pottier said that he is a small part of the Governor's Administration and during a senior staff meeting last week they had a member of the Governor's legal team come in and it was strongly advised to not to take public stands on referendum questions, so he will sit in on the meeting, but he will not take a stand as a Councilor this evening.

Councilor Quinn noted that there are people on the other side of this issue and they are welcome to come before the Council.

School Committee Member Carol Doherty thanked the Council for considering the resolution in opposition to Question 2 which is the question that would lift the cap on Charter Schools across the Commonwealth. By way of history, the Charter School movement across the country started 25 years ago and to date there are 6800 Charter Schools, 148 on line Charter Schools, in most states across the United States. A lot of these Charter Schools are run by networks, they are run by Education Management Organizations. She heard a debate today that was at the McCormack School at UMass Boston and there was a City Councilor who was presenting the Vote No side and someone representing the Vote Yes side, and there was a person representing the Great Schools Massachusetts also speaking in support of Question 2.

The City Councilor brought forward an interesting bit of data that he got from a study that was released that looked at Charter Schools in Massachusetts. The Charter School movement claims that they are simply your mom and pop movement that they are usually groups of parents that are disenchanted with their schools and that they get together and submit a proposal to the Board of Education and are approved in that regard. Largely speaking, the Boards of Directors of these Charter Schools, theoretically, are parents. What the study found in looking at Charter Schools in Massachusetts is that 31% of members of the Boards of Directors across the Commonwealth are corporate persons. 14% of those across the Commonwealth are parents. 16% of those Boards have no parents. A Charter School that has been around a very long time with a good reputation in Boston called City on a Hill, the majority of the Board of Directors there is made up of people who are not people in Boston, so when you think about the idea of a Charter School that maybe in the control of local people whose children attend those schools, we need to think again as we look at the broad movement across the United States.

She also said that she heard a person who runs one of these Education Management Organizations, called the White Hat Management Organization, say "First, last and always Education is a business". This current fiscal year \$788.7 Billion will be spent of largely public money on education. It appears that it is the next best place for Wall Street moguls to invest in. The person who was representing the Great Schools of Massachusetts in the debate basically stepped back from the national movement; she said we are not part of those people on a national scale. We are Massachusetts. We have the best Charter Schools across this country and we do not have any part, you can go on the office of campaign and finance website to look at who is contributing funds to both sides of the vote no and vote yes campaigns, and in fact in her reading there are a number of the Wall Street types who contribute what they call dark money where they are not required by Massachusetts to report it as contributors to the movement. So, they may not contribute directly to the Great

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

Schools Massachusetts campaign but they are contributing to those organizations that are behind the Great Schools campaign. In Massachusetts in 1993, the portion of the Education Reform Law that focused on Charter Schools created 120 Charter Schools. To date there are 78 Charter Schools that exist across the Commonwealth. They are targeted toward the districts that have the lowest 10% in outcomes on statewide testing. In 2017, if this ballot question passes the proposal is that there will be 12 schools a year that will be primarily targeted at urban districts. They have raised the ante from the lowest 10% to the lowest 25%. Just this past year in the last round of proposals that were given to the Department of Education there was some organization from Rhode Island that submitted a letter of intent to create a Charter School here in Taunton. We were lucky to have that organization withdraw that proposal. But, we are part of the New Heights Charter school which has been approved as part of a regional Charter School that includes Randolph, Taunton and Brockton. The vast majority of those students are from Brockton and she will let the Superintendent talk about the number of children from Taunton that are participating. Suffice it to say that you have probably heard that New Heights despite their efforts have run into a lot of problems with their facilities and are now educating children in a building in Norwood until such time as the building in Brockton is complete, perhaps no fault of their own.

She continued noting an article in the Taunton Gazette that there is a debate about how much money is going to Charter Schools and how much money is taken from the district's pocket. \$536.8 million will come out of the pockets of school districts across the Commonwealth to support Charter Schools. The reimbursement rate on that \$536.8 Million according to the Gazette is \$85.4 Million, by no means full funding of the reimbursement formula as it is currently constituted.

