



**City Council Workshop & Meeting
August 15, 2016
Agenda**

5:30 P.M. Workshop

- A. City Manager Search Process

7:00 P.M. City Council Meeting

Roll call votes will begin with Councilor Young

Pledge of Allegiance

- I. **Consent Items** – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.
- II. **Minutes**
 - August 1, 2016 Regular Council Meeting
- III. **Communications, Presentations and Recognitions**
- IV. **Open Session** – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda*.
- V. **Unfinished Business - None**
- VI. **New Business**
 1. **Ordinance 06-08152016**
Zoning amendment for Evergreen Subaru from Suburban Residential to General Business.
Public hearing and first reading.
 2. **Order 54-08152016**
Casting votes for members of the Androscoggin County Budget Committee. Council may enter into executive session pursuant to 1 M.R.S.A. Section 405 (6)(C).
- VII. **Executive Session**
 - Executive Session to discuss a personnel matter, pursuant to 1 M.R.S.A. §405(6)(A)
- VIII. **Reports**
 - a. **Mayor's Report**
 - b. **City Councilors' Reports**

c. City Manager Report

IX. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda*.

X. Adjournment

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

- A. Discussion of personnel issues
- B. Discussion or consideration by a school board of suspension or expulsion
- C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency
- D. Labor contracts
- E. Contemplated litigation
- F. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;
- G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and
- H. Consultation between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: August 15, 2016

Author: Sue Clements-Dallaire, City Clerk

Subject: City Manager Search Process

Information: City Manager Howard Kroll submitted his resignation in July. Friday, September 9th is his last day as Auburn City Manager. City Council will be working with David Barrett from Maine Municipal Association to begin the search for a new City Manager.

Advantages:

Disadvantages:

City Budgetary Impacts:

Staff Recommended Action: Discussion

Previous Meetings and History:

Attachments:

Current City Manager Contract
Charter and Ordinance references

City Manager Employment Agreement

This Agreement, made and entered into this 3rd day of August, 2015, by and between the City of Auburn, Maine, a municipal corporation duly organized and existing under the laws of the State of Maine (hereinafter the "City"), by and through its City Council and Howard Kroll (hereinafter the "Manager").

WITNESSETH:

WHEREAS, the City Council of the City desires to appoint Manager to serve as City Manager of the City of Auburn, as provided in Section 6.01 of the Charter of the City of Auburn (the "City Charter");

WHEREAS, it is the desire of the City and the Manager to specify the terms and conditions of his employment as Manager;

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties agree as follows:

1. Duties.

The City agrees to employ Manager as City Manager of the City. The Manager accepts such employment and agrees to perform the functions and duties set forth in applicable state statutes, including but not limited to 30-A M.R.S.A. § 2636 and the City Charter and Code of Ordinances, as the same now exist or may be amended, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign to the Manager. The Manager agrees to well and faithfully serve the City in said capacity and to devote his time, attention and energies to the performance of his duties under this Agreement to the best of his ability.

2. Term.

A. The term of this Agreement shall be for five years commencing on August 16, 2015 and ending August 15, 2020, unless otherwise terminated pursuant to the terms of this Agreement.

The parties may extend this Agreement by mutual written agreement. The City may authorize extension of the term of this Agreement, when approved by the City Council in its discretion.

The Manager's first day of work under this Agreement will be August 16, 2015.

B. This Agreement may be terminated and the Manager may be removed from office by the City Council for cause in accordance with the procedures set forth in Section 6.5 of the City Charter. In the event the Manager's employment is terminated for cause, the City's only obligation to the Manager shall be to pay all compensation and benefits accrued, but unpaid, as of the date of termination.

C. This Agreement may be terminated and the Manager may be removed from office by the City Council without cause. In the event the City Council terminates the employment of the Manager without cause during the term of this Agreement, the City agrees (1) to pay the Manager severance payments equal to 6 calendar months of the Manager's then current salary, less applicable withholdings and deductions, and (2) for the same period of 6 months following termination to contribute toward the Manager's health insurance premiums, if any, an amount equivalent to the monthly health insurance premium contribution that the City would have paid toward Manager's health insurance if he had remained employed. No other benefits or compensation, excluding vacation accrued through the date of termination, shall be due and payable by the City to Manager in the event of termination without cause. The City and Manager agree that termination of this Agreement and removal of the Manager without cause shall not require compliance with the procedures set forth in Section 6.5 of the City Charter or 30-A M.R.S.A. §2601, and that in the event of termination of this Agreement without cause, the

Manager expressly waives any rights or claims based upon Section 6.5 of the City Charter or 30-A M.R.S.A. §2601.

D. The Manager may terminate this Agreement and resign from employment as City Manager upon 60 days' written notice to the City Council. In the event the Manager resigns from employment, the City's only obligation to the Manager shall be to pay all compensation and benefits accrued, but unpaid, as of the date of resignation.

Section 3: Compensation.

Base Salary: The City agrees to pay the Manager an annual base salary of \$99,000 payable in installments in accordance with the City's usual payroll practices and procedures for management employees. Manager's annual base salary shall not change throughout the term of this Agreement absent a written agreement signed by both parties. The City Council shall provide the Manager with periodic opportunities to discuss City Council-Manager relations and the performance of the Manager. The City Council will evaluate the performance of the Manager annually in August of each year, and may elect to conduct other periodic evaluations if it so chooses.

Section 4: Waiver Payment in Lieu of Health Insurance Coverage.

Upon documentation that the Manager has health insurance coverage for himself and his dependents from a provider other than the City, the City will provide \$1,000 as a taxable payment per month. This is a fixed amount for the duration of the Manger's term with the City. This health insurance waiver payment will be paid monthly.

Section 5: Dental Insurance, Life Insurance, Vision Plan and Income Protection Plan.

The City agrees to provide to Manager and his dependents the same dental insurance, life insurance, Vision Plan and Income Protection Plan and benefits afforded to other non-union City employees under City policy.

Section 6: Retirement.

The Manager will participate in the International City Management Association Retirement Corporation (“ICMA-RC”). The ICMA-RC 401(a) Money Purchase Plan is a defined contribution plan with an employer contribution of 6% and an employee contribution of 5%. Employee vesting in the ICMA-RC plan is 100% on the first date of contribution. The City agrees to contribute a maximum of 15% of the amount of the Manager’s base salary toward the Manager’s retirement plan. The City will contribute the differential 9% into the supplemental ICMA-RC 457 Deferred Compensation Plan.

Section 7: Automobile.

During the term in which the Manager is engaged in the performance of his duties and responsibilities pursuant to this Agreement, the City agrees to provide a \$400 monthly allowance for automobile expenses in recognition of the requirements of the position. The City is under no obligation to reimburse Manager for any automobile costs that exceed this amount or for any other automobile costs.

Section 8: Dues and Subscriptions.

The City agrees to budget and pay for the professional dues and subscriptions of the Manager necessary for his full participation in the International City Management Association (the “ICMA”), the Maine Town and City Management Association, and the National League of Cities.

