


CITY OF SOMERSWORTH
Office of the City Manager

TO: Mayor Dana S. Hilliard and City Council Members

FROM: Robert M. Belmore, City Manager 

DATE: Friday, November 2, 2018

SUBJECT: City Manager's Report for Monday, November 5, 2018
City Council Agenda

6:00 p.m. - Workshop
Re: Fire Service Deployment Analysis Presentation
Brian P. Duggan, Director of Fire/EMS & Emergency Management Services
Municipal Resources, Inc.
A hard copy of the report will be at your Council Chamber's seat.

6:45 p.m. - Non-meeting
Re: School Board Proposed Tentative Agreement with SESPA Union

Unfinished Business (Under Section 14 of Agenda)

Ordinances

- A. Ordinance No. 4-19: To Amend Chapter 19, Zoning Ordinance, Section 14, Historic District.**
I have included an amended version based on recommendations provided by City Attorney Walter Mitchell. These changes have been shared with the HDC Chair. It is recommended that Council consider acceptance of all the changes, then Table the Ordinance for a Public Hearing to be scheduled for the December 3rd Council meeting.
- B. Ordinance No. 5-19: Supplemental Appropriation for Engineering Services for Improvements at the Somersworth Wastewater Treatment Facility.** Again, the Finance Committee and Public Works & Environment Committee both voted to recommend this action item for approval by the full City Council.

Resolutions

- A. Resolution No. 20-19: To Authorize the City Manager to Amend the Contract with Wright Pierce Engineers of Portsmouth, NH to Include Additional Engineering Services at the Somersworth Wastewater Treatment Facility.** Again, the Finance Committee and Public Works & Environment Committee voted to recommend this action item for approval by the full City Council.

New Business (Under Section 15 of Agenda)

Resolutions

- A. Resolution No. 21-19: To Support an Initiative to Voluntarily Reduce the Distribution and Use of Single-Use Plastics and Expanded Polyesterstyrene (EPS) Products in an Effort Towards Sustaining a Cleaner and Safer Ocean, Salmon Falls River and Healthier Environment.**
- B. Resolution No. 22-19: To Authorize the City Manager to Take the Necessary Actions to Discontinue Fair Court as a Class V Highway.** I have attached a copy of our Legal Counsel's advice on this matter – a “*confidential*” email from City Attorney Walter Mitchell. The abutter, Them Tran, is represented by Attorney Brian Barrington. Staff will notice Ms. Tran and her Attorney 14 days in advance of the Public Hearing per State Law. I recommend the Public Hearing be scheduled for the December 3rd Council meeting.

Other

- A. Discussion of the Solar Array project (from Finance Committee & Public Works & Environment Committee).** Both Council Committees were briefed on the progress of negotiations with the developer. Attached is a copy of Resolution No. 35-17 that authorized moving forward with the proposed project. Special City Counsel, Attorney Mark Beliveau, will be present as he has been involved in the discussions for the Solar Array construction proposed on the Superfund site. Attached is a summary of concerns regarding a proposed lease at this location.
- B. Vote to Ratify the Tentative Agreement (TA) between the Somersworth School Board and the Somersworth Educational Support Personnel Association (SESPA) Union.** Attached is a copy of a confidential memorandum from Superintendent Robert Gadomski regarding the recommended TA.
- C. Vote to Authorize a Sewer Line Extension for Residential Service to 72 Buffumsville Road (from Public Works & Environment Committee).** Attached is a memorandum from Director Mike Bobinsky as well as the request from the property owner.

City Manager's Items (under section 11 of Agenda)

A. Informational Items.

- 1. Somersworth School District SAU Withdrawal.** Attached are the statutory guidelines to withdraw from the SAU. The vote will be placed on the December 3rd City Council Agenda for your consideration.
- 2. Superior Court Decision.** Attached is a copy of the Superior Court Notice of Decision regarding City Council's appeal of the Zoning Board of Adjustment variance approval for auto sales on Green Street. The Court ruled in the Council's favor and reversed the granting of the variance.

Reminders

- **Wednesday, November 7 at 5:00 p.m. - Joint Goal Setting Session of the City Council & School Board.** Somersworth High School Career Technical Center.
 - 5:00 p.m. – 5:30 p.m. Food & Conversation - Mulligan's Grill
 - 5:30 p.m. – 8:00 p.m. Goal Setting Session - Black Box Theater
- **Saturday, November 10 from 7:00 – 10:00 p.m. – Somersworth 125th Celebration** VFW, 43 High Street.
- **Sunday, November 11 at 2:00 p.m. – Veteran's Day Ceremony.** American Legion Post 69.
- **Saturday, December 1 at 2:30 p.m. – Somersworth/Berwick Christmas Parade.**

B. Attachments.

- 1. City Attorney Certifications Two (2)**
- 2. Department Head Reports**



City of Somersworth – Ordinance

Ordinance No: 4-19

TO AMEND CHAPTER 19, ZONING ORDINANCE, SECTION 14, HISTORIC DISTRICT

October 15, 2018

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the ordinances of the City of Somersworth, as amended, be further amended as follows:

Delete Section 19:14 in its entirety and replace with the following:

19:14.A Section A INTRODUCTION AND BACKGROUND

The downtown area of Somersworth was primarily built by following a master plan designed by the Great Falls Manufacturing Company starting in 1823. The designed attempted to relate the brick mills, brick or wood worker-housing and small-scale commercial buildings. Also, this overall plan included large-scale landscape features like the tree-lined canal. The effect created was like the pedestrian-oriented mill cities across New England. As the mill prospered and the city grew, other commercial buildings and areas were established; these included other areas (such as High Street), and replacement of earlier, smaller businesses. By the end of the 19th Century, the downtown boasted many fine brick hotels and commercial blocks.

The topography of the city played a central role in its development; i.e. the mills were located on the river, their source of power; worker housing and early commercial development were built on the flat land on the other side of the canal, within easy walking distance to the mills; and the mill owners and managers built their houses a carriage ride away, high on the hill to take advantage of the spacious views and cool breezes. An architectural hierarchy was established that closely followed the topological and social dictates. (The higher up you were the higher up you were!)

The history of Somersworth can still be read in her streets and buildings, but unfortunately, some pages of her history are missing. Fire and urban renewal erased large chunks of the streetscape; especially in the downtown. The master plan as envisioned by the city founders can never be finished nor re-created and it is not even desirable that it should be. However, recognizing the value of planning and good design, the Historic District Commission hopes to guide future changes in a manner that will be complimentary to those original intentions.

19:14.B Section B AUTHORITY

19:14.B.1 **HISTORIC DISTRICT COMMISSION.** There is herein established a seven member Historic District Commission (HDC) with the membership and power and duties as set forth in New Hampshire Revised Statutes Annotated Chapter 673:4 and 674:46, as the same may be subsequently amended, and as may be needed to carry out the purposes of this section.

19:14.B.2 **POWERS AND DUTIES OF THE COMMISSION** The HDC shall have the following powers and duties:

19:14.B.2.a Maintain a system for the survey and inventory of historic properties. This survey will be the system for comprehensive historic planning within the City.

It will be consistent with the technical standards issued by the United States Department of the Interior to produce reliable, understandable, and up-to-date information for decision making, related to the identification, evaluation, and protection/treatment of historical resources;

19:14.B.2.b Establish rules and regulations for the conduct of business which are consistent with the purposes of the Historic District and in conformance with applicable NH State statutes. Members shall be governed by a code of conduct, in conformance with NH State statutes, and in accordance with the City Charter, to prevent real and apparent conflicts of interest in the performance of the HDC's responsibilities;

19:14.B.2.c Establish, adopt, and make available to applicants and the public, guidelines and standards for review to be used by the HDC in reviewing and passing of applications for Certificate of Appropriateness(COA) to construct, alter, modify, repair, move, or demolish any building and/or structure within an Historic District;

19:14.B.2.d Approve, disapprove, in whole or in part, applications for which a COA is required per the Zoning Ordinance;

19:14.B.2.e Request reports and recommendations from City departments and agencies and from other organizations and sources which may have information or can provide advice pertinent to the application or its impact to the district;

19:14.B.2.f Retain professional consultants as may be necessary to carry out the purpose of this section;

- i. Applicants may be asked to retain professional consultants in regards to supplying information on the applicant's project. This would be at the applicant's expense.
- ii. The HDC may retain professional consultants subject to the availability of funds to help provide support and information to help carry out the HDC's authority and purview.

19:14.B.2.g Investigate and recommend to the City Council new areas for designation as Historic Districts.

19:14.B.2.h Act in an advisory role to other officials agencies, departments, boards, commissions, and committees of the local government, regarding the identification, protection, and preservation of local resources;

19:14.B.2.i Act as liaison on behalf of the local government to individuals and organizations concerned with historic preservation;

19:14.B.2.j Work toward continuing education of citizens within the HDC's jurisdiction, regarding historic preservation issues and concerns;

19:14.B.2.k Recommend and propose amendments and/or revisions to the boundaries and limits of any Historic District to the City Council; and

19:14.B.2.l Keep or cause to be kept accurate and complete records and minutes of meetings, findings of the HDC, and records of each application, all of which shall be

part of the public record.

19:14.C Section C DESIGNATION OF HISTORIC DISTRICT

19:14.C.1 **DESCRIPTION** The Historic District is an overlay zoning district, meaning that it is a zoning district which is superimposed over other zoning districts. In all cases where the Historic District is superimposed over another zoning district, that district whose regulations are more restrictive shall apply.

19:14.C.2 **PURPOSE** It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, and continued use of structures, sites, areas, and districts within the City of Somersworth having historic, architectural, cultural or design significance is required in the interest of the health, economic prosperity, cultural enrichment, and general welfare of the community. The purposes of this ordinance are to:

19:14.C.2.a Safeguard the heritage of Somersworth by providing for the protection of the structures and areas representing significant elements of its history;

19:14.C.2.b Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within Historic Districts reflecting unique and established architectural traditions typical of houses in excess of 50 years old;

19:14.C.2.c Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;

19:14.C.2.d Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;

19:14.C.2.e Stabilize and improve property values within the City; and

19:14.C.2.f Promote the private and public use of structures and areas within Historic Districts for the education, prosperity and general welfare of the community.

19:14.C.3 **DISTRICT BOUNDARIES** The location and boundaries of both the "Hilltop Historic District" and the "Industrial and Commercial Historic District" are hereby established as shown on a map entitled "Historic Districts, City of Somersworth, New Hampshire, January 1992", and as amended, which is hereby declared to be part of this ordinance.

19:14.D Section D PURVIEW OF THE COMMISSION

19:14.D.1 **ACTIVITIES REQUIRING REVIEW**. It shall be unlawful for any person to construct, alter, modify, repair, move, or demolish any building, structure, or improvement which lies within a Historic District without first obtaining a Certificate of Appropriateness (COA) from the Historic District Commission (HDC), or in the case of a project of minimal impact, the Planner, Code Officer (CO), and the HDC Chair, in the manner prescribed in this section.

19:14.D.2. **EXEMPT ACTIVITIES.** Exempt activities described in this section do not require review of the applicant's proposed projects or HDC approval. This section does not exempt any property owner from being required to obtain any other permit prescribed by the State of NH or the City of Somersworth.

19:14.D.2.a Any interior construction, alteration, or repair that does not change in any way the outward appearance or any exterior details of the building.

19:14.D.2.b Ordinary maintenance, repair, or painting of any exterior architectural feature which does not involve a change in design, materials, or outer appearance. If any element of a structure must be temporarily removed for painting or repair, it shall be reinstalled within 30 days. Painting must be of standard workmanship quality.

19:14.D.2.c Landscaping that does not affect the current grade of the site, provided there is no change to any vertical structure, such as construction or alteration of walkways and patios.

19:14.D.2.d Planting or removal of vegetation, except in the case of removing a healthy or undamaged tree with a diameter larger than 12"(circumference in excess of 36") when measured 4 feet above grade.

19:14.D.2.e Cleaning of any structure provided the cleaning is performed with proper care and will not harm any element of the structure. (Discouraged paint removal processes; sandblasting, chemical paint removers, high pressure water wash, heat tools, and rotary tools). The gentlest process is always preferred.

19:14.D.3 **PROJECTS OF MINIMAL IMPACT.** For the purpose of this section, the following activities shall be considered to be projects of minimal impact and shall be reviewed and approved, conditionally approved or disapproved by the Planner, CO, and HDC Chair. A monthly report shall be provided to the HDC informing them of any approved projects of minimal impact.

19:14.D.3.a Erection, construction, or repair of any fence or fence like structure. A fence that is less than 30 percent open such as a stockade fence should not be located in front of the house. Chain Link fence is not allowed unless necessary in cases such as, but not limited to, industrial applications or ball fields.

19:14.D.3.b Erection, construction, or repair of any signs provided the proposed signage adheres to both the HDC Sign Standards for Review, Chapter 19.20 of the Somersworth Ordinances, and other City Sign Ordinances.

19:14.D.3.c Simple roof replacements that involve no alterations to the roof, roof trim, or any roof features. Any changes to the pitch, size, angle, addition, roof

feature, or any other change to any feature of the roof shall require HDC approval.

19:14.D.3.d Sheds less than 120 square feet provided they match the style and texture of the other structures on the property.

19:14.D.3.e Installation or removal of storm doors or windows provided the size and shape match the existing window/door and it adheres to the HDC Storm window and door in the Standards for Review, Section 3, Fenestration.

19:14.D.3.f Essential outdoor mechanical equipment (ducts, fans, solar panels, etc.) provided they are installed in locations which create the least disturbance to the historical integrity of the building and which involve the minimum alteration to its structure.

19:14.D.4 **APPROVAL OF MINIMAL IMPACT** The Planner, CO, and HDC Chair shall have final authority to approve, conditionally approve, or disapprove applications for projects of minimal impact. However, if the Planner, CO, and HDC Chair or the HDC Chair's designee does not unanimously agree that the application is minimal impact, the application shall be forwarded to the HDC for full review and action. Furthermore, the decision of the Planner, CO, and HDC Chair or the HDC Chair's designee may be appealed to the HDC provided that notice of the appeal is filed within ten (10) workdays of the staff's decision.

19:14.D.5 **PROJECTS OF MAJOR IMPACT** Any development activity not specifically listed as an exempt activity or as a project of minimal impact shall be considered a project of major impact and shall go through the review process of the HDC as outlined in the sections below.

19:14.E Section E PROCEDURES FOR REVIEW FOR CERTIFICATE OF APPROPRIATENESS

19:14.E.1 **APPLICATION**. All application packages shall include the items listed below, as outlined.

19:14.E.1.a **APPLICATION FORM**. A completed application form available from and provided by the Somersworth Development Services.

19:14.E.1.b **PHOTOGRAPHS**. Current photographs of each side of any building proposed for alterations, additions, or demolition. Current photographs of the streetscape in both directions of the street, or both streets if a corner lot.

19:14.E.1.c **ELEMENTS SUBJECT TO REVIEW**. It is the responsibility of the applicant and/or the contractor to describe in a clear manner every element of the proposed project that is subject to the HDC review.

19:14.E.1.d **PLANS**. Detail drawings of all project specific elements. This may be limited to a detailed drawing of one window in the case of an application proposing

replacement of only windows involving no change to the window sizes, but will need additional drawings if more than one window size or style is involved.