Mrs. Doherty said that the lady who was representing the Great Schools campaign said today there are 34,000 children on wait lists for Charter Schools across the state, they want access for these children in a small number of communities, Lynn, Lawrence, Lowell, Holyoke, Springfield. Then you have to ask the question, why is this a state wide ballot. Do we want people from the other end of the state deciding for Taunton whether or not there should be a Charter School here? Wouldn't it be the responsibility of the families and our community to rise up and say we don't like our public schools and we want a Charter School and that there be some sort of Home Rule Petition that would guide the decision for the children in the City of Taunton. It makes sense to her. Among those 34,000 children that are on wait lists across the Commonwealth, 18,000 of them are from the City of Boston. Why are we looking at a ballot question that is going to affect us and other communities across the Commonwealth who have great schools and are serving the needs of our children? She would ask that you please vote to support the resolution against lifting the cap on the Charter Schools and it would be Vote No on Question 2.

Nancy Everidge, President of the Taunton Education Association spoke to the Committee. She said that she has 3 major reasons why she asks this Council to please adopt this resolution. First, the lost funding as was pointed out by Ms. Doherty. We are not getting reimbursed for the money that the Charter Schools siphon off from the public schools, and that is not money that helps her to educate the students in her classroom. She has been a public school teacher for 33 years. As the President she visits and meets with Presidents

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

from all over the state, Fall River, New Bedford, Somerville, losing upwards of \$10 million a year in lost funding to Charter Schools. The second piece is the accountability piece. She is a taxpayer and elects the people that she trusts to spend those tax dollars. That is not the case with those Charter Schools; they are run by Boards of Directors, many of whom have nothing to do with public education. And last it is separate and unequal. She is a public school teacher and whoever comes into her classroom is who she teaches. Special needs, low income, etc. every child in that class is hers, not so in Charter Schools. That is not the case. They do not teach the same percentage of those needy children that they have in the public schools.

Dr. Hackett said that what they have with the Charter School movement is a funding formula that deals with Chapter 46 aid and it works for a 6 year period of time. There is a reimbursement factor that starts at 100% to the sending district. So if she sent a student from Taunton to a Charter School, her first year, she is going to get paid for that student and so will the Charter School at the rate at which they usually get reimbursement through Chapter 70 for students. So roughly \$12,000.00. If you are in another school community that is above net school spending, you are going to have to pay significantly more and the goal of the formula and the law is to match what happens in the sending district. In Taunton we have not had an outcry from the community for Charter Schools. In fact, Taunton is the last and final frontier in the urban schools to even have the conversation about Charter Schools. For example, if she sends on child to Prospect Hill School, which she does, and Cambridge sends one child to Prospect Hill, which they send many, Prospect Hill gets \$12,000 from Taunton and then gets \$26,000 from Cambridge and that is because not only do they factor in what is that foundation, they factor in the formula what is about foundation. There is a lot of money that exchanges hands. Now in this Chapter 46 aid formula, it is a 6 year process. The reason they put it in place, they being the lawmakers, is because they understood and recognize that when they lose children from the system, and they have lost a total of 20 which is a very small number when you compare it to other communities, but still it is significant when you think about bottom line. Do we lose 20 from 1 classroom, absolutely not, when people say you lose the kid so you don't have to pay for the children, that is a fallacy because they are sprinkled across the district so you cannot eliminate one position or one classroom teacher, you cannot downsize by schools even in the communities that have wider impact. The formula works this way: They get 100% the first year, and then for the 5 subsequent years they get 25% of the funding. It sounds like a fair deal except for 2 factors. One is that amount of money is subject to appropriation. Ms. Doherty gave a \$500 million figure and only a portion of that is being funded and that is absolutely right. When the Legislature uses terms like subject to appropriation, Educators especially, mean that they are not going to get all the money. They will only get a small proportion of the money in the last 2 years; she thinks it was 2/3 of what they promised in that funding formula.

The second problem is that in addition to where a community is losing \$10 million in a year to Charter Schools, the problem with the reimbursement process is that it is above and beyond, it is the increasing number. If you are losing \$10 million you don't get 100, 25, 25, 25, 25, 25% on the \$10 million, you get that Chapter 46 aid formula across the 6 year period of time for any increase in number. A practical example would be you are losing \$10

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

million, the subsequent year you lose another \$1 million, let say, so however many kids that equates to, now you are losing \$11 million, but remember she said it was on the increase, so you are only getting the reimbursement on that \$1 million, not the full \$11 million.

Dr. Hackett said for the children in the City of Taunton, they offer a high quality education with multiple opportunities for things that she would want to see her own child have -- music, art, Physical Education, clubs and activities, 67 of them at the high school alone; just the exposure that goes beyond testing and sitting in a classroom. When you start a new school and try to build a new program the startup costs are significant. She thinks the Charter School that is involved in this community now is experiencing some of that. They had 7 children sign up initially, 2 students dropped out, so they have 5 going to the new Charter School. She believes they will come back because she believes people won't be able to compete with what they are able to offer and she also believes that if we weren't doing a good enough job to begin with they would have already lost children. Personally she thinks that this is shortsighted for the state to grow Charter Schools. Why are we expanding on an experiment that has not even been proven?