Section 9: Professional Development.

The City agrees to pay, within the budgetary constraints of the Manager's professional development budget, the necessary expenses of the Manager to continue his professional development and to adequately pursue official functions of the City, including but not limited to attending and participating in the annual conferences of the ICMA, the Maine Municipal Association, the Maine Town and City Management Association, and such other national, regional and state governmental groups and committees thereof which Manager serves as a member.

Section 10: General Expenses.

- A. The City recognizes that certain expenses of a non-personal and job-related nature will be incurred by the Manager for purposes other than those provided for specifically in this Agreement. The City agrees to reimburse or to pay such reasonable expenses, within the constraints of the budget approved for such expenses, upon receipt and approval of duly executed expense vouchers, receipts, statements, or personal affidavits from the Manager.
- B. The City will pay \$70 per month towards the cost of cell phone expenses incurred by Manager during his employment, in lieu of participation in the City's cell phone plan.

Section 11: Vacation and Holidays.

- A. The Manager shall accrue 20 work days of paid vacation time on an annual basis accrued at a monthly rate of 12.5 hours. Vacation time may accrue from year to year up to a maximum of 225 hours or 30 days.
- B. The Manager shall be entitled to the same paid holidays as granted to other non-union City employees in accordance with City policy.

Section 12: Sick Leave.

The Manager shall accumulate sick leave at the same rate as other non-union City employees in accordance with City policy.

Section 13: Hours of Work.

The City and the Manager recognize that the Manager must devote a great deal of time outside normal office hours on business for the City, and to that end, the Manager shall be allowed to establish an appropriate work schedule. The Manager is also expected to be available for large scale emergencies or events that need the support of the Mayor and City Council. The City and the Manager acknowledge that this position is exempt from overtime.

Section 14: Residency.

The Manager shall maintain residency within the City throughout his term of employment.

Section 15: Indemnification.

The City shall defend, save harmless and indemnify Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Manager's duties as City Manager.

Section 16: Outside Work.

The Manger shall not participate in any non-City connected business or employment without prior approval of the City Council.

Section 17: Bonding.

The City shall bear the full cost of any fidelity or other bonds required of the Manager under any law or ordinance. In the event that Manager shall become ineligible for continued

bonding, such ineligibility shall constitute cause for termination under the terms of this Agreement and the City Charter.

Section 18: Other Terms and Conditions.

The City Council, in consultation with Manager, may fix such other reasonable terms and conditions of employment, as it may determine from time to time, relating to the Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, or any other federal or state law.

Section 19: General Provisions.

- A. The text of this written Agreement and any written amendments approved by the City Council and executed by the City and the Manager constitute the entire understanding between the parties with respect to the employment of Howard Kroll as the City Manager of the City of Auburn.
- B. The parties acknowledge and agree that this Agreement was freely negotiated and entered into, and that in the event of a conflict between the provisions hereof and the provisions of any law or ordinance, the provisions of this Agreement shall prevail.
- C. This Agreement shall be binding upon the City and the Manager, and their heirs, successors, and assigns.
- D. This Agreement shall become effective upon execution.
- E. Except as expressly stated or otherwise provided for in this Agreement, the Manager shall be governed by the same customs, practices and policies governing other employees of the City.

Section 20: Severability.

If any provision of this Agreement is found to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

Section 21: Notices.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, first class, certified or registered mail, postage prepaid, addressed as follows:

1) City:

City of Auburn
Attention: Mayor
Auburn Hall
60 Court Street
Auburn, Maine 04210

With a copy to:

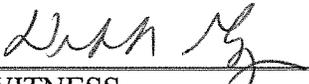
City Clerk
City of Auburn
Auburn Hall
60 Court Street
Auburn, Maine 04210

2) Manager:

Howard Kroll
262 Main St.
Auburn, ME 04210

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice or may be hand-delivered to the recipient. Notice shall be deemed given as of the date of personal service or 3 days after the date of deposit of such written notice in the course of transmission in the United States Postal Service.

IN WITNESS WHEREOF, the City of Auburn has caused this Agreement to be signed and executed on its behalf by its Mayor, and the Manager has signed and executed this Agreement on the date first above written.

	
WITNESS	Howard Kroll
	
WITNESS	Jonathan P. LaBonte, Mayor City of Auburn, Maine

	Pursuant to vote of the City Council on August ____, 2015
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DIVISION 3. - CITY MANAGER¹⁶¹

Footnotes:

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State Law reference— City manager plan of municipal government, 30-A M.R.S.A. § 2631 et seq.; qualifications of city manager, 30-A M.R.S.A. § 2632; term, compensation, removal and suspension of city managers, 30-A M.R.S.A. § 2633; absence or disability of city manager, 30-A M.R.S.A. § 2634; board of selectmen to act as body and administrative service to be performed through city manager, 30-A M.R.S.A. § 2635; powers and duties of city manager, 30-A M.R.S.A. § 2636.

Sec. 2-146. - Powers.

The city manager shall exercise administrative control over all administrative officers, agencies and departments of the city.

(Code 1967, § 4-1.1)

Sec. 2-147. - Duties.

The city manager shall perform or cause to be performed all duties that by law may be required of him, including, but not limited to, the following:

- (1) Furnish technical advice to the city council.
- (2) Prepare and publish an annual report of the activities of the various departments, including receipts and expenditures.
- (3) Request special city council meetings when he believes the meetings are necessary.
- (4) Establish such rules, as he is permitted to by the Charter and city ordinances, that may be necessary for the proper operation of the administrative service of the city government.
- (5) Make annually a report to the council of the operation and cost of the city government during the past fiscal year and present a proposed budget for the next fiscal year to the council.
- (6) Appoint or fire, remove or discharge all officers and employees of the city not otherwise provided for by the Charter.
- (7) Establish terms and conditions of employment in accordance with the Charter and ordinances.
- (8) Sign on behalf of the city, without further authorization, deeds to tax-acquired property in all cases in which the city is reconveying the property to the delinquent taxpayer in consideration for payment of outstanding obligations to the city.

(Code 1967, § 4-1.2)

Sec. 2-148. - Administrative manual.

- (a) *Generally.* The manager is hereby authorized to issue such administrative regulations, consistent with the Charter and city ordinances, as he deems necessary to provide for the adequate functioning of all departments. All regulations so issued shall comprise the administrative manual, which shall be

distributed to all members of the city council, the mayor, all department heads and administrative officers, and such others as the manager may determine to be necessary or desirable, and shall be available in the office of the city clerk for public inspection.

- (b) *Amendments.* Once the administrative manual has been published, the manager shall not thereafter amend the manual without first notifying employees of the changes and of their right to request a public hearing.

(Code 1967, § 1-2.1)

Secs. 2-149—2-179. - Reserved.

ARTICLE VI. - CITY MANAGER

Sec. 6.1. - Appointment.