19:14.E.1.e **MEASUREMENTS**. Measurements shall be displayed on all plans including building heights. Measurements shall be provided in a clear manner and include dimensions building details such as but not limited to doors, windows, trim, overhangs, and siding exposure.

19:14.E.1.f **REVISIONS**. When subsequent revised plans are submitted the revised plans shall clearly indicate every change from the prior set of plans. This should not be written on or over the older set of plans.

19:14.E.1.g **SAMPLES**. Manufacturer pamphlets, cut sheets, or samples will be needed if the material proposed is typically discouraged by the Historic District Commission.

19:14.E.2 ADDITIONAL REQUIREMENTS. The following are additional needs if an Application proposes significant changes.

19:14.E.2.a **ELEVATION DRAWINGS**. An Application for projects involving changes to the buildings details, openings, height, roofline, mechanical units, or projections shall also provide elevation drawings. Elevation drawing shall show each affected façade of the building, structure, or sign clearly depicting existing conditions and proposed changes. If the overall height change is proposed, adjacent buildings shall be included in a streetscape drawing to act as a fixed benchmark.

19:14.E.2.b **SITE PLANS**. Any site work, new construction, demolition, or change to an existing building's footprint shall provide a Site Plan drawn to scale clearly depicting existing conditions and proposed work. This shall include topographic details in the vicinity of the building due to the steep nature of the land within the Historic District. Plans shall depict any land within 15' of any retaining walls, foundation, or new construction. A streetscape drawing depicting adjacent buildings shall be included to act as a fixed benchmark.

19:14.E.2.c **ENGINEER REPORT**. Any proposed demolition shall require a detailed report from an engineer licensed in the State of New Hampshire as to the soundness of the structure. Any dangerous conditions should be identified. Include the engineer's resume highlighting professional experience in historic property assessment/rehabilitation. Exception: Structures deemed not contributing by the HDC

19:14.E.3 **APPLICATION DEADLINE**. Complete applications must be filed with the Planning Dept, 14 days prior to the next scheduled HDC meeting to be placed on that meeting's agenda.

19:14.E.4 **REVIEW OF THE APPLICATION**

19:14.E.4.a **DETERMINATION OF APPROPRIATENESS**. In deliberation whether to approve or deny an application the HDC shall consider whether or not

the proposed work described in the application conforms to the Somersworth HDC Standards for Review.

19:14.E.4.b **SCHEDULING AND COMPLETENESS**. The HDC will consider applications only at its scheduled meetings. At that time the HDC may consider denying the application if it is for any reason incomplete as outlined in the Application section. This will be decided by a majority vote of present HDC members. If denied for this reason a specific list of what was missing will be provided to the applicant within 10 days.

19:14.E.4.c **PRESENTATION OF THE APPLICATION**. The applicant or their designee should attend the meeting to present the application and be prepared to answer any questions. If the HDC is unable to obtain answers during the review of the application, the HDC has grounds for denial of the application.

19:14.E.4.d **PUBLIC MEETING**. Each reviewed application will allow comment by any abutters, citizens, or other interested people-

19:14.E.4.e **COMPLIANCE PARAMETERS**. When the Commission deems it appropriate in dealing with violations of this ordinance and other matters, it may work with property owners in a flexible manner in setting timeframes and other benchmarks to guide how and when specific work must be completed.

19:14.E.5 **ACTION ON AN APPLICATION**

19:14.E.5.a To the extent practical and appropriate, an applicant may file applications for permits simultaneously to any other board or commission. These plans should be consistent with one another in regard to all details.

19:14.E.5.b If any changes are made by other boards or commissions on elements under the HDC purview, the applicant shall reappear before the HDC for approval.

19:14.E.5.c On more complex projects involving other boards or commissions applicants should consider presenting a preliminary proposal at any HDC meeting (consisting of simple hand sketches or other lesser requirements) prior to submitting an official formal application. During the preliminary proposal the HDC shall;

- i. allow informal discussion about the project.
- ii. offer comments, concerns, and or suggestions to aid the applicant.
- iii. make no official decision or ruling during the discussion.

19:14.E.5.d The Commission shall file a Certificate of Appropriateness or a Certificate of Denial with the Planning Department.

19:14.E.5.e The HDC shall render a decision within thirty-five (35) days after the HDC accepts the application as complete.

19:14.E.5.f Failure to act on an application within the period of time specified

above shall be deemed to constitute approval of the application as submitted.

19:14.E.5.g The Certificate of Appropriateness by approval or by default of the Commission to take action shall be effective for 1 year after the date of approval, but will not expire during an active building permit.

19:14.E.5.h If the applicant has neither obtained a building permit (or the extension for one) nor commenced work within 1 year after the date of approval, then the approval shall automatically be deemed null and void.

19:14.E.5.i When an application is rejected as being incomplete or denied, the reason(s) for the decision shall be conveyed to the applicant and in the Certificate of Denial and clearly stated in the minutes of the meeting.

19:14.E.5.j At the HDC's discretion on larger or more sensitive projects, the HDC may recommend that the Code Officer oversee construction of the elements and details of the building that are part of the HDC's approval to ensure the building is constructed correctly in accordance with the proposal. The HDC may request that progress reports be submitted to the City and it may identify the requested parameters for those progress reports.

19:14.E.5.k Once a Certificate of Appropriateness has been issued, any changes in construction, due to any reason shall be brought back to the HDC for review and approval. The Code Officer (CO) may issue a Stop Work Order if any project is not in conformance with the application approved by the HDC. However, if a proposed change is very minor, then Code Enforcement and HDC Chair may approve the proposed change if:

- i. The change is deemed to be insignificant
- ii. The change would be barely noticeable, if at all, from a public right of way and
- iii. The change would be consistent with the intent of the earlier approval.

19:14.E.6 **DECISIONS / FINDINGS.** For a project of minor or major impact, a building or demolition permit shall not be issued until and unless a COA is issued by the HDC in accordance with the provisions of this section.

19:14.E.6.a At the conclusion of its review, the HDC shall issue in writing one of the following:

- i. If in the opinion of a majority of HDC members present and voting the applicant's proposal meets the purpose of this section, then the Historic District Commission shall issue a COA signed by the Chair together with any changes, conditions and/or stipulations. After the issuance of the COA, the Building Inspector may issue any building, demolition or other permit for the approved project; or
- ii. If in the opinion of the majority of the HDC members present and voting the

applicant's proposal does not meet the purposes of this section, then the HDC shall issue a Notice of Disapproval in writing together with the reasons for such decision signed by the Chair and all voting HDC members. The issuance of a Notice of Disapproval shall prohibit the Building Inspector from issuing a building, demolition or other permit; or

- iii. If acceptable with the applicant, and in the opinion of the majority of the HDC members present and voting the application may be tabled.

19:14.F Section F STANDARDS FOR REVIEW

19:14.F.1 The Standards for Review articulates how and why a building should be similar to surrounding buildings. They will articulate the buildings form, scale, setback, materials, and other pertinent information, to properly blend a new, altered, or remodeled building into the existing historic streetscape or context.

19:14.G Section G APPEALS AND ENFORCEMENT.

19:14.G.1 **RESUBMITTAL.** If the applicant's proposal is denied, the applicant may, and is encouraged to, make modifications to the proposed plans and shall have the right to resubmit the application at any time after so doing.

19:14.G.2 **APPEAL PROCESS.** Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal, by filing a motion for rehearing before the HDC. Such an appeal when taken shall stay all proceedings in furtherance of the action appealed, unless the HDC shall certify that by reason of facts stated in a certificate issued by it, a stay would cause imminent peril of life or property. The appeal shall be made within thirty (30) days after the decision of the HDC. The 30-day time period shall be counted in calendar days beginning with the date upon which the HDC issued the decision. After appeal, if said person or persons are still aggrieved by the HDC. They have the right to appeal that decision to the Zoning Board of Adjustment or to pursue any other remedy accorded by NH State law.

19:14.G.3 REQUIRED MAINTENANCE.

19:14.G.3.a **RESPONSIBILITY.** A property owner in the Historic District is prohibited from allowing his or her property to deteriorate in the manners specified in Chapter 19:24 of the Somersworth Ordinances and failing to correct those conditions shall be subject to enforcement under Chapter 24, The Property Maintenance Code. Any corrections as directed by such enforcement action must also adhere to this chapter section, 19:14, in its entirety.

19:14.G.4 ENFORCEMENT AND VIOLATIONS.

19:14.G.4.a **ENFORCEMENT.** These regulations, in accordance with RSA 674:49 may be enforced under the authority of NH State RSA 676 as the same may be subsequently amended, and such other authorities as may be available, Chapter 24 of the Somersworth Ordinance, the Property Maintenance Code or any other remedy

afforded by law.

19:14.G.4.b **SEVERABILITY**. If any of the provisions set forth in these ordinances are held to be invalid, for any reason, by a Court of Law, such holding shall not invalidate other provisions contained herein

19:14.G.4.c **VIOLATIONS**. If during the regular inspections by the CO a property is found to not be in compliance with the provisions of this section, or if the property is found in violation of Chapter 24 of the Somersworth Code-shall be subject to the established violation method used for violations of Chapter 24 of the Somersworth Code

19:14.H Section H DEFINITIONS.

19:14.H.1 **CITY**; City of Somersworth

19:14.H.2 **CITY COUNCIL**; Somersworth City Council

19:14.H.3 **CO**; Code Officer (Code Enforcement Officer, Code Compliance Officer)

19:14.H.4 **COA**; Certificate of Appropriateness

19:14.H.5 **COMMISSION**; Historic District Commission

19:14.H.6 **DISTRICT**; Somersworth Historic District

19:14.H.7 **HD**; Historic District

19:14.H.8 **HDC**; Historic District Commission

19:14.H.9 **NRHP**; National Register of Historic Places

19:14.H.10 **SHPO**; State Historic Preservation Office

Authorization	
<i>Sponsored by Request by:</i> Mayor Dana S. Hilliard	<i>Approved:</i> City Attorney

City of Somersworth – Ordinance 4-19

History

First Read Date:	10/15/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Ordinance 4-19		PASSED	FAILED



City of Somersworth – Ordinance

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19:14.B.2.b Establish rules and regulations for the conduct of business which are consistent with the purposes of the Historic District and in conformance with applicable NH State statutes. Members shall be governed by a code of conduct, in conformance with NH State statutes, and in accordance with the City Charter, to prevent real and apparent conflicts of interest in the performance of the HDC's responsibilities;

19:14.B.2.c Establish, adopt, and make available to applicants and the public, guidelines and standards for review to be used by the HDC in reviewing and ~~passing~~ deciding ~~of~~ on applications for Certificate of Appropriateness(COA) to construct, alter, modify, repair, move, or demolish any building and/or structure within an Historic District;

19:14.B.2.d Approve, disapprove, in whole or in part, applications for which a COA is required per the Zoning Ordinance;

19:14.B.2.e Request reports and recommendations from City departments and agencies and from other organizations and sources which may have information or can provide advice pertinent to the application or its impact to the district;

19:14.B.2.f Retain professional consultants as may be necessary to carry out the purpose of this section;

- i. Applicants may be asked to retain professional consultants in regards to supplying information on the applicant's project. This would be at the applicant's expense.
- ii. The HDC may retain professional consultants subject to the availability of funds to help provide support and information to help carry out the HDC's authority and purview.

19:14.B.2.g Investigate and recommend to the City Council new areas for designation as Historic Districts.

19:14.B.2.h Act in an advisory role to other officials agencies, departments, boards, commissions, and committees of the local government, regarding the identification, protection, and preservation of local resources;

19:14.B.2.i Act as liaison on behalf of the local government to individuals and organizations concerned with historic preservation;

19:14.B.2.j Work toward continuing education of citizens within the HDC's jurisdiction, regarding historic preservation issues and concerns;

19:14.B.2.k Recommend and propose amendments and/or revisions to the boundaries and limits of any Historic District to the City Council; and

19:14.B.2.l Keep or cause to be kept accurate and complete records and minutes of meetings, findings of the HDC, and records of each application, all of which shall be

part of the public record.

19:14.C Section C DESIGNATION OF HISTORIC DISTRICT

19:14.C.1 **DESCRIPTION** The Historic District is an overlay zoning district, meaning that it is a zoning district which is superimposed over other zoning districts. In all cases where the Historic District is superimposed over another zoning district, that district whose regulations are more restrictive shall apply.

19:14.C.2 **PURPOSE** It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, and continued use of structures, sites, areas, and districts within the City of Somersworth having historic, architectural, cultural or design significance is required in the interest of the health, economic prosperity, cultural enrichment, and general welfare of the community. The purposes of this ordinance are to:

19:14.C.2.a Safeguard the heritage of Somersworth by providing for the protection of the structures and areas representing significant elements of its history;

19:14.C.2.b Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within Historic Districts reflecting unique and established architectural traditions typical of houses in excess of 50 years old;

19:14.C.2.c Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;

19:14.C.2.d Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;

19:14.C.2.e Stabilize and improve property values within the City; and

19:14.C.2.f Promote the private and public use of structures and areas within Historic Districts for the education, prosperity and general welfare of the community.

19:14.C.3 **DISTRICT BOUNDARIES** The location and boundaries of both the "Hilltop Historic District" and the "Industrial and Commercial Historic District" are hereby established as shown on a map entitled "Historic Districts, City of Somersworth, New Hampshire, January 1992", and as amended, which is hereby declared to be part of this ordinance.

19:14.D Section D PURVIEW OF THE COMMISSION

19:14.D.1 **ACTIVITIES REQUIRING REVIEW**. It shall be unlawful for any person to construct, alter, modify, repair, move, or demolish any building, structure, or improvement which lies within a Historic District without first obtaining a Certificate of Appropriateness (COA) from the Historic District Commission (HDC), or in the case of a project of minimal impact, the Planner, Code Officer (CO), and the HDC Chair, in the manner prescribed in this section.

19:14.D.2. **EXEMPT ACTIVITIES.** Exempt activities described in this section do not require review of the applicant's proposed projects or HDC approval. This section does not exempt any property owner from being required to obtain any other permit prescribed by the State of NH or the City of Somersworth.

19:14.D.2.a Any interior construction, alteration, or repair that does not change in any way the outward appearance or any exterior details of the building.

19:14.D.2.b Ordinary maintenance, repair, or painting of any exterior architectural feature which does not involve a change in design, materials, or outer appearance. If any element of a structure must be temporarily removed for painting or repair, it shall be reinstalled within 30 days. Painting must be of standard workmanship quality.

19:14.D.2.c Landscaping that does not affect the current grade of the site, provided there is no change to any vertical structure, such as construction or alteration of walkways and patios.

19:14.D.2.d Planting or removal of vegetation, except in the case of removing a healthy or undamaged tree with a diameter larger than 12”(circumference in excess of 36”) when measured 4 feet above grade.

19:14.D.2.e Cleaning of any structure provided the cleaning is performed with proper care and will not harm any element of the structure. (Discouraged paint removal processes; sandblasting, chemical paint removers, high pressure water wash, heat tools, and rotary tools). The gentlest process is always preferred.

19:14.D.3 **PROJECTS OF MINIMAL IMPACT.** For the purpose of this section, the following activities shall be considered to be projects of minimal impact and shall be reviewed and approved, conditionally approved or disapproved by the Planner, CO, and HDC Chair, or their designee, (all three required for approval). A monthly report shall be provided to the HDC informing them of any approved projects of minimal impact.