Councilor Borges asked what happens to the reimbursement if the student comes back.

Dr. Hackett said if they come back by a certain time period, and generally they work with the October 1 rule, they get the reimbursement, but if not it would follow in the future year. However in this particular case, because of that 6 year Chapter 46 formula you would still get the money anyway, so if she loses a child they are still paying her for the child lost and that was established because kids are sprinkled across the district. The loss is hard to absorb and it takes multiple years to be able to assume the loss in the district. The answer is that you would still get the money but eventually the money goes away if Charter School kids leave and are out of the district after 1 year really, because then you are down to 25% in the second year.

Councilor Carr questioned how the on-line Charter Schools work, is that like home schooling.

Ms. Doherty said it is a mixed bag, there are 187 on line Charter Schools and there is not a good accounting of attendance. A child might be on a Monday but might not go back to the online program for several days. So here, we have 180 school days, so it is hard to track the actual attendance of a child in an online construct. You can go on, sign up and not ever participate, so the results are mixed.

Councilor Carr asked how they track the effectiveness of Charter Schools or online schools, are they required to pass MCAS as well.

Dr. Hackett said that they have to do the state assessment so you can compare school to school. They get a 5 year commitment from the state, so the state gives them permission to run 5 years, and that is a decision many people take issue with because they supersede the local boards, so the state makes the decision about how funding is going to be impacted in the community. They do have to take the state assessments and they do know how they perform in comparison. People in the traditional public schools get upset about the fact that they're educating a certain population of students, we are educating all students, this is an inclusive school community of which they are proud of. But even if you take this out of the equation and you simply rank order, as she said before, you are going to have really great

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

and high performing Charter Schools in Massachusetts and you are going to have really great and high performing schools in Massachusetts – the results are mixed.

Councilor Carr said that she looks at it as a results based type of a decision that most parents would make. It seems to her to be a more like a financial argument going on, but if she were a parent sitting at home, she would say what are the results going to be. She agrees and thinks in Taunton that we have a fabulous school system, so she would never look to send her child somewhere else, and she does not think too many people do so. She feels there has been no real cry for those types of schools here. On the other hand, she thinks that in places where there is a need for them they should be there. She continued stating that we have had school choice for many years and she has never heard an issue from the public schools about school choice. How does the funding work for school choice, do you lose all the money if a child decides to go elsewhere.

Dr. Hackett said they do still get some of the equation. The funding works very differently with school choice then it does with Charters. There are 2 different calculations, and school choice is becoming more an issue because some of the smaller neighboring districts, as that is the only means of survival - to try to capture more children. That is how they are making their budgets work because there haven't been significant increases to funding. It is less an issue because children move around and they go back and forth in that way. When you are talking about \$12,000 for a student, they lose approximately about \$220,000 presently. In real numbers where it hurts is the equivalent of about 4 teachers. It is important to pay attention to the numbers and the potential impact.

Councilor Carr asked why there hasn't been an equal outcry against school choice, because school choice takes kids from the district as well.

Dr. Hackett said generally it balances, so as school choice kids go out, they get in, so it kind of equalizes that.

Ms. Doherty said that you can be sure that all urban districts in this Commonwealth will be targeted by the Charter School movement and that Taunton is on the list of targeted districts to establish a Charter School and we will have nothing to say about it if in fact this bill goes forward.

Councilor Carr asked if you had to live in a particular area to go to a particular Charter School.

Dr. Hackett said no, it works in a very strange way. The rule is that you have to have at least 1 school in the bottom 10% and then you can put a Charter School that services a catchment area. So for the Charter School that was previously talked about by Ms. Doherty, they service Randolph, Brockton and Taunton. We have only 5 children currently enrolled in that school. They do not know for sure that that is a solid number. Again, it was stated that it started out at 7 and 2 have returned. Basically they can put up shop anywhere and reach out to other then a geographic range at the approval of the Commissioner and the State Board of Education, so she is assuming that they would frown upon having a huge divide in geography to service children.

Councilor Carr asked who paid for the child's transportation.

Ms. Doherty said the school has to pay for the transportation, the receiving school.

