

**In Municipal Council
Regular**

**MAY 5, 2015
7 P.M.**

MEMBERS PRESENT: Vice-President Peter Blais. Councilors: Ronald Churchill, Richard Conti, Mark Cooper, Jeremy Denlea, Shannon Heagney, Brian Kirby, Heather Porreca, Walter Thibodeau and Jonathan Weydt.

MEMBERS ABSENT: President Frank B. Cook

Acting President Blais led the Council and the audience in the Salute to the Flag.

Acting President Blais reminded Councilors and the audience to turn off all cell phone devices as it interferes with the cable broadcast.

A motion was made, duly seconded and unanimously voted to approve the minutes of April 7, 2015. All were in favor.

A motion was made, duly seconded and unanimously voted to approve the minutes of April 21, 2015. All were in favor.

Acting President Blais explained that he would be taking things out of order and that the Mayor's Communication and other communications would be read into the record first. He went on to say that there is also an emergency measure and following the reading of the Mayor's Communication, Massachusetts Deputy Regional Director, Millie Garcia-Serrano and Mayor Dumas would appear before the Council to discuss the emergency measure relative to the Finberg Field Site Remediation

A motion was made and duly seconded to Suspend the Rules.

Voted on Roll Call—10 yeas—0 nays (President Cook absent) to Suspend the Rules.

The following communications were received from the Mayor and read by the Assistant Clerk of the Council, Sharon Rivard:

May 5, 2015

Dear Municipal Councilors:

1. I respectfully submit a communication from Administrative Assistant Linda Alger regarding a donation of a Vitapur water cooler with an estimated retail value of \$100.00 for the Municipal Council. In accordance with Section 1-12 of the Revised Ordinances of the City of Attleboro, I hereby request Your Honorable Body to accept this generous gift to the City of Attleboro. (Copies in your packets)

1/5/5/15 – REFERRED TO COMMITTEE—CITY PROPERTY & CLAIMS

2. I respectfully submit a communication from Superintendent of Wastewater Paul Kennedy regarding the residential meter replacement program and the shared meter expense between the City's Water and Wastewater Enterprise Departments. During fiscal year 2014, the Water Department purchased 1,411 water meters and miscellaneous parts at a total cost of \$284,263.60 or \$201.47 each. Out of the 1,411 water meters, 915 meters were installed at locations that have water and sewer accounts and the remaining 496 were installed at locations with water accounts only. Wastewater Enterprise is responsible to pay for 915 meters at a shared cost of 50% of their value. Therefore, I hereby request Your Honorable Body to transfer \$92,172.53 from Account 6000-359000 (Wastewater Enterprise Retained Earnings) to Account 6000-553150 (Wastewater – Water Meter Supplies) after which time the Accounting Department will work with the Wastewater Department to transfer the funds to the Water Enterprise Fund. (Copies in your packets)

2/5/5/15 – REFERRED TO COMMITTEE—CAPITAL IMPROVEMENT & CITY DEVELOPMENT

3. As you know, the construction of the Animal Shelter continues to move forward. As you may further know, Sections 9-37.1 and 9-43 of Chapter 9, Licenses and Permits, of the Revised Ordinances of the City of Attleboro, provide that all late fees collected for the licensing of dogs "shall be reserved for the Animal Shelter Building Fund, subject to further appropriation." Therefore, and in accordance with Sections 9-37.1 and 9-43 of Chapter 9, Licenses and Permits, of the Revised Ordinances of the City of Attleboro, I hereby request Your Honorable Body appropriate \$19,100 in Fund 2508 Animal Shelter towards the completion of the new Animal Shelter.

3/5/5/15 – REFERRED TO COMMITTEE—BUDGET & APPROPRIATIONS

4. I respectfully submit a communication from Acting Superintendent of Water Paul Kennedy regarding the need for funds to upgrade the electrical service at the Water Plant. Over the years the electrical system that powers the pretreatment works at the Water Plant has become unreliable and is no longer adequate. These repairs were put out to bid and the lowest bidder was in the amount of \$20,200.00. I am also requesting a 10% project contingency for any unforeseen issues in the amount of \$2,020.00. Therefore, I hereby request Your Honorable Body appropriate \$22,220.00 from Account 6100-359000 (Water Enterprise Fund – Retained Earnings) to Account 6100-530101 (Water Enterprise Fund – Professional Services). (Copies in your packets)

4/5/5/15 – REFERRED TO COMMITTEE—CAPITAL IMPROVEMENTS & CITY DEVELOPMENT

5. I respectfully submit a communication from Director of Planning and Development Gary Ayrassian regarding the need for funding in the overtime account. The need for additional funds is due to an increase in both the hourly rate and evening meeting hours as compared to last fiscal year. Therefore, I hereby request Your Honorable Body transfer \$520.00 from Account 11241000-5783000 (City Wide – Reserve Fund for Transfer) to Account 11751000-513000 (Planning – Overtime). Upon approval, the available balance in Reserve Fund for Transfer will be \$38,770.97.