19:14.D.3.a Erection, construction, or repair of any fence or fence like structure. A fence that is less than 30 percent open such as a stockade fence should not be located in front of the house. Chain Link fence is not allowed unless necessary in cases such as, but not limited to, industrial applications or ball fields.

19:14.D.3.b Erection, construction, or repair of any signs provided the proposed signage adheres to both the HDC Sign Standards for Review, Chapter 19.20 of the Somersworth Ordinances, and other City Sign Ordinances.

19:14.D.3.c Simple roof replacements that involve no alterations to the roof, roof trim, or any roof features. Any changes to the pitch, size, angle, addition, roof

feature, or any other change to any feature of the roof shall require HDC approval.

19:14.D.3.d Sheds less than 120 square feet provided they match the style and texture of the other structures on the property.

19:14.D.3.e Installation or removal of storm doors or windows provided the size and shape match the existing window/door and it adheres to the HDC Storm window and door in the Standards for Review, Section 3, Fenestration.

19:14.D.3.f Essential outdoor mechanical equipment (ducts, fans, solar panels, etc.) provided they are installed in locations which create the least disturbance to the historical integrity of the building and which involve the minimum alteration to its structure.

19:14.D.4 **APPROVAL OF MINIMAL IMPACT** The Planner, CO, and HDC Chair shall have final authority to approve, conditionally approve, or disapprove applications for projects of minimal impact. However, if the Planner, CO, and HDC Chair or the HDC Chair's designee does not unanimously agree that the application is minimal impact, the application shall be forwarded to the HDC for full review and action. Furthermore, the decision of the Planner, CO, and HDC Chair or the HDC Chair's designee may be appealed to the HDC provided that notice of the appeal is filed within ten (10) workdays of the staff's decision.

19:14.D.5 **PROJECTS OF MAJOR IMPACT** Any development activity not specifically listed as an exempt activity or as a project of minimal impact shall be considered a project of major impact and shall go through the review process of the HDC as outlined in the sections below.

19:14.E Section E PROCEDURES FOR REVIEW FOR CERTIFICATE OF APPROPRIATENESS

19:14.E.1 **APPLICATION**. All application packages shall include the items listed below, as outlined.

19:14.E.1.a **APPLICATION FORM**. A completed application form available from and provided by the Somersworth Development Services.

19:14.E.1.b **PHOTOGRAPHS**. Current photographs of each side of any building proposed for alterations, additions, or demolition. Current photographs of the streetscape in both directions of the street, or both streets if a corner lot.

19:14.E.1.c **ELEMENTS SUBJECT TO REVIEW**. It is the responsibility of the applicant and/or the contractor to describe in a clear manner every element of the proposed project that is subject to the HDC review.

19:14.E.1.d **PLANS**. Detail drawings of all project specific elements. This may be limited to a detailed drawing of one window in the case of an application proposing

replacement of only windows involving no change to the window sizes, but will need additional drawings if more than one window size or style is involved.

19:14.E.1.e **MEASUREMENTS**. Measurements shall be displayed on all plans including building heights. Measurements shall be provided in a clear manner and include dimensions building details such as but not limited to doors, windows, trim, overhangs, and siding exposure.

19:14.E.1.f **REVISIONS**. When subsequent revised plans are submitted the revised plans shall clearly indicate every change from the prior set of plans. This should not be written on or over the older set of plans.

19:14.E.1.g **SAMPLES**. Manufacturer pamphlets, cut sheets, or samples will be needed if the material proposed is ~~typically discouraged~~[not referred to in the Standards for Review document approved](#) by the Historic District Commission.

19:14.E.2 ADDITIONAL REQUIREMENTS. The following are additional ~~needs~~[requirements](#) if an Application proposes significant changes.

19:14.E.2.a **ELEVATION DRAWINGS**. An Application for projects involving changes to the buildings details, openings, height, roofline, mechanical units, or projections shall also provide elevation drawings. Elevation drawing shall show each affected façade of the building, structure, or sign clearly depicting existing conditions and proposed changes. If the overall height change is proposed, adjacent buildings shall be included in a streetscape drawing to act as a fixed benchmark.

19:14.E.2.b **SITE PLANS**. Any site work, new construction, demolition, or change to an existing building's footprint shall provide a Site Plan drawn to scale clearly depicting existing conditions and proposed work. This shall include topographic details in the vicinity of the building due to the steep nature of the land within the Historic District. Plans shall depict any land within 15' of any retaining walls, foundation, or new construction. A streetscape drawing depicting adjacent buildings shall be included to act as a fixed benchmark.

19:14.E.2.c **ENGINEER REPORT**. Any proposed demolition shall require a detailed report from an engineer licensed in the State of New Hampshire as to the soundness of the structure. Any dangerous conditions should be identified. Include the engineer's resume highlighting professional experience in historic property assessment/rehabilitation. Exception: Structures deemed not contributing by the HDC

19:14.E.3 **APPLICATION DEADLINE**. Complete applications must be filed with the Planning Dept, 14 days prior to the next scheduled HDC meeting to be placed on that meeting's agenda.

19:14.E.4 REVIEW OF THE APPLICATION

19:14.E.4.a **DETERMINATION OF APPROPRIATENESS**. In ~~deliberation~~[determining](#) whether to approve or deny an application the HDC shall consider

whether or not the proposed work described in the application conforms to the Somersworth HDC Standards for Review.

19:14.E.4.b **SCHEDULING AND COMPLETENESS**. The HDC will consider applications only at its scheduled meetings. At that time the HDC may consider denying the application if it is for any reason incomplete as outlined in the Application section. This will be decided by a majority vote of present HDC members. If denied for this reason a specific list of what was missing will be provided to the applicant within 10 days.

19:14.E.4.c **PRESENTATION OF THE APPLICATION**. The applicant or their designee should attend the meeting to present the application and be prepared to answer any questions. If the HDC is unable to obtain answers during the review of the application, ~~the HDC has~~this constitutes grounds for denial of the application.

19:14.E.4.d **PUBLIC MEETING**. Each ~~reviewed~~ application reviewed by the HDC ~~will~~shall allow comment by any abutters, citizens, or other interested people.

19:14.E.4.e **COMPLIANCE PARAMETERS**. When the Commission deems it appropriate in dealing with violations of this ordinance and other matters, it may work with property owners in a flexible manner in setting timeframes and other benchmarks to guide how and when specific work must be completed.

19:14.E.5 **ACTION ON AN APPLICATION**

19:14.E.5.a To the extent practical and appropriate, an applicant may file applications for permits simultaneously ~~to-with~~ any other board or commission. These plans should be consistent with one another in regard to all details.

19:14.E.5.b If any changes are made by other boards or commissions on elements under the HDC purview, the applicant shall reappear before the HDC for approval.

19:14.E.5.c On more complex projects involving other boards or commissions applicants ~~should consider~~may ~~presenting~~ a preliminary proposal at any HDC meeting (consisting of simple hand sketches or other lesser requirements) prior to submitting an official formal application. During the preliminary proposal the HDC shall;

- i. allow informal discussion about the project.
- ii. offer comments, concerns, and or suggestions to aid the applicant.
- iii. make no official decision or ruling during the discussion.

19:14.E.5.d The Commission shall file a Certificate of Appropriateness or a Certificate of Denial with the Planning Department.

19:14.E.5.e The HDC shall render a decision within thirty-five (35) days after the HDC accepts the application as complete.

19:14.E.5.f Failure to act on an application within the period of time specified above shall be deemed to constitute approval of the application as submitted.

19:14.E.5.g The Certificate of Appropriateness by approval or by default of the Commission ~~per 19.14.E.5.f to take action~~ shall be effective for 1 year after the date of approval, but will not expire during an active building permit.

19:14.E.5.h If the applicant has neither obtained a building permit (or the extension for one) nor commenced work within 1 year after the date of approval, then the approval shall automatically be deemed null and void.

19:14.E.5.i When an application is rejected as being incomplete or denied, the reason(s) for the decision shall be conveyed to the applicant in writing and in the Certificate of Denial and clearly stated in the minutes of the meeting.

19:14.E.5.j At the HDC's discretion on larger or more sensitive projects, the HDC may recommend that the Code Officer oversee construction of the elements and details of the building that are part of the HDC's approval to ensure the building is constructed correctly in accordance with the proposal. The HDC may request that progress reports be submitted to the City and it may identify the requested parameters for those progress reports.

19:14.E.5.k Once a Certificate of Appropriateness has been issued, any changes in construction, due to any reason, shall be brought back to the HDC for review and approval. The Code Officer (CO) may issue a Stop Work Order if any project is not in conformance with the application approved by the HDC. However, if a proposed change is very minor, then Code Enforcement and HDC Chair may approve the proposed change if:

- i. The change is deemed to be insignificant
- ii. The change would be barely noticeable, if at all, from a public right of way and
- iii. The change would be consistent with the intent of the earlier approval.

19:14.E.6 **DECISIONS / FINDINGS.** For a project of minor or major impact, a building or demolition permit shall not be issued until and unless a COA is issued by the HDC in accordance with the provisions of this section.

19:14.E.6.a At the conclusion of its review, the HDC shall issue in writing one of the following:

- i. If in the opinion of a majority of HDC members present and voting the applicant's proposal meets the purpose of this section, then the Historic District Commission shall issue a COA signed by the Chair together with any changes, conditions and/or stipulations. After the issuance of the COA, the Building Inspector may issue any building, demolition or other permit for the approved project; or

- ii. If in the opinion of the majority of the HDC members present and voting the applicant's proposal does not meet the purposes of this section, then the HDC shall issue a Notice of Disapproval in writing together with the reasons for such decision signed by the Chair and all voting HDC members. The issuance of a Notice of Disapproval shall prohibit the Building Inspector from issuing a building, demolition or other permit; or
- iii. ~~If acceptable with the applicant, and in~~In the opinion of the majority of the HDC members present and voting the application may be tabled.

19:14.F Section F STANDARDS FOR REVIEW

19:14.F.1 The Standards for Review shall articulates how and why a building should be similar to surrounding buildings. They will articulate the buildings form, scale, setback, materials, and other pertinent information, to properly blend a new, altered, or remodeled building into the existing historic streetscape or context.

19:14.G Section G APPEALS AND ENFORCEMENT.

19:14.G.1 **RESUBMITTAL.** If the applicant's proposal is denied, the applicant may, and is encouraged to, make modifications to the proposed plans and shall have the right to resubmit the application at any time after so doing.

19:14.G.2 **APPEAL PROCESS.** ~~Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal, by filing a motion for rehearing before the HDC. Such an appeal when taken shall stay all proceedings in furtherance of the action appealed, unless the HDC shall certify that by reason of facts stated in a certificate issued by it, a stay would cause imminent peril of life or property. The appeal shall be made within thirty (30) days after the decision of the HDC. The 30 day time period shall be counted in calendar days beginning with the date upon which the HDC issued the decision. After appeal, if said person or persons are still aggrieved by the HDC. They have the right to appeal that decision to the Zoning Board of Adjustment or to pursue any other remedy accorded by NH State law.~~Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal in accordance with RSA 677:17

19:14.G.3 REQUIRED MAINTENANCE.

19:14.G.3.a **RESPONSIBILITY.**A property owner in the Historic District is prohibited from allowing his or her property to deteriorate in the manners specified in Chapter 19:24 of the Somersworth Ordinances and failing to correct those conditions shall be subject to enforcement under Chapter 24, The Property Maintenance Code. Any ~~corrections~~corrective action as directed by such enforcement action must also adhere to this chapter section, 19:14, in its entirety.

19:14.G.4 ENFORCEMENT AND VIOLATIONS.

19:14.G.4.a **ENFORCEMENT.** These regulations, in accordance with RSA 674:49 may be enforced under the authority of either NH State RSA 676, as the same may

be subsequently amended, and such other authorities as may be available, or Chapter 24 of the Somersworth Ordinance, the Property Maintenance Code or any other remedy afforded by law.

~~19:14.G.4.b **SEVERABILITY.** If any of the provisions set forth in these ordinances are held to be invalid, for any reason, by a Court of Law, such holding shall not invalidate other provisions contained herein~~

19:14.G.4.~~eb~~ **VIOLATIONS.** If during the regular inspections by the CO a property is found to not be in compliance with the provisions of this section, or if the property is found in violation of Chapter 24 of the Somersworth Code shall be subject to the established violation method used for violations of Chapter 24 of the Somersworth Code

19:14.H Section H DEFINITIONS.

19:14.H.1 **CITY**; City of Somersworth

19:14.H.2 **CITY COUNCIL**; Somersworth City Council

19:14.H.3 **CO**; Code Officer (Code Enforcement Officer, Code Compliance Officer)

19:14.H.4 **COA**; Certificate of Appropriateness

19:14.H.5 **COMMISSION**; Historic District Commission

19:14.H.6 **Contributing structure: any building, object, or structure which adds to the historical integrity or architectural qualities that make the historic district, listed locally or federally, significant**

19:14.H.~~6~~7 **DISTRICT**; Somersworth Historic District

19:14.H.~~7~~8 **HD**; Historic District

19:14.H.~~8~~9 **HDC**; Historic District Commission

19:14.H.~~9~~10 **NRHP**; National Register of Historic Places

19:14.H.~~10~~11 **SHPO**; State Historic Preservation Office

Authorization	
<i>Sponsored by Request by:</i> Mayor Dana S. Hilliard	<i>Approved:</i> City Attorney

City of Somersworth – Ordinance 4-19

History

First Read Date:	10/15/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Councilor _____ moved for adoption, seconded by Councilor _____.

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Ordinance 4-19		PASSED	FAILED



City of Somersworth – Ordinance

Ordinance No: 5-19

SUPPLEMENTAL APPROPRIATION FOR ENGINEERING SERVICES FOR IMPROVEMENTS AT THE SOMERSWORTH WASTEWATER TREATMENT FACILITY

October 15, 2018

THE CITY OF SOMERSWORTH ORDAINS THAT pursuant to Section 7.7(A) of the City Charter:

The annual budget for the City of Somersworth for Fiscal Year 18-19 is amended as follows:

Appropriate \$155,000 from Sewer Utility Fund budget as follows:

Original Budget
\$ 2,257,532

Amendment
\$ 155,000

Revised Budget
\$ 2,412,532

Approved as to Funding:

Scott A. Smith
Director of Finance and Administration

Recorded by:

Trish Harris
City Clerk

Background:

This ordinance appropriates funding for an amendment to the engineering design services portion of the contract with Wright/Pierce Engineers for necessary improvements at the Somersworth Wastewater Treatment Facility.

Authorization

Sponsored by:

David A. Witham
Dale R. Sprague
Martin Pepin
Kenneth S. Vincent
Richard R. Michaud

Approved:

City Attorney

City of Somersworth – Ordinance 5-19

History

First Read Date:	10/15/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Councilor _____ moved for adoption, seconded by Councilor _____.