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THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

Councilor Borges noted that the School Committee adopted the resolution, and then came to the Council asking that the Council adopt the resolution. She asked to go over the resolution.

Dr. Hackett said that she was asked to speak on the funding, and that obviously she has some personal feelings about public schools and feels that the City of Taunton is doing a great job, but she is here as back up to Ms. Doherty and Ms. Everidge.

Councilor Croteau said he has a great concern which is the effect on our culture. He made the following motion:

MOTION: TO SUPPORT AND VOTE NO ON THAT ITEM ON THE BALLOT.

Councilor Borges seconded the motion.

Councilor Marshall asked for the numbers for school choice and Charter.

Dr. Hackett said that 60 students for school choice and 20 for Charter, but they already saw 10 or 12 coming back in. She will provide the hard and fast figures at a later time. But it is important to note that school choice numbers have increased state wide. Everybody is doing school choice because it has been figured out that this is how they can get funding in their system. They did do some cold calls to people who had choiced out to see if there were patterns, if there were things they needed to learn about why they were losing certain students. What they discovered was that 60% of the students who go out never set foot in the Taunton Schools. Their families may have happened to reside in Taunton, the kids went to day care in Berkley, so kids were in a pre-K together, formed bonds, so the parents preferred to have them stay right in that same pre-k and move up to the grades. So when they took out that 60%, the loss was about 40 kids total. That number does change rapidly because they are seeing more kids coming back in.

Councilor Carr said she would be interested in knowing the reasons people do not come to Taunton and choose school choice. Even if they never stepped foot in the district, is there a grade level where most of them go out, is it high school?

Dr. Hackett said it is not the high school, it is with younger students and it is around that daycare issue that she spoke of earlier. She will provide a short synopsis of what was supplied to the School Committee. It will have the data, it will give the historical information so that the Council can see it, it will show the trends. She will also give the anecdotes and the quotes from individuals with names attached.

It was also noted that the school choice issue and the Charter School issue are two separate items.

Councilor Croteau said he has confidence in the Taunton Public School system.

ADDED TO THE MOTION WAS TO APPROVE THE RESOLUTION PROVIDED WHICH WAS THE SAME ONE THAT THE SCHOOL COMMITTEE APPROVED.

Councilor Cleary said he supports the local public school system and that Massachusetts students are number one in the Country as far as quality education and sees no need for additional Charter Schools.

Councilor Marshall made the following motion:

MOTION: TO TABLE THIS FOR ONE WEEK AND OFFER THE OTHER SIDE THE OPPORTUNITY TO SPEAK.

THE MOTION CARRIED WITH A MAJORITY VOTE.

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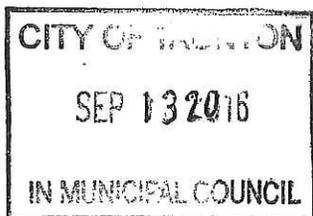
THE COMMITTEE OF THE COUNCIL AS A WHOLE - CONTINUED

MEETING ADJOURNED AT 9:50 P.M.

RESPECTFULLY SUBMITTED,



COLLEEN M. ELLIS
CLERK OF COUNCIL COMMITTEE



REPORTS ACCEPTED, RECOMMENDATIONS ADOPTED.



CITY CLERK

CITY OF TAUNTON
MUNICIPAL COUNCIL
SEPTEMBER 13, 2016

THE COMMITTEE ON ORDINANCES AND ENROLLED BILLS

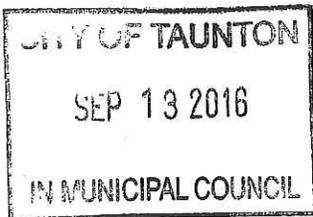
PRESENT WERE: COUNCILOR JEANNE QUINN, CHAIRMAN AND COUNCILORS CLEARY
AND MCCAUL

MEETING CALLED TO ORDER AT 9:54 P.M.

- 1. MEET TO DISCUSS PROPOSED PARKING BAN ON SCHOOL STREET AND REVIEW DRAFT ORDINANCE**

MOTION: TO CONTINUE THIS MATTER UNTIL NEXT WEEK. SO VOTED.

MEETING ADJOURNED AT 9:55 P.M.



RESPECTFULLY SUBMITTED,

COLLEEN M. ELLIS
CLERK OF COUNCIL COMMITTEES

REPORTS ACCEPTED, RECOMMENDATIONS ADOPTED.

Rm Blackwell
CITY CLERK

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