5/5/5/15 – REFERRED TO COMMITTEE—PERSONNEL & HUMAN SERVICES

6. In order to properly budget and account for wages earned through June 30th, it is necessary to fund the accrued payroll, which has historically been referred to as a “53rd pay week.” Therefore, in order to provide sufficient funding for the accrued payroll, I respectfully request Your Honorable Body to transfer \$94,543.19 from Account 11241000-578360 (City Wide-Reserve for Compensation 53rd Week) and to appropriate \$40,311.85 from Account 1000-359000 (Undesignated Fund Balance/Free Cash) to accounts as follows:

\$ 594.88 to Account 11111000-511000 (Council-Salary)
\$ 3,170.47 to Account 11211000-511000 (Mayor-Salary & Wages)
\$ 987.54 to Account 11211000-511000 (Budget & Administration-Salary)
\$ 775.00 to Account 11351000-511000 (Auditor-Salary & Wages)
\$ 842.30 to Account 11411000-511000 (Assessor-Salary)
\$ 1,001.86 to Account 11461000-511000 (Collector-Salary)
\$ 1,779.91 to Account 11611000-511000 (Clerk-Salary)
\$ 1,134.71 to Account 11751000-511000 (Planning & Land Use-Salary)
\$54,025.71 to Account 12101000-511000 (Police-Salary)
\$ 39.68 to Account 12111000-511000 (Parking Enforcement-Salary)
\$53,250.00 to Account 12201000-511000 (Fire-Salary & Wages)
\$ 2,875.54 to Account 12401000-511000 (Protective Inspection-Salary & Wages)
\$ 340.04 to Account 12921000-511000 (Animal Control-Salary)
\$ 7,935.91 to Account 14201000-511000 (Public Works-Salary)
\$ 2,851.38 to Account 15101000-511000 (Health-Salary)
\$ 2,339.69 to Account 15411000-511000 (Council on Aging-Salary & Wages)
\$ 910.42 to Account 15431000-511000 (Veterans-Salary)

In addition, I hereby request Your Honorable Body to transfer \$14,835.57 from Account 6000-578360 (Wastewater Reserve for 53rd Week) and to appropriate \$756.09 from Account 6000-359000 (Wastewater Enterprise Fund-Retained Earnings) to Account 6000-511000 (Wastewater Enterprise Fund-Salaries).

Finally, I hereby request Your Honorable Body to transfer \$11,165.11 from Account 6100-578360 (Water Enterprise Fund - Reserve for 53rd Week) to Account 6100-511000 (Water Enterprise Fund-Salaries).

6/5/5/15 – REFERRED TO COMMITTEE—BUDGET & APPROPRIATIONS

7. I respectfully submit a communication from Director of Planning and Development Gary Ayrassian regarding the Handy Street conservation restriction. I respectfully request that the Municipal Council, pursuant to M.G.L. Ch. 184, §32 and M.G.L. Ch. 40, § 8C, approve the grant by the Attleboro Conservation Commission of a Conservation Restriction, more fully described in the document set forth as Attachment A, to the Attleboro Land Trust, Inc. and the Massachusetts Audubon Society, Inc., on two parcels of land located in the City of Attleboro, Massachusetts, as described in deeds recorded at Book 21685, Page 270, and Book 21685, Page 274, in the Bristol North District Registry of Deeds. I further request that the that the Municipal Council, in accordance with M.G.L. Chapter 44, Section 53A, hereby approve the acceptance by the Attleboro Conservation Commission of \$25,000.00 paid in consideration of the above-referenced Conservation Restriction.