Discussion

This Ordinance requires a public hearing and requires a 2/3 majority vote of the City Council after the public hearing subject to Section 7.4.1 and .Section 7.7 (A) of the City Charter.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham *		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Ordinance 5-19		PASSED	FAILED



City of Somersworth – Resolution

Resolution No: 20-19

TO AUTHORIZE THE CITY MANAGER TO AMEND THE CONTRACT WITH WRIGHT PIERCE ENGINEERS OF PORTSMOUTH, NH TO INCLUDE ADDITIONAL ENGINEERING SERVICES AT THE SOMERSWORTH WASTEWATER TREATMENT FACILITY

October 15, 2018

WHEREAS, The City Council adopted Resolution No. 22-18 to authorize the City Manager to amend the contract with Wright Pierce Engineers for an amount not to exceed \$863,000 (Eight Hundred Sixty Three Thousand dollars) for engineering services to provide a plant facility assessment and engineering and design specifications for facility improvements at the Wastewater Treatment Facility, and

WHEREAS, the plant facility assessment identified additional improvements such as replacing the process water line, replace chemical piping and manholes, and additional building improvements that weren't included in the original scope of work, and

WHEREAS, Wright Pierce has provided the City a proposal to provide engineering and design services for the additional improvements at a cost of \$155,000 (One Hundred Fifty Five Thousand dollars) which would increase the total contract to an amount not to exceed \$1,018,000 (One Million Eighteen Thousand dollars) ;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to amend the contract with Wright Pierce Engineers of Portsmouth, N.H. to include additional engineering services at the Somersworth Wastewater Treatment Facility for an amount of \$155,000 (One Hundred Fifty Five Thousand dollars) thereby increasing the total contract to an amount not to exceed \$1,018,000 (One Million Eighteen Thousand dollars), and to take any other action related to this contract determined to be in the best interest of the City.

Authorization

Sponsored by:

David A. Witham
Dale R. Sprague
Martin Pepin
Kenneth S. Vincent
Richard R. Michaud

Approved:

City Attorney

City of Somersworth – Resolution 20-19

History

First Read Date:	10/15/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Councilor _____ moved for adoption, seconded by Councilor _____.

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham *		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Resolution 20-19		PASSED	FAILED



City of Somersworth – Resolution

Resolution No: 21-19

TO SUPPORT AN INITIATIVE TO VOLUNTARILY REDUCE THE DISTRIBUTION AND USE OF SINGLE-USE PLASTICS AND EXPANDED POLYESTERSTYRENE (EPS) PRODUCTS IN AN EFFORT TOWARDS SUSTAINING A CLEANER AND SAFER OCEAN, SALMON FALLS RIVER AND HEALTHIER ENVIRONMENT

November 5, 2018

WHEREAS, the City of Somersworth is diligent in its efforts to take a leadership role to preserve the beautiful environment which supports an environmentally sound, clean and healthy community for current and future generations; and

WHEREAS, maintaining and enhancing an environmentally sound, clean and healthy community, the quality of the waters of our ponds, the Salmon Falls River and Atlantic Ocean is important to the quality of life enjoyed by Somersworth residents, businesses, and visitors; and

WHEREAS, single-use plastics include water and soda bottles, plastic straws, plastic lids, plastic bags, and plastic utensils; and

WHEREAS, EPS products include "to-go" containers, leftover food containers ("clamshells"), and drink cups; and

WHEREAS, plastic drinking straws are provided by most establishments that offer cold drinks; and

WHEREAS, an estimated 500 million straws are used daily in the United States, and, plastic drinking straws found in the Salmon Falls River, on the beach, or washed up onto the beach pose a great threat to marine and other wildlife; and

WHEREAS, single use plastics and EPS products, being non-biodegradable, litter our landscape and beaches, pollute our ponds, rivers and oceans, killing or injuring an estimated one million or more animals annually; and

WHEREAS, once plastics and EPS products enter landfills, it takes 500-1,000 years for these products to decompose and, if ignored, create permanent damage to the environment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somersworth, THAT the City of Somersworth hereby recognizes the efforts of Sustainable Seacoast, the Post Landfill Action Network, and local merchants and residents to reduce the distribution and use of single-use plastics and EPS products;

THAT the City of Somersworth urges all citizens to embrace and commit to use the following in their daily lives -

- Reduce
- Reuse
- Recycle

THAT the City of Somersworth urges all citizens and business owners to voluntarily participate in this initiative to reduce the use of plastic straws, single-use plastics and EPS products and packaging through the use of reusable, compostable and/or recyclable materials;

THAT the City of Somersworth urges businesses that provide a product for which a straw would be desired are encouraged to offer a non-plastic straw or provide a plastic straw only upon individual request;

THAT the City of Somersworth, through recommendations from the Sustainability Committee, will officially recognize those businesses within the City who support, initiate and commit to a single-use plastics and EPS reduction program. This recognition will consist of a Proclamation of Appreciation and Recognition for placement at their business and will be in place so long as the business demonstrates its involvement and continuous support.

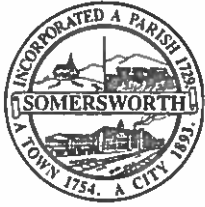
Authorization	
<i>Sponsored by Councilor:</i> Edward Levasseur Nancie Cameron	<i>Approved:</i> City Attorney

City of Somersworth – Resolution 21-19

History			
First Read Date:	11-05-2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	McCallion		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur *		
TOTAL VOTES:			
On / / . Resolution 21-19		PASSED	FAILED



City of Somersworth – Resolution

Resolution No: 22-19

TO AUTHORIZE THE CITY MANAGER TO TAKE THE NECESSARY ACTIONS TO DISCONTINUE FAIR COURT AS A CLASS V HIGHWAY

November 5, 2018

WHEREAS, the City of Somersworth has determined there is no longer a need to maintain Fair Court; and

WHEREAS, the Public Works & the Environment Committee of the City of Somersworth has reviewed this proposed action with staff and supports this discontinuance,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH, in accordance with RSA 231:43, that Fair Court, is hereby discontinued as a Class V highway, described as follows:

Starting at the northwest corner of map 10, lot 179 along Elm Street, going northerly approximately 36 feet to the southwest corner of map 10 lot 180, continuing easterly approximately 148 feet until reaching Main Street at the southeast corner of map 10, lot 180, then following southerly approximately 32 feet to the northeast corner of map 10, lot 179, and back 126 feet to the original location of the northwest corner of map 10, lot 179.

Authorization

Sponsored by Councilors:

Dale R. Sprague
David A. Witham

Approved:

City Attorney

City of Somersworth – Resolution 22-19

History

First Read Date:	11/05/2018	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Action

Councilor _____ moved for adoption, seconded by Councilor _____.

Discussion

Voting Record			YES	NO
Ward 1 Councilor	Pepin	*		
Ward 2 Councilor	Vincent			
Ward 3 Councilor	Dumont			
Ward 4 Councilor	McCallion			
Ward 5 Councilor	Michaud			
At Large Councilor	Witham			
At Large Councilor	Sprague			
At Large Councilor	Cameron			
At Large Councilor	Levasseur			
TOTAL VOTES:				
On / / . Resolution 22-19			PASSED	FAILED

PIERCE ATWOOD

MARK E. BELIVEAU

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Admitted in: NH

Memorandum

To: Robert M. Belmore, City Manager
Somersworth, New Hampshire

FM: Mark E. Beliveau, Esq.
Pierce Atwood LLP

DT: October 31, 2018

Re: Update on Status of Solar Array at Somersworth Landfill Superfund Site

Set forth below is a brief update on the opportunity to enter into a lease with a solar developer that would install a solar array at the landfill. I look forward to meeting with you and the City Council on Monday, November 5, 2018, to discuss this matter further and answer any questions.

Major Issues

- The Developer has rejected any provision that would allow the City to terminate the lease in the event the solar facility was having a material adverse effect on the City's obligations at the Landfill. Without the ability to terminate the lease, the City could find itself having to choose between being in breach of the EPA Consent Decree or the lease. Either option could result in significant liability for the City.
- The Developer has rejected any provision that requires a decommissioning bond or allows the City to dispose of the solar improvements or retain the solar improvements in the event the Developer/Lessee failed to remove all aboveground and below ground improvements. Instead, the Developer has offered to establish a decommissioning reserve at least 5 years prior to the termination of the lease. The fluid nature of the ownership structure, the lack of independent control over the reserve and the possibility of termination prior to the end of the lease term are reasons why a reserve is problematic.

Other Issues

- The City would be responsible for all costs incurred by the City at the Landfill directly attributable to the development, construction, operation and maintenance of the solar

facility. Meaning, if because of the solar facility the ongoing landfill cleanup remedy required modification, the City would have to pay the associated cost.

- In order to better understand the potential risk to the landfill remedy, Geosyntec has given us a proposal to review the possible adverse impacts of putting a solar array on the landfill. The estimated cost is \$3,800 for Phase 1 of the work and \$6,500 for Phase 2 of the work. Phase 2 work is only required if the parties have agreed to go forward with the solar project based on Phase 1 findings. The Developer has tentatively agreed to split the above costs. This work has not yet been authorized. In concept, EPA supports solar at the Landfill but any specific proposal and design is subject to EPA review and approval.
- The Developer has rejected the proposal for a parent guaranty of the operating entity's obligations under the lease. We asked for a parent guaranty because it is reasonable to assume that the operating entity/tenant, as a single purpose entity, would have a minimum capitalization and its sole asset would be the facility. In the event of a breach of the lease by the operating entity/tenant resulting in the City incurring damages, there may not be a financially viable party to pursue without a parent guaranty.
- In the most recent draft of the Solar Lease, NhSolar Garden and New England Solar Garden Corporation are out of the picture and the proposed tenant and operating entity, Somersworth Landfill Solar, LLC, a single purpose entity, is a subsidiary of BFP Acquisition Co Series 6, LLC.



COPY

RESOLUTION NO. 35-17 AUTHORIZE THE CITY MANAGER TO EXECUTE A TWENTY (20) YEAR LAND LEASE AGREEMENT WITH THE OPTION FOR TWO (2) ADDITIONAL 5-YEAR TERMS TO COMPLETE A GROUP NET METERING PROJECT WITH NhSOLAR GARDEN OF PORTSMOUTH, NH TO DEVELOP A SOLAR PROJECT PURSUANT TO RSA 362-A ON THE SOMERSWORTH SANITARY LANDFILL ON BLACKWATER ROAD.

Somersworth, NH
March 20, 2017

WHEREAS the City Council adopted Resolution 21-17 authoring the City Manager to enter into a letter of intent with NhSolar Garden of Portsmouth, NH to develop a solar project pursuant to RSA 362-A on the Somersworth Sanitary Landfill on Blackwater Road, and

WHEREAS a result of the adoption of Resolution 21-17 is city staff has negotiated with NhSolar Garden to develop the elements of an agreement to install and commission a solar array at this location, and

WHEREAS the Finance Committee of the City Council reviewed the proposed agreement with staff and recommends executing a solar array agreement with NhSolar Garden,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the City Manager is authorized to execute a twenty (20) year land lease agreement with the option for two (2) additional 5-year terms and a Group Net Metering Agreement with NhSolar Garden of Portsmouth, NH. to develop a solar project pursuant to RSA 362-A on the Somersworth Sanitary Landfill on Blackwater Road and take any and all other such actions relative to this project determined to be in the best interest of the City.

Sponsored by Councilors:

David A. Witham
Dale R. Sprague
Martin Pepin
Jennifer G. Soldati

Approved:

City Attorney



MEMORANDUM from Director Public Works & Utilities

Date: November 2, 2018
To: Bob Belmore, City Manager
From: Michael J. Bobinsky, Director of Public Works and Utilities
Cc: Gary Lemay, PE City Engineer
Re: 72 Buffumsville Road Sewer Extension Request

The Department has been in conversations with Mike French with determining a method for tying in municipal sanitary sewer to a new single-family residence under construction at 72 Buffumsville Road. Staff field-verified the location of the sewer main in Buffumsville Road for the property owner, who is also serving as the general contractor for the building construction. The Department alerted the property owner that there is no sewer within the roadway along the frontage of the property. There is, however, a sewer main to the west of the property that ends approximately 131 feet from the property line and a second sewer main to the east that terminates approximately 154 feet from the property line.

In spite of some of these difficulties, the property owner still wishes to connect the property to the City's sanitary sewer system, and considered, with guidance from his engineer, the following options to connect to the sanitary sewer system:

- 1) Obtain easements either west or east of the property to run a private sewer lateral and then connect to the municipal sewer mains in Buffumsville Road. One of these options would likely require a private pump station to accommodate flow to the City sewer main.
- 2) At the property owner's expense, seek City Council authorization to install an extension of the City's 8" sewer main that exists in the Buffumsville Road just east of the property such that the property owner can then run a private sewer lateral to connect to the new sewer main along the frontage of the property.

We understand the property owner was not successful in getting the needed sewer easements from his abutters. The owner then chose to obtain a licensed civil engineer to develop a set of plans for extending the municipal sewer in the street for our review and consideration. The property owner hired Civil Consultants Engineers to conduct this work.

Department staff has conducted an initial review and recommends that a third-party engineer review the drawings as well, which is consistent with other new development in the City. The cost of the third-party review is proposed to be borne by the property owner. Staff has recently obtained a proposal from Wright Pierce for the third-party review.

Pending Council consideration of the applicant's request, we propose to have the owner submit payment as an escrow for this third-party review.

The property owner has also submitted two (2) trench permits for the utility tie-ins, including one for the water service and one for the sewer connection. We have not acted on those permits and will wait until City Council consideration and approvals are granted to the property owner for the sewer extension before we take any further action.

October 31, 2018

Mr. Robert Belmore, City Manager
City of Somersworth
One Government Way
Somersworth, NH 03878



RE: Residential Sewer Service for 72 Buffumsville Road

Dear Mr. Belmore:

My daughter is in the process of constructing a single family dwelling on her property at 72 Buffumsville, Road.

1) City of Somersworth Sewer Ordinance (Chapter 8A) Article III, Section 4 states in part

"The owner of all houses, buildings or properties used for human occupancy, situated within the City of Somersworth and abutting on any street, in which there is now located or may in the future be located a public sanitary or combined toilet facilities therein, will connect such facilities directly with proper public sewer provided that said public sewer is within two hundred (200) feet of the property line."

While there is no sewer within the roadway along the frontage of the subject lot, the sewer line to the west is within 131' and the sewer line to the east is within 154' (distances from the sewer to the dwelling being 254' to the west or 188' to the east).

2) City of Somersworth Sewer Ordinance (Chapter 8A) Article VII, Section 9 suggests that the preferred service location permits gravity flow to the public sewer (otherwise an approved pumping system is needed).

The depth of the sewer to the west of the dwelling is such that a pump system would be needed to connect to that line (the requisite service line would need to run approximately 130', diagonally crossing the roadway). The depth of the sewer to the east of the dwelling would permit gravity flow and would need to run approximately 146' along the roadway (in the northerly lane and parallel to the roadway sideline).

On behalf of my daughter, I respectfully request permission to install a residential sewer service to the nearest manhole on Buffumsville Road on the treatment plant side (east) of the site. This sewer main line would meet the intent of both of the Ordinance sections cited above. I am proposing to pay for the cost of the sewer main extension. I understand that there are also trench opening permit applications and related fees that have to be paid and I have submitted applications for both the sewer and water trench permits to the Department of Public Works. Those applications are currently under review.

We would like to install a simple service line, however, we recognize that the City might desire to minimize the length of private service line within the Right-Of-Way. To that end, we have attached an engineered plan to extend the existing sewer main (however, that would seem excessive as no other property would be served) and our service connection would be to that line (only 27±' within the street ROW). These plans were prepared by my engineer from Civil Consultants.