The city council shall appoint a city manager by an affirmative vote of at least five councilors. The city manager shall appoint an assistant city manager who shall be confirmed by a majority vote of the city council.

Sec. 6.2. - Salary.

The city council shall set by order the salary of the city manager.

Sec. 6.3. - Qualification.

The city council shall choose a city manager solely on the basis of executive and administrative qualifications. The city manager need not be a resident of the city at the time of appointment, but shall be a resident of the city during tenure of office unless otherwise approved by the city council.

Sec. 6.4. - Powers and duties.

The city manager shall be administrative head of the city government and shall be responsible to the city council for the administration of all departments other than the department of education. Powers and duties of the city manager shall be as follows:

- a. Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this Charter except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The city manager may authorize any administrative officer, subject to the city manager's direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- b. Direct and supervise the administration of all departments, offices, and agencies of the city except as otherwise provided by this Charter, ordinance or law;
- c. Attend city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- d. See that all laws, provisions of this Charter, and acts of the city council subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision are faithfully executed;
- e. Prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by the city council to achieve the goals of the city;
- f. Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- g. Make such other reports as the city council may require concerning operations;
- h. Keep the city council fully advised as to the financial condition and future needs of the city;
- i. Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- j. Provide staff support services for the mayor and councilors;
- k. Assist the city council to develop long-term goals for the city and strategies to implement these goals;
- l. Encourage and provide staff support for regional and intergovernmental cooperation;

- m. Promote partnerships among the city council, staff, and citizens in developing public policy and building a sense of community; and
- n. Perform such other duties as are specified in this Charter or may be required by the city council.

Sec. 6.5. - Removal.

The city council may remove the city manager from office only as follows:

- a. The city council shall adopt by affirmative vote of at least five members a preliminary resolution which must state the particular reasons for removal and which may suspend the city manager from duty for a period not to exceed 45 days. The mayor or presiding officer shall promptly deliver a copy of the resolution to the city manager. If the city manager is not available to personally receive a copy, the mayor or presiding officer shall mail a copy to the city manager by certified mail, return receipt requested, restricted delivery.
- b. Within five days after a copy of the resolution is delivered, unclaimed, or refused, the city manager may file with the city council a written request for a public hearing, which shall be held at a city council meeting not earlier than 15 days, nor later than 30 days, after the request is filed. The city manager may file with the city council a written statement not later than five days before the hearing.
- d.[c.] After the hearing, if requested by the city manager, the city council may adopt, by affirmative vote of at least five councilors, a final resolution of removal, which may be effective immediately. If no hearing is requested, the city council may adopt, by affirmative vote of at least five councilors, a final resolution of removal at any time after five days from the date when a copy of the preliminary resolution was delivered to or unclaimed or refused by the city manager.

The city manager shall continue to receive his/her salary until the effective date of the final resolution of removal.

Sec. 6.6. - Vacancy.

During a vacancy in the city manager's office or during the absence or disability of the city manager, the assistant city manager shall perform the duties of city manager unless otherwise directed by majority vote of the city council.

IN COUNCIL REGULAR MEETING AUGUST 1, 2016 VOL. 34 PAGE 269

City Manager Howard Kroll called the meeting to order at 7:04 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present. Mayor LaBonté had an excused absence.

Motion was made by Councilor Burns and seconded by Councilor Walker to nominate Councilor Young to serve as Mayor Pro Tempore. There were no other nominations. Passage 7-0.

I. Consent Items - None

II. Minutes

- July 18, 2016 Regular Council Meeting

Motion was made by Councilor Burns and seconded by Councilor Walker to accept the minutes of the July 18, 2016 meeting as presented. Passage 7-0.

III. Communications, Presentations and Recognitions

- Proclamation – National Night Out
- Proclamation and Presentation – Make a Wish Maine (Sonya Purington spoke)
- Norway Savings Bank Arena Update – Marc Gosselin

IV. Open Session – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda*.

Joe Gray, Sopers Mill Road commented on the workshop item regarding crosswalk painting.

V. Unfinished Business

1. Ordinance 05-07112016

Adopting the Woodlot Management Ordinance. Second reading.

Motion was made by Councilor Burns and seconded by Councilor Titus to adopt the Woodlot Management Ordinance.

Motion was made by Councilor Burns and seconded by Councilor Pross to amend by adding section 3.11 to the definitions of this ordinance that would read “timber harvest special revenue account a special revenue account whose funds are restricted to use in improving the community forest, funding the community cords account, the support of departments managing harvested woodlots and projects that may promote conservation and reduce any municipal energy costs or promote the cost of renewable energy”.

Public comment – no one from the public spoke.

The motion to amend failed 3-4 (Councilors Stone, Titus, Gilbert, and Walker opposed).

IN COUNCIL REGULAR MEETING AUGUST 1, 2016 VOL. 34 PAGE 270

Passage of the main motion 7-0. A roll call vote was taken.

VI. New Business

1. Order 52-08012016

Authorizing the City Manager to execute the amendment to Article 19 of the MAP Auburn Command Unit Collective Bargaining Agreement.

Motion was made by Councilor Titus and seconded by Councilor Stone authorizing the City Manager to execute the amendment to Article 19 of the MAP Auburn Command Unit Collective Bargaining Agreement.

Public comment – no one from the public spoke. Passage 7-0.

2. Order 53-08012016

Authorizing the City Manager to execute the Collective Bargaining Agreement with I.A.F.F. (International Association of Firefighters) Local 797 for July 1, 2016 through June 30, 2019.

Motion was made by Councilor Stone and seconded by Councilor Burns authorizing the City Manager to execute the Collective Bargaining Agreement with I.A.F.F. (International Association of Firefighters) Local 797 for July 1, 2016 through June 30, 2019.

Public comment – no one from the public spoke. Passage 6-1 (Councilor Titus opposed).

VII. Executive Session - None

VIII. Reports

Mayor's Report – the Mayor was not present to report.

Councilor Burns – reported on the Community and Economic Development Council Committee meeting that was held in July noting that their next meeting is to be held on August 18th at 5:30 PM in Council Chambers of Auburn Hall.

Councilor Gilbert – reported that the Airport Board was meeting this week and would be discussing the selling the mining rights adding that she is not in favor of that until property rights in that area are taken care of.

Councilors Stone – had nothing to report.

Councilor Titus - had nothing to report.

Councilor Pross – reported that the School Committee's sub-committee on Finance will be meeting on August 2nd adding that he would report back after that meeting.

Councilor Walker – reported that the Marshall's Popcorn Truck was going to be on display at the National Night Out event on August 2nd.

City Manager – congratulated Marc Gosselin, the General Manager of the Norway Savings Bank Arena on what he has been able to accomplish with the arena floor and the contract with Central Maine Orthopedics. He commended Deb Grimmig, Denis D’Auteuil, and Captain Mike Scott for their efforts during contract negotiations. He also wanted to remind residents that Tuesday, August 2nd was National Night Out at Festival Plaza. Friday through Sunday is Auburn’s Summer Festival. August 13th is the date for the Color Me RAD 5k event. Jim Horn, Aspirations Director at ELHS brought forth some ideas on working with the City and the technical school in Lewiston on constructing some homes on some of the vacant lots in Auburn.