I look forward to meeting with you to work out the details of this service connection.

Respectfully,



Michael French

Cc: Michael Bobinsky, Director of Public Works

PROCEDURES FOR SOMERSWORTH SCHOOL DISTRICT
TO WITHDRAW FROM SAU

Creation of a Planning Committee:

A. Vote of the legislative body which is the City Council in accordance with its current procedures:

- (1) City Council must hold a public hearing on withdrawal question at least fifteen (15) days but not more than thirty (30) days before voting on the question. (RSA 194-C:2, I(a)(2)(B)).
 - (a) Question is "Shall the Somersworth School District create a planning committee to study the feasibility of withdrawal from SAU 56?"
- (2) Notice of public hearing shall be posted in at least two (2) public places in the City and published in media of general usage and availability at least seven (7) days before the hearing. (RSA 194-C:2, I(a)(2)(B)).
- (3) Majority vote of City Council is required.

B. Voters may reconsider City Council's vote by referendum petition under the City's Charter Section 8.2:

- (1) Public vote on referendum is final and binding on creation of planning committee. (RSA 194-C:2, I(a)(2)(D)).

C. If no referendum petition is filed, vote of City Council controls.

Composition of the Planning Committee (RSA 194-C:2, I(a)(3)):

Seven (7) voting members plus the Superintendent, as a non-voting member:

- (1) Two (2) local school board members appointment by the school board.
- (2) One (1) member of the budget/financial committee, if any, appointed by the budget/financial committee.
- (3) Four (4) members of the public, appointed by the City Council (if no budget or financial committee, five (5) public members appointed by the City Council).
- (4) The Superintendent as a nonvoting member.

Meetings of Planning Committee (RSA 194-C.2, I(a)(4))

- (1) All meetings must comply with Right-to-Know Law.
- (2) First named School Board member calls first meeting no later than 30 days from his or her appointment.
- (3) At first meeting, Chairperson elected.
- (4) Notice of all meetings must be posted in all school districts in existing SAU and in any new SAU which may be created as a result of the withdrawal.
- (5) All meetings must allow for public comment.

Duration of the Planning Committee (RSA 194-C:2, I(a)(5)):

One (1) year from the date of appointment.

Duties of the Planning Committee for Withdrawal (RSA 194-C:2, IV):

- (1) Study the advisability of withdrawal, its organization, the operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of the School District.
- (2) Estimate construction and operating costs for the schools.

- (3) Investigate financial matters and other matters relating to the organization and operation.
- (4) Prepare an educational and fiscal analysis of the impact of the withdrawing school district on any school districts remaining in the SAU and a plan for the disposition of SAU assets and liabilities.
- (5) Consult with the Department of Education on unique issues and submit a report of its findings and recommendations to the School Districts within the existing SAU.

Recommendations of the Planning Committee: Three possibilities:

- A. If the decision is not to recommend withdrawal from the SAU (RSA 194-C:2, I(c)):
 - (1) The decision must be approved by the City Council.
 - (2) If the City Council agrees, the Planning Committee process ends, and the SAU remains as it was.
 - (3) If the City Council rejects the recommendation, its vote constitutes a vote to create a new Planning Committee which starts the process all over again.
 - (4) City Council's vote would be subject to reconsideration by referendum process in City Charter.
- B. If the Planning Committee recommends withdrawal (RSA 194-C:2, I(b) and IV(b)):
 - (1) It must also prepare a plan for:
 - (a) providing superintendent services for the proposed SAU, meeting the requirements of RSA 194-C:4

(b) a transition plan and timeline with transition budgets and staffing of withdrawing district signed by majority of the Planning Committee

(2) Planning Committee's recommendation must be submitted to the State Board and the City Council for a vote as outlined below.

C. If the Planning Committee recommends joining an existing SAU (RSA 194-C:2, IV(c)):

- (1) The plan must be submitted to the existing SAU for approval.
- (2) If approved, plan is submitted to the State Board and the City Council for a vote as outlined below.

Planning Committee Public Hearings (Two Required):

A. Before giving final approval to the plan, the Planning Committee must hold at least one (1) public hearing and give at least 14 days notice of the hearing in all affected school districts ((RSA 194-C.2, I(b)(1))).

B. Must also hold at least one (1) public hearing no less than 14 days prior to submission to State Board (RSA 194-C:2, IV(d)).

Submission of Proposed Plan to Each School District:

A. Planning Committee must submit a copy of the proposed plan to the School Districts in the SAU (RSA 194-C:2, IV(d)).

B. Informational only – no vote by School Boards.

Review by State Board of Education:

A. Within 60 days of receiving the plan, the State Board of Education must review it to determine whether the proposed plan addresses all the statutory requirements and contains the services required by RSA 194-C:4. (RSA 194-C:2, IV(d)).

Note: The State Board will review to make sure the financial terms can be met and work for all school districts.

B. If the State Board does not think all the statutory requirements have been addressed or that all of the services required in RSA 194-C:4 have been properly addressed, the Board must note the deficiencies and return it to the Planning Committee for revision. (RSA 194-C:2, IV(f)).

C. If the plan does not require revision, or is resubmitted after revision, the State Board must “promptly return the plan and make a recommendation for or against its adoption.” (RSA 194-C:2, IV(f)).

D. The State Board “shall not have veto power over any plan once it is resubmitted to the State Board by the planning committee.” The State Board’s recommendation on the plan must be reported to the school district clerk for a vote by the City Council. (RSA 194-C:2, IV(e) and (f)).

E. State Board submits plan to School Board of withdrawing School District and publishes plan at State’s expense in media of general availability and usage within the withdrawing school district. (RSA 194-C:2, IV(g)).

Submission of the Plan to the City Council:

A. A plan to withdraw from an existing SAU and to establish a single district school administrative unit requires 3/5 of the votes cast. (RSA 194-C:2, IV(h) and (i)).

B. The City Council must hold a public hearing on the withdrawal at least fifteen (15) days but not more than thirty (30) days before voting on the question. (RSA 194-C:2, I(a)(2)(B)).

- (1) Notice of public hearing shall be posted in at least two (2) public places in the City and published in a media of general usage and availability at least seven (7) days before the hearing. (RSA 194-C:2, I(a)(2)(B)).

C. Reconsideration of City Council's vote by referendum petition under City's Charter Section 8.2.

- (1) Public vote on referendum is final and binding on withdrawal. (RSA 194-C:2, I(a)(2)(D)).
 - (a) Question is "Shall the Somersworth School District accept the provisions of RSA 194-C for the withdrawal from a school administrative unit involving school districts of Somersworth and Rollinsford in accordance with the provisions of the proposed plan?"

D. If no referendum petition is filed, vote of City Council controls on withdrawal.

State Board Certificate:

The State Board issues its certificate that 3/5 of the voters have voted in favor of establishment of the SAU.



SCHOOL ADMINISTRATIVE UNIT FIFTY SIX
Rollinsford School District – Somersworth School District
51 West High Street
Somersworth, NH 03878
(603) 692-4450 • Fax (603) 692-9100



ASSISTANT SUPERINTENDENT
Lori Lane

SUPERINTENDENT
Dr. Robert Gadomski

BUSINESS ADMINISTRATOR
Katie Krauss

DIRECTOR STUDENT SERVICES
Pam MacDonald

SPECIAL EDUCATION LIAISON
Tom Hayward

Letter of request

To: Dana Hilliard, Honorable Mayor
Somersworth City Council

From: Dr. Robert Gadomski, SAU 56 Superintendent of Schools

Date: October 25, 2018

Re: Request to consider Somersworth withdrawal from SAU 56

The Somersworth School Board, at their October 23, 2018 meeting voted unanimously to recommend to the City Council to move forward with the process for separation of the Somersworth School District from SAU 56. On behalf of the Somersworth School Board, I respectfully request that it be placed on a future City Council agenda for discussion and action.

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Strafford Superior Court
259 County Farm Road, Suite 301
Dover NH 03820

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

File Copy

Case Name: **City of Somersworth City Council v City of Somersworth Zoning Board of Adjustment**
Case Number: **219-2018-CV-00154**

Enclosed please find a copy of the court's order of October 11, 2018 relative to:

Court Order (Re: 9/17/18 Hearing on the Merits)

October 23, 2018

Kimberly T. Myers
Clerk of Court

(277)

C: Keriann Roman, ESQ; City of Somersworth Zoning Board of Adjustment

STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY

SUPERIOR COURT

City of Somersworth City Council

v.

City of Somersworth Zoning Board of Adjustment

Docket No. 219-2018-CV-00154

ORDER

The plaintiff, City of Somersworth City Council ('City Council'), appeals the grant of a variance application to Hispano Suizo, LLC ('Hispano Suizo') by the City of Somersworth Zoning Board of Adjustment ('ZBA'). (Court Index #1.) The court held a hearing on September 17, 2018. Based on its review of the record, the parties' arguments, the factual circumstances of the case, and the applicable law, the court finds and rules as follows.

FACTS

The record reveals the following facts.¹ At all times relevant to this proceeding, Hispano Suizo owned the property located at 20 Green Street in Somersworth, New Hampshire ('the property'). (See Feb. 14, 2018 ZBA Minutes, 2d5th pp.; Pl.'s Verified Appeal ¶ 15 n. 1.) The building located on that property was designed to be an auto repair garage, and it has been used as such for many years. (See Feb. 14, 2018 ZBA Minutes, 5th p.) However, the property is located in the City of Somersworth's business district, where auto repair and sales are prohibited, except by variance. (See Feb. 14, 2018 ZBA Minutes, 2d p.; Verified Appeal ¶¶ 5, 10-11.) On December 12, 2017, the ZBA decided that auto repair and sales on the property were nonconforming uses; Hispano Suizo requested an administrative appeal of that decision. (See Feb. 14, 2018 ZBA Minutes, 2d4th pp.) On January 15, 2018, Hispano Suizo also applied to the ZBA for a variance to conduct auto repairs and sales on the property. (*Application for a Variance*, Jan. 15, 2018.)

On February 15, 2018, the ZBA held a hearing on Hispano Suizo's request for an administrative appeal, followed by a hearing on Hispano Suizo's variance application. (Feb. 14,

¹ The record in this case consists of the certified record as well as video recordings of the ZBA's meetings on February 14, 2018 and April 4, 2018. Because the certified record does not contain sequential page numbers, the court cites to individual documents within the certified record.

2018 ZBA Minutes, 2d5th pp.) During the administrative appeal hearing, Hispano Suizo presented evidence that included the testimony of several witnesses. (*Id.* 2d-3d pp.) The evidence presented during the administrative appeal hearing was incorporated into the variance application hearing. (*Id.* 4th p.) At the conclusion of the administrative appeal hearing, the ZBA voted to affirm its December 12, 2017 decision; it then heard Hispano Suizo's application for a variance. (*Id.* 4th p.)

The evidence presented to the ZBA tended to establish that the property is uniquely suited to be an auto repair garage. (*Id.* 2d p.) David Francoeur and Donald Dodier both testified that the property has been used to repair automobiles for a number of years. (*Id.*) Mr. Dodier also noted that, although he has used the garage to do some woodworking, the building is not designed to be a woodworking shop. (Feb. 14, 2018 ZBA Minutes, 2d p., 4th p.) Jamie Tour testified that he has used the building for a number of years, and it is designed to be used as an auto garage. (Feb. 14, 2018 ZBA Minutes, 2d p.) He also testified that the building has a concrete floor and is designed to accommodate an automobile lift inside. (*Id.*) Some of the witnesses noted that they have seen automobiles sold from the property in the past. (*Id.*) There was also evidence presented that the property sits on a three-quarter-acre lot and has a parking area. (*Id.*)

After hearing Hispano Suizo's arguments in support of its variance application, the ZBA closed the public hearing and deliberated. (*Id.* 5th p.) The ZBA found that the property has always been used as a garage and was uniquely suited to be used as a garage. (*Id.*) The ZBA also found that use of the property for auto repairs would not diminish the value of surrounding properties, met substantial justice, and was not contrary to the spirit of the zoning ordinance. (*Id.*) The ZBA then voted unanimously to approve both a variance for auto repairs and a variance for auto sales. (*Id.*)

On March 12, 2018, the City Council requested a rehearing on the ZBA's decision to grant a variance for auto sales. (*Request for Rehearing*, Mar. 28, 2018.) The ZBA denied the request for rehearing on April 4, 2018. (Apr. 4, 2018 ZBA Minutes, 2d-4th pp.) Pursuant to RSA 677:4, the City Council now seeks judicial review of the ZBA's decision to grant a variance for auto sales. (Pl.'s Verified Appeal ¶ 1.) The City Council argues that the ZBA's action was unreasonable and unlawful because the ZBA failed to find, and Hispano Suizo did not present evidence, that the criteria of RSA 674:33 were met. (*Id.* ¶ 17.) The City Council does not

challenge the ZBA's decision to grant a variance for auto repairs. The ZBA argues that its actions were both lawful and reasonable.

ANALYSIS

Any person aggrieved by a ZBA decision may appeal to the superior court. RSA 677:4 (2016). "Judicial review in zoning cases is limited." Town of Bartlett Bd. of Selectmen v. Town of Bartlett Zoning Bd. of Adjustment, 164 N.H. 757, 760 (2013). The appealing party bears the burden of proving that the ZBA's decision was unlawful or unreasonable. RSA 677:6; 47 Residents of Deering v. Town of Deering, 151 N.H. 795, 797 (2005). It is the province of the ZBA, not the trial court, to resolve conflicting evidence and determine issues of fact. Lone Pine Hunters' Club, Inc. v. Town of Hollis, 149 N.H. 668, 671 (2003). Accordingly, all findings of fact made by the ZBA are considered prima facie lawful and reasonable. RSA 677:6; Simplex Technologies v. Town of Newington, 145 N.H. 727, 729 (2001); Korpi v. Town of Peterborough, 135 N.H. 37, 39 (1991). The trial court will affirm the zoning board's decision unless the board made an error of law or the court finds, based upon a balance of probabilities, that the decision was unreasonable. RSA 677:6; Greene v. Town of Deering, 151 N.H. 795, 797 (2005).

RSA 674:33² governs the power of a zoning board of adjustment. It states that the zoning board may authorize a variance from the terms of zoning if:

- (A) The variance will not be contrary to the public interest;
- (B) The spirit of the ordinance is observed;
- (C) Substantial justice is done;
- (D) The values of surrounding properties are not diminished; and
- (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

RSA 674:33, I(b).³ The statute contains two definitions of unnecessary hardship. See RSA 674:33(I)(b)(5)(A).⁴ Under the first definition, "unnecessary hardship" means that, due to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The proposed use is a reasonable one.

² All references to RSA 674:33 are to the statute as it existed at the time of the ZBA's action. RSA 674:33, I, has since been recodified, see Laws of 2018, Ch. 168, eff. August 7, 2018. That 2018 recodification does not affect the substance of RSA 674:33, I, in any way.

³ Now codified as RSA 674:33, I(a)(2).

⁴ Now codified as RSA 674:33, I(b).

RSA 674:33, I(b)(5)(A).⁵ If the variance applicant fails to satisfy this first definition, the second definition may apply. Under the second, alternative definition:

[A]n unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

RSA 674:33(I)(b)(5)(B).⁶ If the Court finds that, by the balance of probabilities, that the ZBA acted unlawfully or unreasonably in deciding that the applicant met all requirements for a variance, reversal is justified. Saturley v. Town of Hollis. ZBA, 129 N.H. 757, 760 (1987).

‘[T]he standard for determining unnecessary hardship is whether the ‘use of the particular property is unduly restricted by the zoning ordinance because of special conditions unique to that property which distinguish it from all others similarly restricted.’ Saturley, 129 N.H. at 761 (quoting Ouimette v. City of Somersworth, 119 N.H. 292, 295 (1979)). ‘This factor requires that the property be burdened by the zoning restriction in a manner that is distinct from other similarly situated property.’ Harrington v. Town of Warner, 152 N.H. 74, 81 (2005). The burden on the applicant driving the variance request ‘must arise from the property and not from the individual plight of the landowner.’ Daniels v. Town of Londonderry, 157 N.H. 519, 527 (2008) (quoting Garrison v. Town of Henniker, 154 N.H. 26, 33 (2006)). Though the applicant must show that the hardship is a result of specific conditions of the property and not the area in general, this does not require that the property be the only such burdened property; rather ‘the burden cannot arise as a result of the zoning ordinance’s equal burden on all property in the district.’ Garrison, 154 N.H. at 32-33.

In the case at bar, the record does not reflect the submission of any evidence of unnecessary hardship related to auto sales, and the ZBA did not find that literal enforcement of the zoning ordinance would result in an unnecessary hardship. Although Hispano Suizo presented considerable testimony during the administrative appeal and variance hearing, the majority of its evidence revolved around auto repairs, not auto sales. The only evidence presented to the ZBA that could reasonably be understood to be about auto sales was that the property had previously been used to sell cars, it sat on a three-quarter-acre lot, and it had a parking area. There was no evidence, however, suggesting that these characteristics

⁵ Now codified as RSA 674:33, I(b)(1).

⁶ Now codified as RSA 674:33, I(b)(2).

distinguished the property from surrounding properties. Hispano Suizo also failed to establish that there was no fair and substantial relationship between the public purposes of the zoning ordinance and its application to auto sales on the property.

Accordingly, the court finds that the ZBA could not have reasonably found the existence of an unnecessary hardship concerning auto sales based on the evidence before it. The ZBA's decision was, therefore, unlawful or unreasonable and must be reversed. Because the court finds that there was no evidence of an unnecessary hardship, it will not address the remaining four criteria for a variance under RSA 674:33, I.

Conclusion

For the forgoing reasons, the ZBA's decision to grant a variance for auto sales at 20 Green Street, Somersworth, New Hampshire is REVERSED.

So Ordered.

A handwritten signature in black ink, appearing to read 'Steven M. Houran', written over a horizontal line.

Steven M. Houran
Presiding Justice

October 11, 2018

MITCHELL MUNICIPAL GROUP, P.A.

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WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
STEVEN M. WHITLEY
JUDITH E. WHITELAW (OF COUNSEL)

TELEPHONE (603) 524-3885

November 1, 2018

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 21-19

Title: TO SUPPORT AN INITIATIVE TO VOLUNTARILY REDUCE THE
DISTRIBUTION AND USE OF SINGLE-USE PLASTICS AND
EXPANDED POLYESTERSTYRENE (EPS) PRODUCTS IN AN
EFFORT TOWARDS SUSTAINING A CLEANER AND SAFER
OCEAN, SALMON FALLS RIVER AND HEALTHIER ENVIRONMENT

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: 11/1/18

By: 

MITCHELL MUNICIPAL GROUP, P.A.

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25 BEACON STREET EAST
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WALTER L. MITCHELL
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STEVEN M. WHITLEY
JUDITH E. WHITELAW (OF COUNSEL)

TELEPHONE (603) 524-3885

November 1, 2018

CERTIFICATION

Re: City of Somersworth, New Hampshire

Resolution No. 22-19

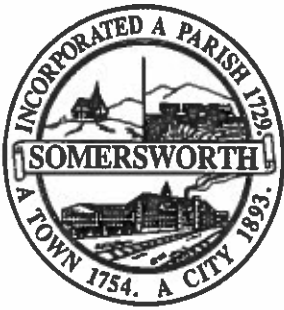
Title: **TO AUTHORIZE THE CITY MANAGER TO TAKE THE NECESSARY ACTIONS
TO DISCONTINUE FAIR COURT AS A CLASS V HIGHWAY**

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced resolution. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: 11/1/18

By: 



MEMORANDUM

To: Bob Belmore, City Manager

From: Scott Smith, Director of Finance and Administration

Date: October 31, 2018

Re: **Monthly Report**

Finance Department:

- Received the 2018 property tax rate.
- Completed FY2020-2025 CIP Document.
- Assisted in preparation of CIP presentation to the Planning Board.
- Completed application for School Department bond issue.
- Assisted in union negotiations.
- Bids:
 - Winter Sand – due November 1, 2018
 - Form Based Codes – due November 1, 2018

City Clerk:

- Prepared for and took minutes at two scheduled City Council meetings and standing committee meetings during the month.

Tax Collector

- Motor vehicle registrations were a total of \$131,832 during the month.
- Collected \$4,550 for Municipal Transportation Fund during month.
- Tax bills will be out November 1 or 2.

Human Services:

- Total assistance for the month was \$14,275. That compares to \$7,074 for the month of September 2018 and \$10,106 for October 2017.
- 7 new cases were opened compared to 9 in 2017.
- 25 cases were approved for varying levels of assistance, with 3 cases still pending and 2 cases denied. 47 cases were referred to other agencies for support.
- Homelessness in October started to put a strain on our budget and requires watching. Problem is exacerbated by the fact the shelters are full and we are being forced to house more people in motels.

Library:

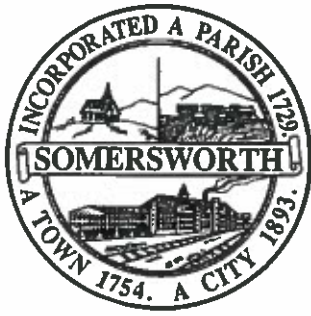
- The Library had a new emergency door for egress from the bottom floor installed.

Assessing:

- The Assessing Department is conducting inspections of properties that have sold in the last year and have begun to schedule inspections for properties who received building permits in the last year.
- Due to the NHDRA re-certification process, the Assessing Department is continuing to receive back veteran tax credit certification letters.
- The Assessing Department has completed by appointment inspections of properties.
- Assessing continues to meet with taxpayers to answer questions about their assessments.
- Assessing has updated photos of properties as changes have occurred.

Information Technology

- Spent time in general server maintenance, checked systems, checked and cleared logs.



DEPARTMENT OF DEVELOPMENT SERVICES

Date: October 31, 2018

From: Shanna B. Saunders

Director of Planning & Community Development

Re: October 2018 Monthly Report

In addition to the Department's various activities listed in the attached staff reports, I attended the following Land Use Board meetings:

- Zoning Board – October 3
- Conservation Commission – October 10
- Planning Board – October 17
- SRTC – October 3 & October 10
- Historic District Commission meeting – cancelled

And attended the following Special Meetings:

- NHDOT LPA Training – October 3
- SRPC Transportation Advisory Committee – October 5
- Public Works and the Environment – October 10
- CIP presentation to Planning – October 17
- Bankers Investors Brokers – October 18
- SRPC Policy Meeting - October 19
- Economic Development Committee - October 23
- Northern New England Chapter of the American Planning Assoc. Conference – October 25
- Vision 2020 – October 29

Building and Health Departments:

Major Building Permits Applied for in October 2018 Construction Costs and Fee

80	Crystal Springs Way	\$39,900.00	\$410.00
10	Dudley Ct	\$60,000.00	\$610.00
9	Dudley Ct	\$60,000.00	\$610.00
2	Wolf's Ln	\$50,000.00	\$510.00
323	Sherwood Glen MHP	\$39,800.00	\$408.00

Minor Building Permits Applied for in October 2018

79	Noble	\$37,772.00	\$312.00
85	Union	\$2,295.00	\$28.00
8	Turgeon Ln	\$1,460.63	\$25.00
3	Depot	\$1,000.00	\$25.00
217	High	\$5,000.00	\$50.00
59	Myrtle	\$7,800.00	\$72.00
21	Second	\$30,000.00	\$250.00
64	Stackpole Rd	\$38,000.00	\$314.00
69	Salmon Falls Rd	\$6,626.00	\$63.00
89	Colonial Vilg MHP	\$4,200.00	\$76.00
199	West High	\$54,000.00	\$442.00
419	Sherwood Glen MHP	\$1,339.00	\$25.00
22	Third	\$500.00	\$25.00
87	Franklin	\$3,588.00	\$39.00
63	Stackpole Rd	\$6,274.00	\$60.00
13	Linden	\$8,174.00	\$75.00
139	Green	\$5,800.00	\$56.00
58	Davis	\$5,999.00	\$58.00
14	Laurel Ln	\$6,333.00	\$61.00
25	Cemetery Rd	\$6,500.00	\$62.00
44	Mt. Auburn	\$8,600.00	\$79.00
4	Genest	\$37,175.00	\$307.00
164	West High	\$7,500.00	\$70.00
7	Rouleau Dr	\$1,500.00	\$25.00
13	Nash Pkw	\$2,829.00	\$33.00
7	Paul	\$9,499.00	\$86.00
427	Sherwood Glen MHP	\$3,500.00	\$38.00

Permit Receipts

	2016	2017	2018	DIFFERENCE this year to last	% OF CHANGE
January	\$6,148.85	\$15,262.40	\$12,784.00	-\$2,478.40	-16.2%
February	\$4,440.00	\$9,264.40	\$4,087.20	-\$5,177.20	-55.9%
March	\$27,399.40	\$23,362.82	\$5,307.00	-\$18,055.82	-77.3%
April	\$6,608.52	\$6,935.89	\$7,843.24	\$907.35	13.1%
May	\$12,089.70	\$11,780.49	\$8,966.00	-\$2,814.49	-23.9%
June	\$5,107.95	\$10,058.40	\$7,652.50	-\$2,405.90	-23.9%
July	\$14,315.00	\$5,776.84	\$7,621.00	\$1,844.16	31.9%
August	\$5,197.60	\$9,724.60	\$4,329.00	-\$5,395.60	-55.5%
September	\$5,247.60	\$7,400.00	\$3,039.60	-\$4,360.40	-58.9%
October	\$10,448.80	\$6,460.00	\$6,861.00	\$401.00	6.2%
November	\$27,353.16	\$8,584.44	\$0.00	N/A	
December	\$6,633.66	\$2,621.00	\$0.00	N/A	

Year total	\$130,990.23	\$117,231.28	\$68,490.54	-\$37,535.30	
Difference of change this year to last (completed months only)	\$130,990.23	\$99,565.84	\$61,629.54	\$31,424.39	-38.1%

Difference of change this year to last (completed months only)

Total Permits

		2014	2015	2016	2017	2018	DIFFERENCE this month to last year's month	% OF CHANGE
4	January	26	30	33	51	29	-22	-43.1%
5	February	29	24	49	36	31	-5	-13.9%
6	March	29	48	71	79	43	-36	-45.6%
7	April	48	58	57	58	58	0	0.0%
8	May	66	55	60	99	84	-15	-15.2%
9	June	66	73	77	94	85	-29	-30.9%
10	July	47	51	89	75	90	15	20.0%
11	August	55	67	79	88	68	-9	-11.7%
12	September	67	69	69	83	0	N/A	0.0%
13	October	63	58	57	77	0	N/A	0.0%
14	November	47	64	49	61	0	N/A	0.0%
15	December	38	52	54	49	0	N/A	0.0%
16								
17	YTD Totals	581	649	744	850	265	-90	-52.4%

Property Maintenance

Incident Location		Nature of Complaint	Origin of Complaint	Action Taken			Compliance Status
				Courtesy Notice	Violation Notice	Court Action or Citation issued	
39	Rocky Hill	Dumpster	Councilor	10/25/2018			Pending
15	Waltons Way	Dumpster	DDS	10/25/2018			Pending
104	Green Street	Windows	DDS	10/16/2018			Completed

Land Use Boards:

Conservation Commission October 2018:

During the meeting the Commission reviewed the following:

- Review of the City of Somersworth's DES Wetlands Permit Application for an emergency wetlands crossing on Centre Road in the Industrial (I) District, Assessor's Map 04, Lots 01 & 02.

The Commission also discussed items such as member handbooks, conservation strategies, trails at Malley Farm and tree planting.

Historic District Commission October 2018:

There were no new applications for review so the HDC did not meet in October.

Planning Board October 2018:

The Board held a workshop meeting to review the proposed 2020-2025 Capital Improvement Program.

The Board reviewed the following at their regular October meeting:

- Calef Auto, 208 Route 108, in the Commercial Industrial (CI) District, Assessor's Map 62, Lot 09, SITE # 04-2018. Application for a site plan to expand the vehicle sales and to renovate the existing residential structure by adding an office was tabled at the applicant's request.
- Linda Hodgdon and David & Priscille Blaisdell, 60 & 64 Stackpole Road, in the Residential Single Family (R1) District, Assessor's Map 36, Lot 45 and Map 20, Lot 07, SUB # 06-2018. Application for a lot line adjustment and to add a new lot was tabled until the November meeting.

Zoning Board October 2018:

The Board reviewed the following at their October meeting:

- Khaleej Real Estate, LLC, 65 Green Street, in the Residential Multi Family (R3) District, Assessor's Map 10, Lot 24, ZBA # 11-2018. Application for a variance for new residential units without requirement onsite parking was approved.

Economic Development – October 2018

- Upcoming Roundtables:
 - ✓ Downtown: 11-8-18 @ 8:30
 - ✓ Manufacture Roundtable: 12-6-18 @ 12:30
 - ✓ BIBED (Bankers-Investors- Brokers & E.D.): 1-17-19 @ 8:30
 - ✓ Malley Farm Business: 3-21-19 @ 9:00
- Vacant space filled with new tenants and/or new tenants in process
 - ✓ AcuPetVet – 279 High Street
 - ✓ Chromatic Dragon Games – 56 High Street
 - ✓ Stripe Nine Brewery – 8 Somersworth Plaza
- New Vacancy: Site for sale and/or lease (meetings and conversations)
 - ✓ Advanced Auto Parts: 10 Andrews Drive
 - ✓ High Street Dentist (foreclosure): 211 High Street
 - ✓ Tri City Flooring (foreclosure): 62 Market Street
 - ✓ Orthopedic Dr. Office: 388 High Street
 - ✓ The Big Dipper: 222 -Route 108
- Focus on Somersworth Manufacturers:
 - ✓ Manufacturer's Roundtable on 12-6-18 @ 12:30
- Skyhaven Airport
 - ✓ Represent Somersworth on Skyhaven Advisory Board. 10-9-18
- Marketing and Brand Identity
 - ✓ Working with new Marketing Firm: Open the Door- Christina Pappas regarding stakeholder interviews
- Miscellaneous
 - ✓ Review and revised Web -Site editorial content

Parks and Recreation – October 2018

- Pee Wee Soccer concluded on Saturday, October 27th. This year we had 30 children ages 3 and 4 in the program with 3 teams. This program is run by parent volunteers and the

Rec Supervisor. We had 6 volunteer coaches and a handful of parents help run each session.