Economic and Community Development Director Mike Chammings spoke on wanting to begin the process of an Agricultural Study.

Finance Director, Jill Eastman -June 2016 Monthly Finance Report

Motion was made by Councilor Titus and seconded by Councilor Stone to accept and place on file the June 2016 monthly finance report. Passage 7-0.

IX. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda*.

David St. Germain, Morris Auto Parts, talked about the renewal of their auto graveyard/junkyard license. He stated that they are not really a junkyard/auto graveyard, but more of an automotive recycler and he would like the city to recognize him as such. He added that enforcement of the 100 year flood plan should be looked at, adding that the laws were written back in 1971.

Dan Herrick, 470 Hatch Road, raised concerns about allowing the Mayor Pro Tem to vote and allowing Council to vote to go into executive session during a workshop. He also commented on the newly adopted woodlot ordinance and the community cords program.

X. Adjournment

Motion was made by Councilor Pross and seconded by Councilor Walker to adjourn. All were in favor, the meeting adjourned at 8:24 PM.

A True Copy.

ATTEST Susan Clements Dallaire
Susan Clements-Dallaire, City Clerk



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: August 15, 2016

Ordinance 06-08152016

Author: Doug Greene, AICP, RLA City Planner

Subject: Zone Change Request for Evergreen Subaru for properties located at 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004) from Suburban Residential District to General Business District.

Information: Evergreen Subaru, currently located out Center Street, has been a successful auto dealership and has acquired 4 properties (listed above) that are adjacent and located on Malibu Drive and Niskayuna Street. These 4 properties are currently zoned Suburban Residential District and are being petitioned to have that zoning changed to General Business District. The 2010 Comprehensive Plan Future Land Use Map recommends the area requested for rezoning for Business Expansion Transition (BXT). The BXT land use designation is compatible with the General Business District and complies with the 2010 Comprehensive Plan.

The Planning Board voted unanimously (7-0) to forward a recommendation of APPROVAL on to the City Council. The required Planning Board report is attached with this information sheet.

Advantages: Approving the zone change will allow Evergreen Subaru to expand its business operation. The new zoning and land improvements will increase the tax assessment and revenues to the city.

Disadvantages: The expansion of General Business District into the existing Suburban Residential District will cause the demolition of 3 homes and create additional auto sales parking and potential buildings. Any new development activity will be reviewed and approved by the Planning Board who will carefully consider any potential noise, light and visual impacts on the remaining residential properties in the area.

City Budgetary Impacts: The zone change itself will not have a city budgetary impact. The potential future development will create a higher taxable value to the affected land and improvements. A potential future road closure as part of the business expansion may reduce city cost of service for maintaining a public road.

Staff Recommended Action: The Staff and Auburn Planning Board recommend the City Council APPROVE the zoning map amendment of the properties listed from Suburban Residential to General Business as the request complies with the Future Land Use Plan of the 2010 Comprehensive Plan.

Previous Meetings and History:

- The general area between Turner and Center Street was discussed during the development of the 2010 Comprehensive Plan.
- July 12, 2016 Planning Board meeting- A public hearing was held (no public response) and the Planning Board voted 7-0 to forward a positive recommendation to the City Council.
- 8/1/2016 Council Workshop discussion

Attachments:

1. Planning Board Report to the City Council-
2. Staff Report and petition on Evergreen Subaru- July 12, 2016 Planning Board meeting
3. Ordinance 06-08152016



PLANNING BOARD CITY COUNCIL REPORT

To: Auburn City Council and Mayor LaBonte

From: Douglas M. Greene; AICP, RLA
City Planner

Re: Evergreen Subaru- Rezoning Petition for Properties Located at Malibu Drive and Niskayuna Street.

Date: July 27, 2016

I. PROPOSAL- Evergreen Subaru submitted a petition to rezone 4 properties located at 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004). These properties are currently zoned Suburban Residential District and applicant is requesting the zoning be changed to General Business District. The applicant is the owner of the properties that are being requested for rezoning and wants to expand Evergreen Subaru's auto sales into that area. The total net acreage of the 4 properties is 1.24 acres and the gross acreage (include street right of way) is 1.51 acres.

II. DEPARTMENT REVIEW- The Plan Review Committee met on June 15th and Engineering and Public Services mentioned that a road closure might be considered in the future when a development was submitted to the Planning Board, should the rezoning be approved by the City Council. Otherwise there were no other department comments.

III. PLANNING BOARD ACTION- The Planning Board reviewed whether the proposed zone change complies with the 2010 Comprehensive Plan's Future Land Use Map.

Current Zoning- The properties located at (16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004) are currently zoned Suburban Residential. The properties to the north are zoned Suburban Residential and General Business, to the east is zoned General Business, to the south is General Business and to the west is Suburban Residential. The residents in the proposed 4 properties are rental homes and the tenants are aware of the possibility of being relocated or having their lease terminated.

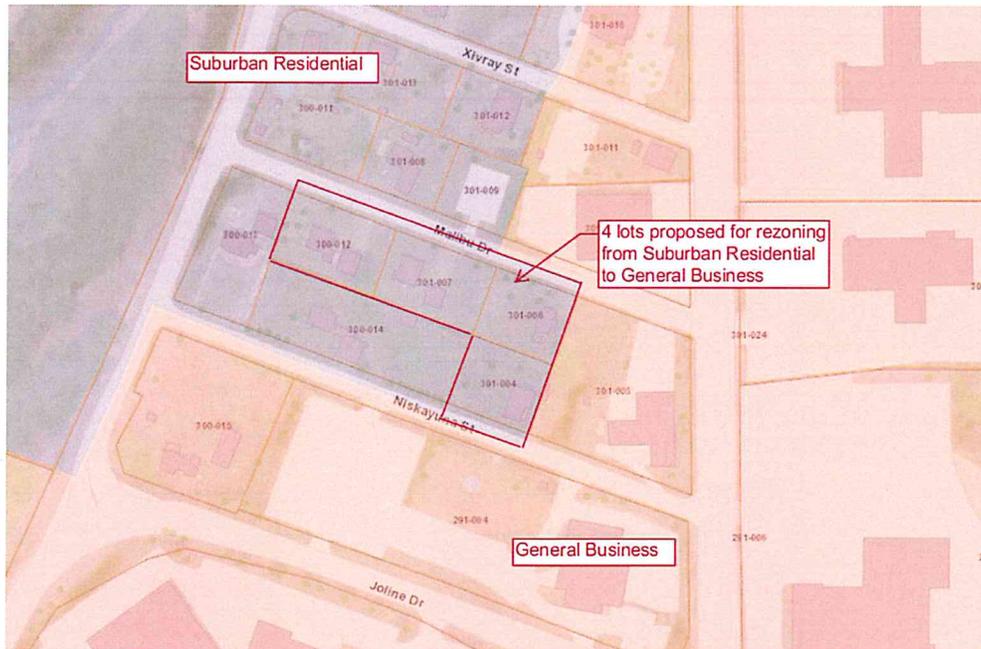
Future Land Use Plan- The area proposed for the rezoning is recommended for **Business Expansion Transition District (BXT)** in the 2010 Comprehensive Plan. Business Expansion Transition District (BXT) is describes in the 2010 Comprehensive Plan as follows:

“Business Expansion Transition District (BXT)

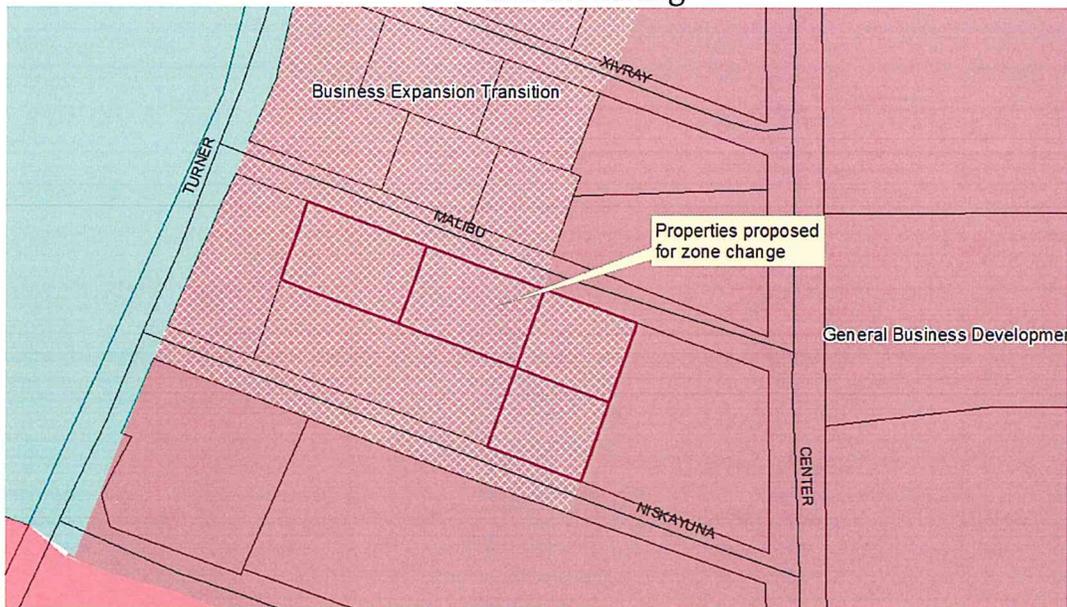
Objective – Allow for the orderly conversion of “pocket” or “island” residential neighborhoods that are adjacent to commercial zones to nonresidential use over time. The intention of this designation is that these areas remain zoned as they currently are and the residential uses be allowed to continue, **but to provide for these areas to be rezoned to commercial/business use when there is an appropriate development proposal. In rezoning these areas, the rezoning process should occur in way that expands the adjacent nonresidential zone in an orderly manner, while maintaining the livability of the remaining residential properties.**

Allowed Uses – The current allowed uses should remain in force until these areas are rezoned.

Development Standards – The current development standards should remain in force until these areas are rezoned.” (2010 Comprehensive Plan page 101)



Current Zoning



Future Land Use Plan (210 Comprehensive Plan)



IV. PLANNING BOARD PUBLIC HEARING, DELIBERATION AND RECOMMENDATION-

The Planning Board opened the public hearing portion of agenda item at the July 12, 2016 meeting and no one from the public spoke or gave comments. The Planning Board then discussed:

- The status of the surrounding properties understanding that all the property owners had been contacted and given options to sell.
- The Board also considered photos of the existing screening that had been grown over time to screen the existing car dealership from adjacent properties and was very impressed.
- The Board discussed the process and timing of the zone change through the City Council and subsequent development of an expanded car dealership
- The Board discussed the timing of any future development and how potential impacts on the remaining residential properties would be handled. The applicant would have to apply for a Special Exception and Site Plan Review to the Planning Board where impacts on surrounding properties would be addressed prior to any approval and construction.

The Planning Board considered the applicant's testimony and the Staff recommendation of Approval and voted with a favorable and unanimous vote of 7-0 to forward a recommendation of **APPROVAL** to the City Council of the proposed zone change from Suburban Residential to General Business for the properties located at 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004) with the following findings:

1. The properties proposed for rezoning meet the definition of Business Expansion Transition District.
2. The properties proposed for rezoning are in agreement with the 2010 Comprehensive Plan's Future Land Use Map.


Douglas M. Greene, A.I.C.P., R.L.A.
City Planner

Cc: File



PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

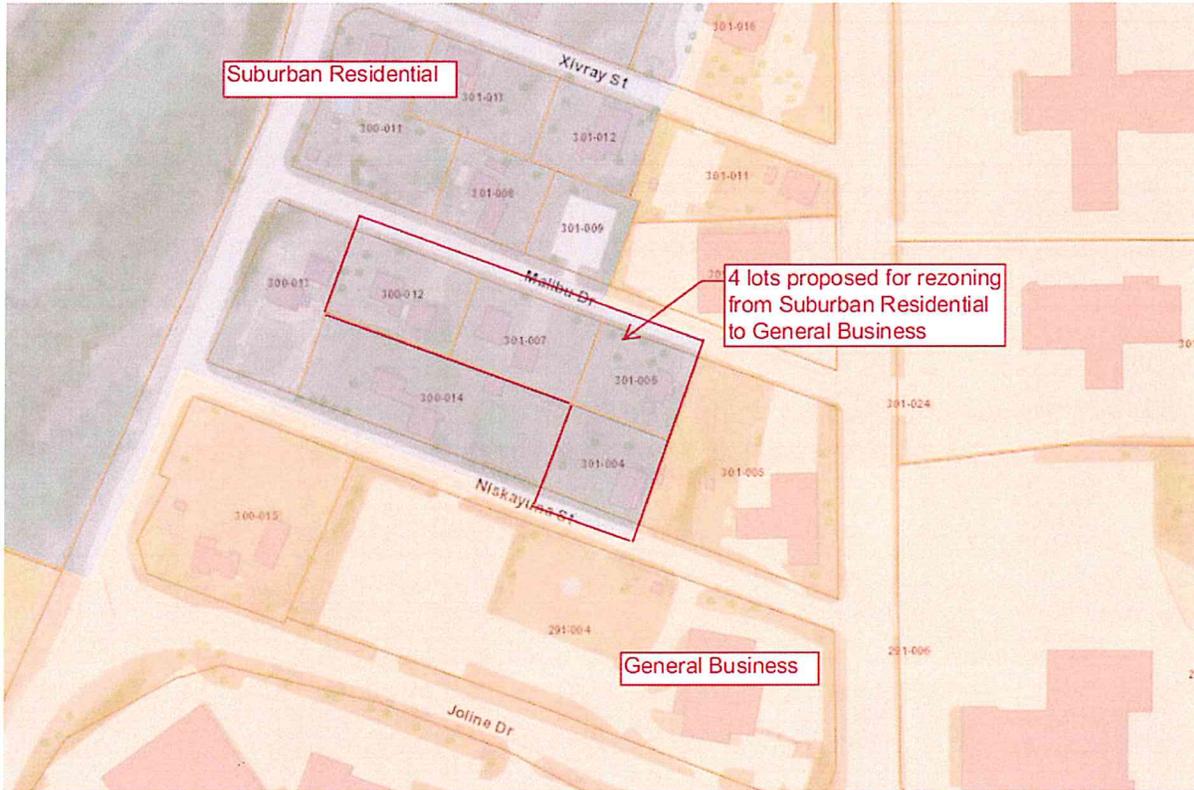
From: Douglas M. Greene; AICP, RLA
City Planner