- Registration for Rec Youth Basketball closed on Friday, October 26th. This program is for children in grades 1-6 and is runs for 8 sessions on Saturday morning. The program is held at either Idlehurst Elementary School gym or Somersworth Middle School gym depending on the age group. We're still seeking volunteer coaches to run the program and will likely need to cancel age groups based on the lack of coaches signed up. We're actively trying to find volunteers to help us out and updates will be sent to parents as necessary.
- The annual Senior Picnic was held on Wednesday, October 17th from 11:00-1:00 p.m. at the Flanagan Center gym. We had approximately 85 seniors attend this event. This event is put on by a committee comprised of employees and volunteers from Somersworth Recreation, Somersworth Police Dept, Somersworth Fire Dept, Strafford Meals on Wheels, and Somersworth Housing Authority. The theme this year was Halloween with a special best costume prize for those that dressed up.
- We're getting ready for our new senior event called Sips & Sentiments. This new event is a holiday card making workshop for seniors that will be held on Monday, November 5th 9:00-11:00 a.m. at the Filion Terrace Senior Center. Recreation staff are collaborating with the Somersworth Housing Authority, the Gathering Place Studio and Shop, and volunteers to host this event. Light refreshments will be available along with holiday tunes and good company. The event is free and Somersworth Housing Authority is providing transportation for their residents.
- We are in the process of seeking volunteers to help run our special events throughout the year. We put together a flyer with all the upcoming Recreation special events and how volunteers can get involved. We're already receiving a lot of inquiries from high school students that need to fulfill community service hours before they graduate. We hope to build up our volunteer data base so we can grow our events and start offering more.
- We are working with staff from Public Works and the Water Dept. to prepare for winterizing all of our parks. The water has been shut off at both Millennium Park and Noble Pines Park. Swings, volleyball nets, and tennis nets will be removed by Public Works in November. This helps prolong the life of our outdoor equipment.



MEMORANDUM from Director Public Works & Utilities

TO: Robert M. Belmore, City Manager

DATE: October 31, 2018

SUBJECT: Public Works Department Monthly Report for October, 2018

FROM: Michael Bobinsky, Director of Public Works & Utilities

DIRECTOR'S COMMENTS

Highlights of the Department's activities during this reporting period are as follows:

- Department worked with paving contractors in preparation for paving West High Street, Main Street, Constitutional Way and Washington Street. In addition, arrangements were made to replace all of the old manhole covers on Blackwater Road with new structures.
- Participated in Stratford Regional Planning Commission meeting
- Department staff supported the annual Pumpkin Festival held on Saturday October 13 with barricades and equipment for street closure support
- Participated in Cemetery Trustees Meeting; discussed current projects and maintenance activities at Forest Glade Cemetery
- Presented current transportation /road improvement project information to the BIBED group
- Participated in the After Action assessment meeting for the Salmon Falls River Emergency Exercise; there are follow-up activities the Department will be working on with the Fire Chief
- Attended the Planning Board meeting with the City Manager where the annual Capital Improvements Plan was presented
- Met with officials of Wright Pierce to discuss water main breaks and strategies for detecting future main breaks
- Completed the requirements for a Wetlands Permit for access off of Malley Farm Industrial Park dealing with a blocked sewer main in this area
- Submitted the Notice of Intent (NOI) to EPA for the City's obligations under the new EPA storm water permit requirements.

HIGHWAY DIVISION

Operations/Maintenance:

- Performed street sweeping on city streets
- Covered parking signs on Washington St. for 30-day trial period
- Assisted the paving contractor by posting streets "No Parking"
- Addressed the condition of the dirt roads city wide. Adding gravel as needed.
- Assisted with Pumpkin Festival set up and disassembly.
- Delivered and removed shredding bins to city hall.
- Painted the parking spaces at The Plaza parking lot to match the new handicapped stalls
- Assisted the librarian with removing and discarding old furniture and moving other furniture within city hall
- Performed seasonal mowing of green spaces
- Performed pot hole patching city wide

- Performed monthly metal collections
- Performed maintenance and repairs to city equipment
- Began preparing trucks for winter by installing wings and sanders
- Performed road side mowing
- Performed seasonal Brush and Leaf collection
- Removed and replaced a section of street and sidewalk around 9 South St hazardous tree; removed a tree at this location as well.
- Repaired curbing in front of 49 Mt Vernon St
- Repaired two basins, one on Beacon St, and one on West High St that had failed
- Finished enclosing/painting of tire bin for compliance with solid waste/recycling permit.

Recreation:

- Installed signs at Mast Point Dam
- Took delivery of two new picnic tables. Assembled and delivered to the Pines for storage
- Paved a walk path from one play area to the other to eliminate washouts and hazards at Noble Pines Park

Cemetery:

- Performed 1 burial during this period

Water Distribution Support:

- Assisted with replacing a hydrant on Elm St

Sewer Collections Maintenance:

- Distributed new and removed old manholes along West High for installation by contractor.
- Distributed new and removed old manholes along Blackwater Rd for installation by contractor
- Removed old manholes from Washington St, Main St and Constitutional Way after contractor installed new covers.
- Repaired two manholes in the street. one on High St and one on Hamilton St.
- Responded to 58 Digsafe Applications

WASTEWATER DIVISION

Operations/Maintenance:

- Operating under the (A2O) process mode which is used during our winter season limits. This process primarily focuses on removing ammonia nitrogen
- Completed annual flow meter calibrations. All twelve passed which included the Blackwater Rd pump station
- Reviewing Preliminary Design Report (PDR) for the upcoming construction project. It's expected this project will go out to bid in late summer of 2019 and take approximately 18-months to complete
- The installation of the security alarm system for the facility has been delayed due to a parts shipment delay
- Laviolette Controls will begin the new SCADA system installation at Blackwater Rd pump station in late November. This will allow for remote access for improved monitoring
- Tri-State Fire Protection completed the annual fire extinguisher inspection
- Treated a total of 30,500 gallons of septage from residents not on city sewer

Compliance:

- Preparing monthly reports to US-EPA and NH-DES.
- Reported no permit exceedances for the month of October.
- Treated an estimated 44,000,000 gallons of wastewater during the month.

Industrial Pretreatment Program:

- No issues or concerns to report at this time.

Capital Improvements Plan Items:

- Blackwater Rd pump station upgrade – Finalized Change order #2 which is now in the hands of Underwood Engineers for signatures. We completed the heating system training and will now focus on closing out the punch list.

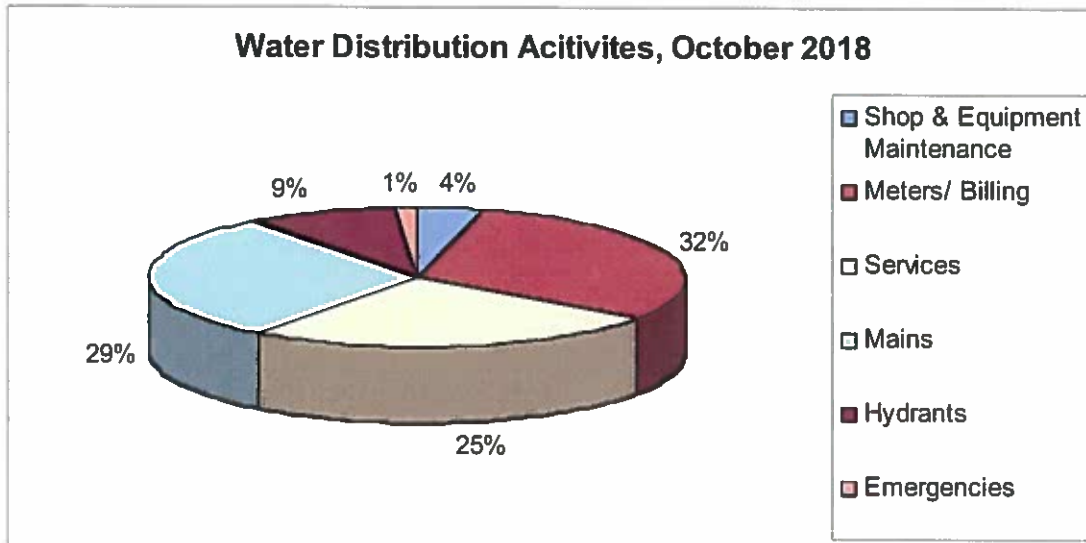
WATER DIVISION

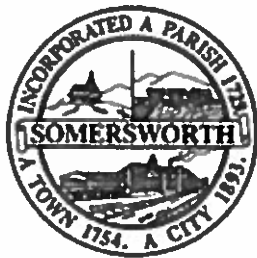
Items completed this month:

- Bacteria's and TOC's test completed
- Pumped 36,519,406 estimated gallons of raw water
- Filtered and pumped to the city an estimated 33,661,516 gallons of finished water
- Completed quarter #3 D/DBP report and submitted to NHDES
- Completed PO for purchase of new chlorine tank
- Staff attended annual water trade show
- Completed byproduct testing on treatment plant
- Repaired water leak in Ward 5 Polling Building
- Attended After Action meeting for Salmon Falls Full Scale Exercise
- Shifted to Lagoon #3 to allow drying of sludge material in Lagoon #2
- Excavated sludge in Lagoon #1 for winter drying
- Cleared brush around lawn boundaries

WATER DISTRIBUTION

- Water Distribution operators responded to 61 non-emergency service requests
- A hydrant at the intersection of Elm Street and Church Street was replaced
- New water services were added at 13 Maloney, 41 and 70 Sunningdale Drive
- Water to all city parks has been turned off for the winter season. Water service at the Ward 5 voting center on Main Street will be turned off on the morning of November 7
- All City owned backflow devices have been tested as required by the City's cross connection control program.
- Operators have begun winterizing city owned hydrants and will continue this work into November.





Somersworth Police Department
12 Lilac Lane
Somersworth, NH 03878
Business: (603) 692-3131 Fax: (603) 692-2111

David B. Kretschmar
Chief of Police

MEMORANDUM

Memo To: Bob Belmore, City Manager
From: David Kretschmar, Chief of Police
Date: November 1, 2018
Subject: Monthly Report – Month of October 2018

Bob:

Below are some of the activities of our Department for the month of October:

COMMUNITY POLICING:

- The Senior Picnic was held at the Flanagan Center where Police and Fire prepared a bbq lunch for Seniors.
- Kindergarten students from Idlehurst Elementary School toured the police station and a police cruiser.
- Officer Fuller gave out Halloween candy to children at the Trick or Treating at City Hall.
- Officer McKnight fingerprinted children and took DNA swabs at Hilltop Chevy's Halloween Hoot.

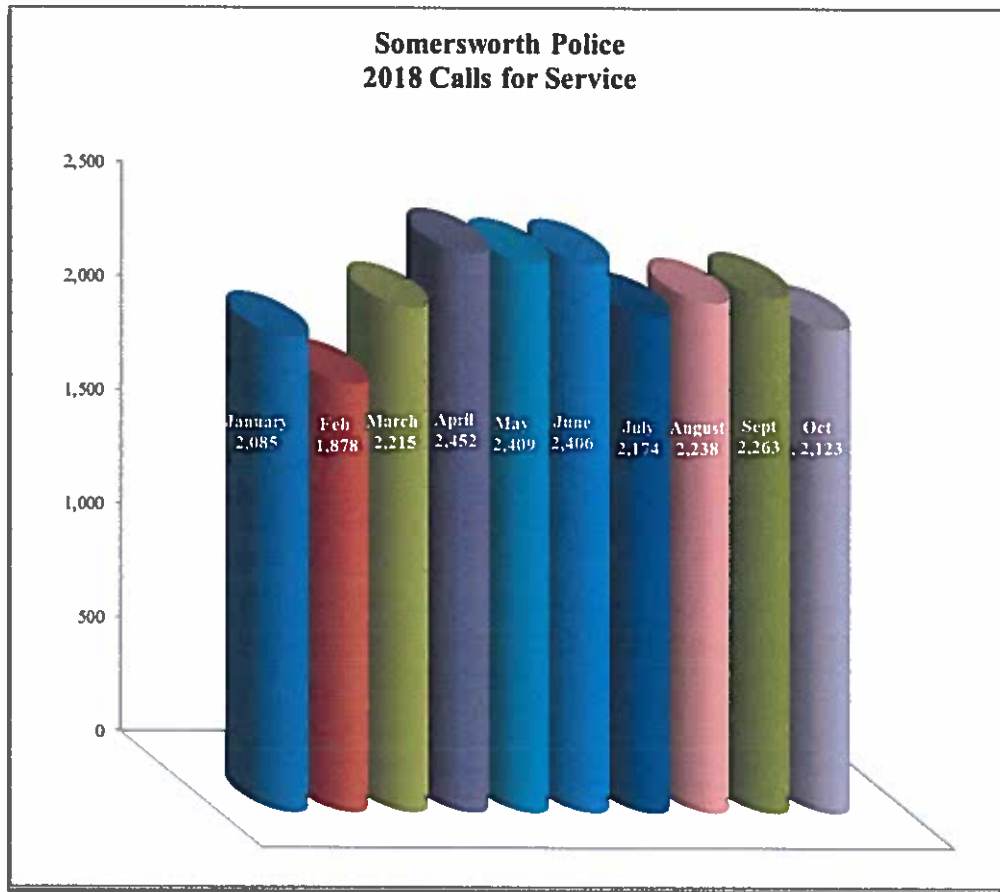
TRAINING:

Officers received training in: Drug Investigations, Advanced Driving Training, OC Instructor Recertification, Firearms Instructor Recertification, Search and Seizure Mobile Enforcement Training, and Interview & Interrogation Techniques.

OTHER:

Our long awaited K9 Officer Bravo has been in training with his handler, Officer Colton Deschenes. He will be officially sworn at the Nov 5th council meeting in November. He was purchased through a grant from the Working Dog Foundation.

STATISTICS:



Month	#	To Date
January	2,085	2,085
Feb	1,878	3,963
March	2,215	6,178
April	2,452	8,630
May	2,409	11,039
June	2,406	13,445
July	2,174	15,619
August	2,238	17,857
Sept	2,263	20,120
Oct	2,123	22,243



Somersworth Police Department

12 Lilac Lane

Somersworth, NH 03878

Business: (603) 692-3131 Fax: (603) 692-2111

David B. Kretschmar
Chief of Police

MEMORANDUM

Memo To: Bob Belmore, City Manager
From: David Kretschmar, Police Chief
Date: October 29th, 2018
Subject: Hand Up Health Care

On Monday, October 15th, I, along with Captain Timmons and Lieutenant McLin met with members of Hand Up Health Services. We met with Joe Hannan and Emily Runyan, both volunteer members of Hand Up Health Care.

Hand Up Health Care is a part of the New Hampshire Harm Reduction Coalition, which is a statewide grassroots organization dedicated to the implementation of Public Health Strategies that reduce the harm associated with drug use and misuse. The New Hampshire Harm Reduction Coalition is a registered 501 c3 organization.

In June of 2017, Governor Sununu signed into law New Hampshire RSA 318-B:43, Syringe Service Programs. In a nutshell, this legalized "Syringe Service" programs, or "needle exchange" programs and set parameters for these programs to operate. As a result, Hand Up Health Care was created and currently operates in Dover and Rochester, NH. Hand Up Health Care offers sterile injection supplies, syringe disposal, Narcan, education, referral services. They started operating in Dover in September of 2017, and in Rochester in October of 2017. Hand Up Health Care is one of two organizations currently registered as a Syringe Service Program with the New Hampshire Division of Public Health Services.