Re: Evergreen Subaru- Rezoning Petition for Properties Located at Malibu Drive and Niskayuna Street.

Date: July 12, 2016

- I. PROPOSAL- Mike Gotto, of Stoneybrook Consultants, Inc., an agent for Evergreen Subaru has submitted a rezoning petition for properties located at 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004). These properties are currently zoned Suburban Residential and applicant is requesting the zoning be changed to General Business. The applicant is the owner of the properties that are being requested for rezoning and wants to expand their auto sales into that area. The total net acreage of the 4 properties is 1.24 acres and the gross acreage (include street right of way) is 1.51 acres.
- II. DEPARTMENT REVIEW- The Plan Review Committee met on June 15th and had the following comments:
 - a. Police- No comments.
 - b. Auburn Water and Sewer- No comments.
 - c. Fire Department- No comments.
 - d. Engineering- Mentioned the possibility a road closure at a future time. A turn around would be needed for the remaining residential property on Niskayuna Street.
 - e. Public Services- Will be involved in any future street closure discussion.
 - f. Planning and Development- No comment other than staff report comments.
- III. PLANNING BOARD ACTION- The Planning Board shall consider whether the proposed zone change complies with the 2010 Comprehensive Plan's Future Land Use Plan and Map. The Board will forward a recommendation to the City Council for final action.

Current Zoning- The properties located at (16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004) are currently zoned Suburban Residential. The properties to the north are zoned Suburban Residential and General Business, to the east is zoned General Business, to the south is General Business and to the west is Suburban Residential.



Future Land Use Plan- The area proposed for the rezoning is recommended as Business Expansion Transition District (BXT) in the 2010 Comprehensive Plan. Business Expansion Transition District (BXT) is describes in the 2010 Comprehensive Plan as follows:

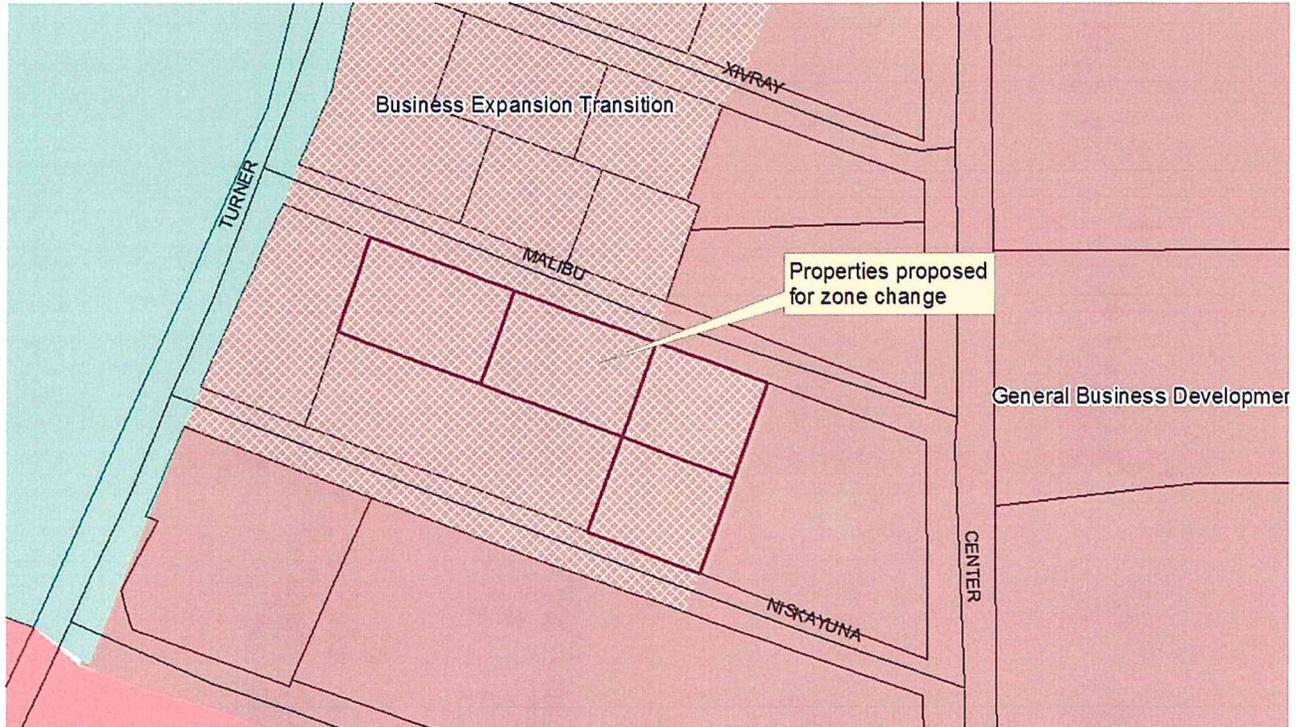
“Business Expansion Transition District (BXT)

Objective – Allow for the orderly conversion of “pocket” or “island” residential neighborhoods that are adjacent to commercial zones to nonresidential use over time. The intention of this designation is that these areas remain zoned as they currently are and the residential uses be allowed to continue, **but to provide for these areas to rezoned to commercial/business use when there is an appropriate development proposal. In rezoning these areas, the rezoning process should occur in way that expands the adjacent nonresidential zone in an orderly manner, while maintaining the livability of the remaining residential properties.**

Allowed Uses – The current allowed uses should remain in force until these areas are rezoned.

Development Standards – The current development standards should remain in force until these areas are rezoned.” (2010 Comprehensive Plan page 101)

Future Land Use Map- The 2010 Comprehensive Plan shows the properties proposed for rezoning to be in the Business Expansion Transition District (BXT).



IV. STAFF RECOMMENDATION- The Staff recommends the Planning Board forward a recommendation of **APPROVAL** to the City Council of the propose zone change from Suburban Residential to General Business for the properties located at 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012), and 40 Niskayuna Street (PID # 301-004) with the following findings:

1. The properties proposed for rezoning meet the definition of Business Expansion Transition District.
2. The properties proposed for rezoning are in agreement with the 2010 Comprehensive Plan's Future Land Use Plan.