One of the major goals of needle exchange programs is to reduce the spread of HIV and Hep-C through the use of clean needles. Hep-C is a disease that we, as first responders encounter on a regular basis. They reported an 80% return rate of used needles for September of 2018 in Rochester and Dover. This program is currently administered at the Dover Friendly Kitchen, 5 Hale Street, in Dover, and in a three block area surrounding Signal Street in Rochester. In Rochester they operate out of the back of a vehicle on the side of the road. They operate in Dover two nights a week, and in Rochester two nights a week. They operate in the early evening hours for approximately an hour at a time in each location.

Hand Up Health Care proposes to operate in Somersworth for one hour a week on Wednesday evenings moving forward. They are open as to locations, but intend to keep

it in areas where they believe most of the drug issue exists. They believe that to be the Green Street, Franklin Street, Union Street and Main Street area.

As to numbers, I am currently waiting for data from Hand Up Health Care and will provide that as soon as I get it I will forward those numbers.

I have included a copy of NH RSA 318-B:43, RSA 318-B:44, RSA 318-B:45 along with a handout from Hand Up Health Services from their web site.

TITLE XXX

OCCUPATIONS AND PROFESSIONS

CHAPTER 318-B

CONTROLLED DRUG ACT

Syringe Service Programs

Section 318-B:43

318-B:43 Syringe Service Programs Authorized. –

I. (a) The following entities, if self-funded, may operate a syringe service program in New Hampshire to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

- (1) Federally qualified health centers.
- (2) Community health centers.
- (3) Public health networks.
- (4) AIDS service organizations.
- (5) Substance misuse support or treatment organizations.
- (6) Community based organizations.

(b) The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, further defining the entities in subparagraph (a).

II. Any entity operating a syringe service program in New Hampshire shall:

- (a) Provide referral and linkage to HIV, viral hepatitis, and substance use disorder prevention, care, and treatment services, as appropriate.
- (b) Coordinate and collaborate with other local agencies, organizations, and providers involved in comprehensive prevention programs for people who inject drugs to minimize duplication of effort.
- (c) Attempt to be a part of a comprehensive service program that may include, as appropriate:
 - (1) Providing sterile needles, syringes, and other drug preparation equipment and disposal services.
 - (2) Educating and counseling to reduce sexual, injection, and overdose risks.
 - (3) Providing condoms to reduce risk of sexual transmission of viral hepatitis, HIV, or other STDs.
 - (4) Screening for HIV, viral hepatitis, STDs, and tuberculosis.
 - (5) Providing naloxone to reverse opioid overdoses.
 - (6) Providing referral and linkage to HIV, viral hepatitis, STD and tuberculosis prevention, treatment, and care services, including antiretroviral therapy for hepatitis C virus (HCV) and HIV, pre-exposure prophylaxis (PrEP), post-exposure prophylaxis (PEP), prevention of mother-to-child transmission, and partner services.
 - (7) Providing referral and linkage to hepatitis A virus (HAV) and hepatitis B virus (HBV) vaccination.
 - (8) Providing referral and linkage to and provision of substance use disorder treatment including medication assisted treatment for opioid use disorder which combines drug therapy such as methadone, buprenorphine, or naltrexone with counseling and behavioral therapy.
 - (9) Providing referral to medical care, mental health services, and other support services.
- (d) Post its address, phone number, program contact information, if appropriate, hours of operation, and services offered on its Internet website.

(e) Register with the department of health and human services and confirm registration annually on or before November 1 of each subsequent year; provided however, the registration process shall be limited to notification to the department for data collection purposes only.

(f) Report quarterly to the department, which report shall include the following information regarding the program's activities:

- (1) Number of needles/syringes distributed.
- (2) Number of needles/syringes taken back.
- (3) Number of HIV tests performed or delivered by the program.
- (4) Number of HCV tests performed/delivered by program.
- (5) Delivery of substance misuse treatment/care.
- (6) Delivery of HIV care.
- (7) Delivery of HCV care.
- (8) Number of referrals to substance misuse treatment/services.
- (9) Number of referrals to HIV testing.
- (10) Number of referrals to HCV testing.
- (11) Number of referrals to HIV care.
- (12) Number of referrals to HCV care.

Source. 2017, 117:7, eff. June 16, 2017.

TITLE XXX OCCUPATIONS AND PROFESSIONS

CHAPTER 318-B CONTROLLED DRUG ACT

Syringe Service Programs

Section 318-B:44

318-B:44 Syringe Service Programs; Affirmative Defense. – It is an affirmative defense, as provided in RSA 626:7, to prosecution for possession of a hypodermic syringe or needle that the item was obtained through participation in a syringe service program. Nothing in this section shall be construed as an affirmative defense for any offense other than as set forth under RSA 318-B:26, II(f).

Source. 2017, 117:7, eff. June 16, 2017.

TITLE XXX OCCUPATIONS AND PROFESSIONS

CHAPTER 318-B CONTROLLED DRUG ACT

Syringe Service Programs

Section 318-B:45

318-B:45 Syringe Service Programs in Drug-Free School Zones Prohibited. – No syringe service program shall be located within a drug-free school zone as defined in RSA 193-B:1, II. Exceptions to this prohibition may be granted by the applicable district school board when a request is initiated by a syringe service program administrator.

Source. 2017, 117:7, eff. June 16, 2017. 2018, 254:2, eff. Aug. 11, 2018.



HAND-UP Health Services

A program of the NH Harm

Reduction Coalition

Call/text (207) 370-7187



Use sterile injecting supplies

You can prevent harm to yourself + others by using injection supplies once, never sharing them, and disposing of them properly afterward. Call HAND-UP for sterile injecting materials, disposal containers, and collection of used materials.



Take Care of your veins

Use arms when possible. Start low + work your way up vein in direction of heart. Switch up veins each day. Avoid arteries (wrist, neck, groin) and feet. Make sure you can see the hole in needle as you inject.



Take your time

Fear causes mistakes. Mistakes can be deadly. Take control by taking your time. **Use a tiny tester amount first.** You can always put more in, but you can't squeeze it out.



Carry Naloxone (Narcan)

You can save a life. Naloxone (brand name Narcan) is legal and safe to have and use for a suspected opioid overdose. Make sure others know how to use it. Call HAND-UP for free naloxone or visit nhhrc.org/naloxone.



Don't Use Alone

Nobody can help you if they don't know you're there.



Seek Care + Challenge Yourself

If you're hurt, vulnerable, or want to make a change, speak up for yourself. You deserve safety, health, happiness.

NH Addiction Hotline	1-844-711-4357
Free treatment referral	
Families First Mobile Health	603-422-8208
Free health services van & Hep-C/HIV testing	(extension 1)
HAVEN	603-994-7233
Domestic/sexual violence	
SOS Recovery Community Org	603-841-2350
Free Recovery Coaching	
Multiple pathways meetings	
Community Action Partnership	603-435-2500
Homelessness services	
Goodwin Community Health	603-749-2346
Sliding scale primary care/dental	603-841-2348
Substance Use Treatment	



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City of Somersworth

Fire Department

195 Maple Street – Somersworth, NH 03878-1594



Keith E. Hoyle

Fire Chief & Emergency Management Director

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OCTOBER 2018 MONTHLY REPORT

EMERGENCY ACTIVITIES

Building Fires:	6
Vehicle Fires:	0
Outside Fires:	1
Emergency Medical:	67
Motor Vehicle Crash:	8
Malfunction/false alarm:	8
Accidental/public service:	38
Hazardous Condition:	7
Hazardous Materials:	4

NON-EMERGENCY ACTIVITIES

Burning Permits:	10
Fireworks Permits:	2
Oil Burner Permits:	2
Place of Assembly Permits:	2
Fire Safety Inspections:	13
Fire Drills:	10

CALLS FOR SERVICE

- We responded to 33 fewer emergency calls this October (139) than in October 2017 – a decrease of 24%.
- We responded to mutual aid fires in Dover, Rochester and Berwick ME.
- American Ambulance continues to provide excellent EMS services to the city with an average response time of under 5 minutes.

PLANNING/PROJECTS/GRANTS

- State COOP grant vendor Jane Hubbard completed the plan for the city and we applied for reimbursement from the state (\$5,500).
- Met with Housing Authority for their plan to upgrade facilities with smoke detection and CO detection devices.
- Met with Chinberg Group regarding Hilltop School project.
- Attended Planning Board meeting for presentation of FY20-25 CIP.
- Still petitioning NH HSEM for “active shooter” equipment grant.

- Met with LDV Custom Specialty Vehicles on new air van/rehab vehicle.
- Met with FEMA regarding March 2018 snowstorm reimbursement.
- Attended final meeting of the Salmon Falls River water supply drill group.

TRAINING/MEETINGS

- The Department will hold a promotional exam on December 20 to replace Lt. Clough.
- A hiring process for new career firefighters is ongoing presently with 7 candidates (out of 40) moving on to a final interview panel.
- New career firefighter Benjamin Hyman from Dover began his first shift on October 17.
- Now training four new career FFs on shift.
- 3 call FFs attended Primex driver safety program.
- Attended meetings of the SRTC: JLMC: and the Seacoast Fire Chiefs.

COMMUNITY SERVICE

- Department sponsored its “Annual Open House” on October 13.
- Conducted fire safety training for the Middle School.
- Elementary schools sent children for fire station tours during Fire Prevention Week.
- Participated in Hilltop Chevrolet’s “Safety Day” event.

Respectfully Submitted:
Keith E. Hoyle, Fire Chief/EMD

DATE: November 5, 2018

Re: Conservation Commission Project
Wellhead Protection & City Water Supply

Dear Mayor Hilliard and City Council Members,

After review of the recommendations from the 2016 Somersworth Natural Resources Assessment, the Conservation Commission has identified protection of the city's water resources as our highest priority.

Somersworth has only two potential water sources – the Salmon Falls River, and the city well. While the river has provided water for many years, it is not immune to contamination. Any one of over a hundred contamination point sources († see attachment) could become a problem at any time. Somersworth is downstream from most of these threats.

Studies by UNH * show that extreme precipitation events and drought events are increasing in New Hampshire. Floods are hazards for our infrastructure – including our water system, and they also carry the potential to wash new contaminants into the river. Drought and extreme temperature events change the biology of the river, which can also compromise drinking water. Well water can also become contaminated. Draw-down from drought can expose a well to a wider range of contaminants, and runoff from impervious surfaces often carries quite toxic chemicals with it.

Collaboration with the City of Dover for emergencies is a good step. At the same time, protection of the city's two water resources provides the fail-safe we may need to call upon sooner than we expect.

To that end, the Commission will be reaching out to talk with owners of select property to investigate possible conservation strategies. We will be inviting landowners to meet and discuss conservation options as well as listen to their future goals for the property. There are multiple sources of grant funding for protection of land inside of a Wellhead Protection Area as well as other grants and tax incentives for conservation. The Commission would like to explore these options with the landowners to protect drinking water for the City and find economic incentives for the prospective landowners.

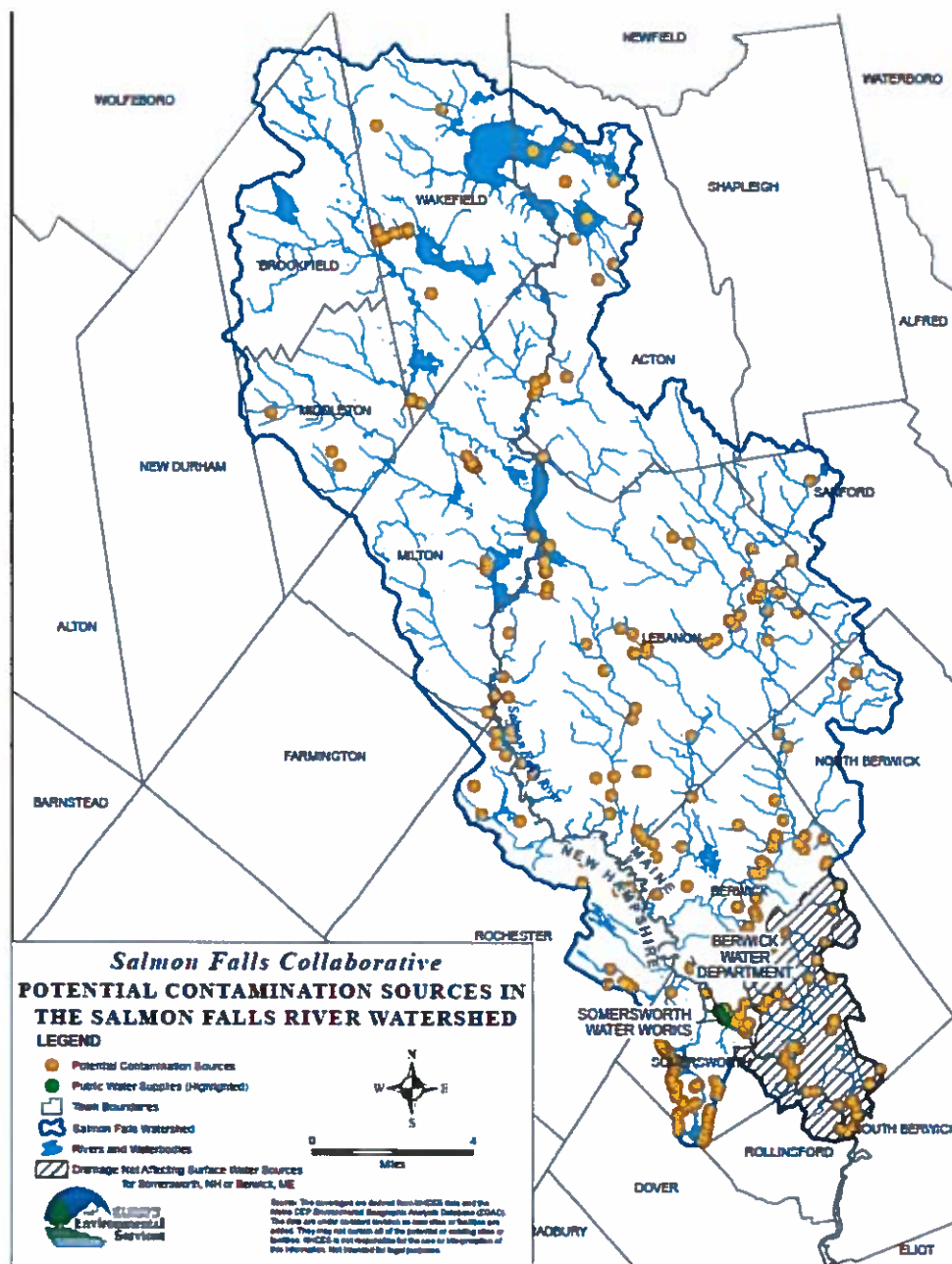
The Commission has already reached out to Manager Belmore, and it will continue to consult with him at every juncture.

Please contact the Commission with any concerns, comments or questions.

Respectfully,

Scott Orzechowski, Chair, Somersworth Conservation Commission

† Point sources - Salmon Falls Collaborative/NHDES *Potential Contamination Sources in the Salmon Falls River Watershed*



* Climate Change in Northern New Hampshire PAST, PRESENT, AND FUTURE