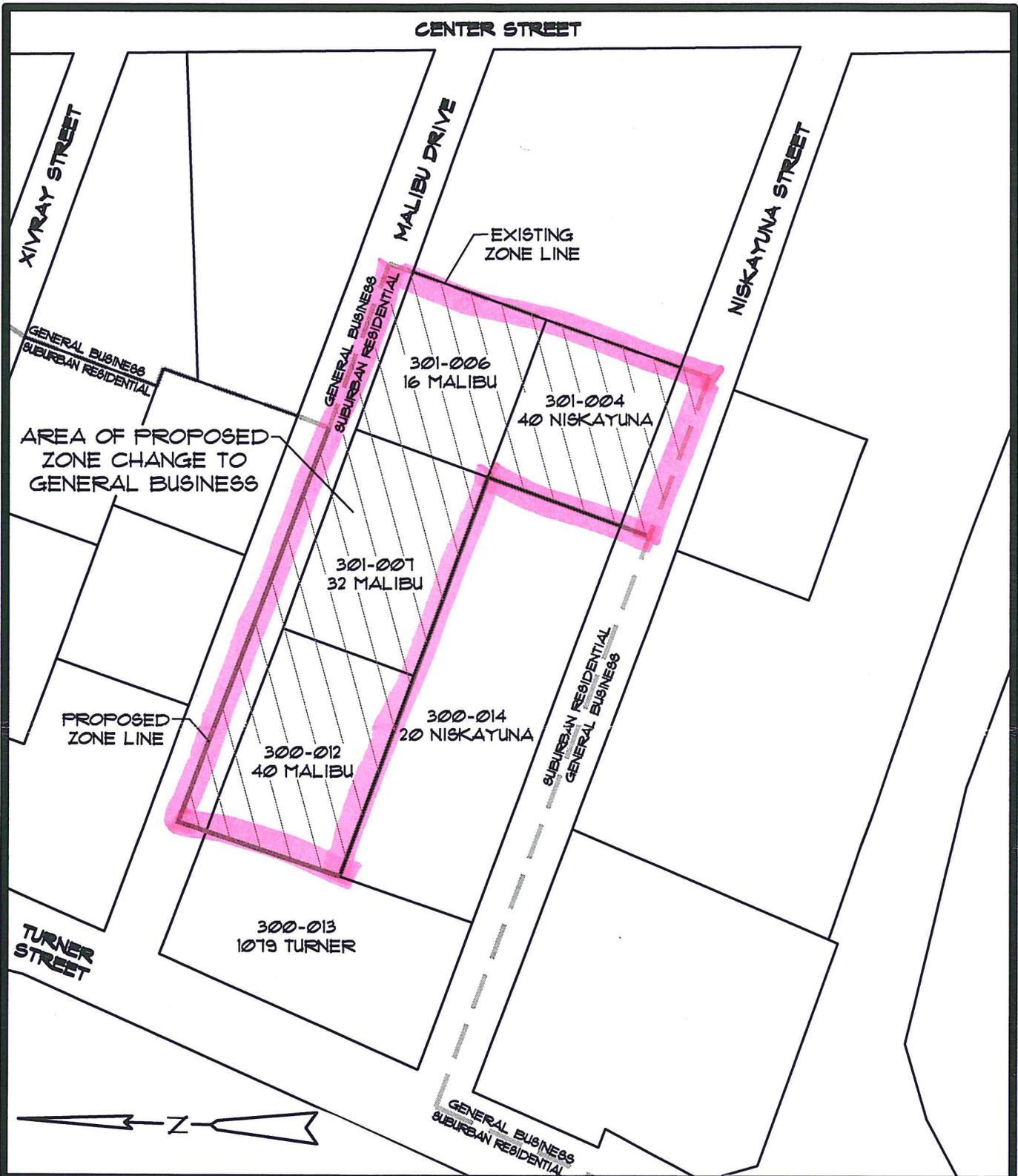

Douglas M. Greene, A.I.C.P., R.L.A.
City Planner

REZONING PETITION

We, the undersigned registered voters of the City of Auburn, do herein petition the City of Auburn to amend the Zoning Map in the area of 786 Center Street (PID # 301-005) to include 40 Niskayuna Street (PID # 301-004), 40 Malibu Drive (PID # 300-012), 32 Malibu Drive (PID # 301-007) and 16 Malibu Drive (PID # 301-006) in the General Business (GB) Zoning District as shown on the attached "Proposed Zoning Map Amendment". This proposal would extend the GB zone towards Turner Street as proposed in the City of Auburn Comprehensive Plan to allow more commercial activity along the busy Center Street corridor.

SIGNATURE	PRINTED NAME	ADDRESS
	SCOTT Randall	46 Orchard St.
	Eric Verill	64 Summer St.
	Edward Gagarin	1179 Center St.
	Cindy Wadsworth	1500 Minot Ave
	RBRandall	46 Orchard St.
	Andrea Saniuk-Gove	553 Park Ave.
	Fran Norcross	118 Orchard St.
	Ga. I Robert S	200 Stearns Rd #532
	Kenneth Kierstead	2 Field Ave.
	Suzanne Arel	1503 Washington St
	James Arel	1503 WASHINGTON ST
	Thomas G. Lawson	25 Russell Ave.
	Reed Lizotte	31 LEAVITT ST
	Mary Sylvester	208 Maple Hill Rd
	Jon James	40 Malibu Dr.
	SUE PITTMAN	1079 TURNER ST.
	SUE PITTMAN	1079 TURNER ST.
	Laurie Russell	1109 TURNER ST.
	David Gagarin	35 Malibu Drive

20 signatures



PROPOSED ZONING MAP AMENDMENT

MALIBU DRIVE & NISKAYUNA STREET - AUBURN

APPLICANT: QUIZ KIDS, LLC

SCALE: 1" = 100'

DATE OF GRAPHIC: MAY 23, 2016

SOURCE: CITY OF AUBURN GIS

PUBLICATION DATE: 2015

Stoneybrook
Consultants, Inc.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four



Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

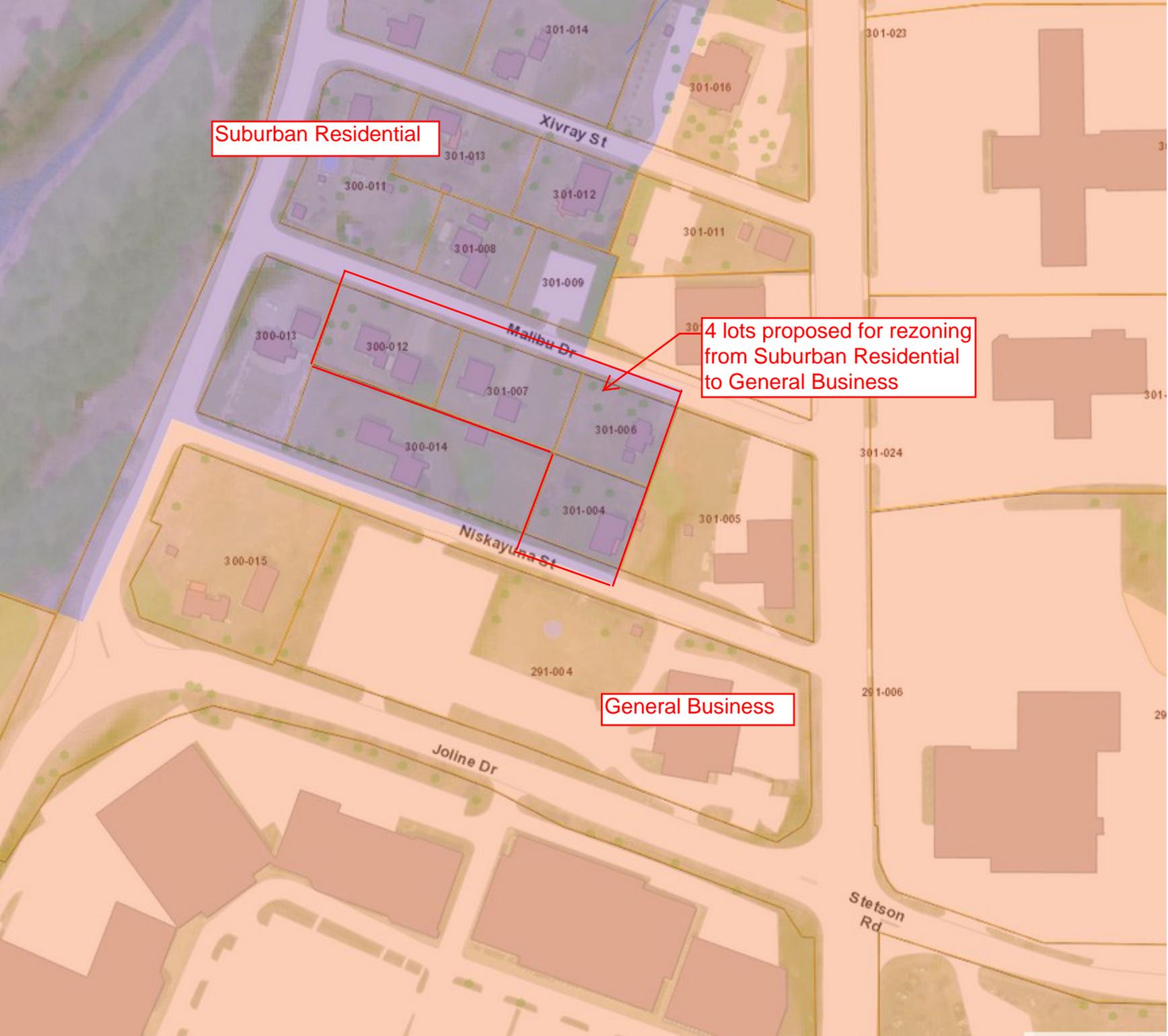
ORDINANCE 06-08152016

BE IT ORDAINED, that the City Council hereby amends the Auburn Zoning Map from Suburban Residential District to General Business District for the following properties; 16 Malibu Drive (PID # 301-006), 32 Malibu Drive (PID # 301-007), 40 Malibu Drive (PID # 301-012) and 40 Niskayuna Street (PID # 301-004) and as shown on the attached map, pursuant to Chapter 60, Article XVII, Division 2 of the Ordinances of the City of Auburn.

Suburban Residential

4 lots proposed for rezoning from Suburban Residential to General Business

General Business





**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: August 15, 2016

Order: 54-08152016

Author: Sue Clements-Dallaire, City Clerk

Subject: Election of Androscoggin County Budget Committee Members

Information: County Commissioners held the Budget Caucus on July 20, 2016 for the purpose of accepting nominations for the Androscoggin County Budget Committee for a 3 year term (2017, 2018, 2019). Nominations were accepted and placed on the attached ballot. For each district, the Council must, as a Board, vote for two Budget Committee members to serve on the Committee (for each district). The Municipal Officers must vote for at least one candidate who is a municipal official.

The ballot was received in our office on August 5th and is due back to the County Commissioners no later than August 15, 2016, the day of this meeting. The ballot will be scanned and emailed to the Commissioners after this meeting and the hard copy will be mailed.

Advantages:

Disadvantages:

City Budgetary Impacts:

Staff Recommended Action: Elect Budget Committee Members. Council may enter into Executive Session pursuant to 1 M.R.S.A. Section 405(6)(C).

Previous Meetings and History:

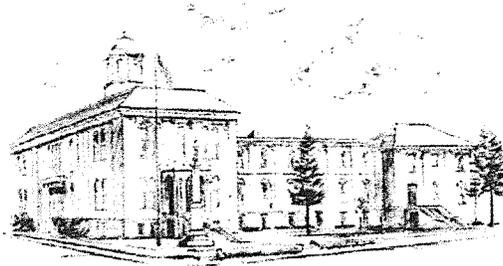
Attachments:

Letter from County Commissioners
District 5 Ballot
District 6 Ballot
Order 54-08152016

ANDROSCOGGIN COUNTY

COMMISSIONERS

Ronald Chicoine, Chairperson
Sally Christner, Vice-Chair
Beth Bell, Commissioner
Alfreda Fournier, Commissioner
Randall Greenwood, Commissioner
Elaine Makas, Commissioner
Matthew Roy, Commissioner



COUNTY ADMINISTRATOR
Larry Post

Tel. No. (207) 753-2500
Fax No. (207) 782-5367

To: Municipal Officers
From: County Commissioners
Date: July 28, 2016

The Commissioners held the Budget Caucus for all districts on July 20, 2016 and then another Budget Caucus for District 2 on July 27, 2016 for the purpose of accepting nominations for the Androscoggin County Budget Committee for a 3-year term for the budget years 2017-18-19. Nominations were accepted and those names have been placed on the enclosed ballot.

The council or selectmen must, as a Board, vote for two (2) Budget Committee members to serve on the Committee; the Municipal Officers must vote for at least one (1) candidate who is a municipal official.

The ballots must be returned to the County Commissioners no later than August 15, 2016.

If you have any questions, please feel free to call the Commissioners' Office.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four



Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 54-08152016

ORDERED, that the City Council hereby casts their votes for the following individuals to serve on the Androscoggin County Budget Committee;

District 5

Name(s) _____

District 6

Name(s) _____



City of Auburn City Council Information Sheet

Council Workshop or Meeting Date: August 15, 2016

Subject: Executive Session

Information: Discussion regarding a Personnel Matter, pursuant to 1 M.R.S.A. Section 405(6) (A).

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
 - (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
 - (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
 - (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.
- This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.