7/5/5/15 – REFERRED TO COMMITTEE—BUDGET & APPROPRIATIONS

8. I respectfully submit a communication from Legal Secretary Alison Wood regarding surplus items that the Water Department would like to declare surplus and hereby respectfully request Your Honorable Body to declare the following as surplus and available for disposition: (Copies in your packets)

<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>CONDITION</u>
240	Water Meters	Used

8/5/5/15 – REFERRED TO COMMITTEE—CITY PROPERTY & CLAIMS

9. I respectfully submit a communication from Chief of Police Kyle P. Heagney regarding the need for additional funds to continue using the services of a janitorial company. As you are aware, on March 17, 2015 Your Honorable Body transferred funds for the Police Department to use the services of a janitorial company to clean the police station due to the police custodian being out on sick leave. This individual will be out of work for several more months and this service will need to continue for at least the remainder of this fiscal year. Therefore, I hereby request Your Honorable Body to transfer \$6,717.08 from Account 12101000-511000 (Police – Salary and Wages Full Time) to Account 12101000-524011 (Police – Building Maintenance). (Copies in your packets)

9/5/5/15 – REFERRED TO COMMITTEE—PUBLIC SAFETY & EMERGENCY MANAGEMENT

10. I respectfully submit a communication from Superintendent of Park and Forestry Aurelio Almeida regarding the donation of eight (8) trees; two (2) Zalcove, two (2) Tupelo, two (2) Sweet Gum, and two (2) Honey Locust for the use in the City of Attleboro from National Grid. The total estimated value is \$2,500.00. In accordance with Section 1-12 of the Revised Ordinance of the City of Attleboro, I hereby request Your Honorable Body to accept this generous gift to the City of Attleboro. (Copies in your packets)

10/5/5/15 – REFERRED TO COMMITTEE—CITY PROPERTY & CLAIMS

11. As you are aware, the Massachusetts Department of Environmental Protection (MassDEP) has provided us with the results of a recent audit at Finberg Field. Therefore, I hereby request Your Honorable Body appropriate \$80,900.00 from Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services).

In accordance with Article 2, Section 2-9 (b) of the City Charter of the City of Attleboro, I respectfully request Your Honorable Body to consider this as an emergency measure.

11/5/5/15 – REFERRED TO COMMITTEE—BUDGET & APPROPRIATIONS

12. We are reconciling accounts for the end of the fiscal year and found there is a need for funds in the City Wide Street Lights account due to the increase of usage and rate increase. Therefore, I hereby request Your Honorable Body appropriate \$40,000.00 from Account 1000-359000 (Undesignated Fund Balance/Free Cash) to Account 11241000-521030 (City Wide – Street Lights).

12/5/5/15 – REFERRED TO COMMITTEE—PUBLIC WORKS

13. We are reconciling accounts for the end of the fiscal year and found there is a need for funds in the City Wide Water and Sewer accounts due to an increase of usage. Therefore, I hereby request Your Honorable Body transfer \$19,000.00 from Account 11241000-578300 (City Wide – Reserve Fund for Transfer) to the following:

\$12,000.00 to Account 11241000-521005 (City Wide – Water)

\$ 7,000.00 to Account 11241000-521006 (City Wide – Sewer)

Upon approval, the available balance in Reserve Fund for Transfer will be \$19,770.97.

13/5/5/15 – REFERRED TO COMMITTEE—PUBLIC WORKS

14. I respectfully submit a communication from Fire Chief Scott T. Lachance regarding the need for funds for a prior year longevity payment due to a change in credible service date for an employee. Therefore, I hereby request Your Honorable Body to transfer \$150.00 from Account 11241000-5783000 (City Wide – Reserve Fund for Transfer) to Account 12201000-514035 (Fire – Prior Year Longevity). Upon approval, the available balance in Reserve Fund for Transfer will be \$19,620.97. (Copies in your packets)

14/5/5/15 – REFERRED TO COMMITTEE—PUBLIC SAFETY & EMERGENCY MANAGEMENT

Sincerely,

Kevin J. Dumas, Mayor

The following communications were received and read by the Assistant Clerk of the Council, Sharon Rivard:

Application for a 2015 Hackney Carriage Public Stand License from Houle’s City Cabs,.70 Park Street, Attleboro, MA for nine cabs.

REFERRED TO THE LICENSE COMMITTEE

Applications for 2015 Renewal Hackney Carriage Driver’s Licenses from:

- James David Philibert, 37 Pleasant Street, #6, Norton, MA
- Jeffrey A. Hunt, 53 Emory Street, Attleboro, MA
- Caryn Elizabeth Smith, 38 N. Main Street, Attleboro, MA
- Jeffrey C. Fasulo, 65 N Main Street, P.O. Box 12, Attleboro, MA
- Kathleen A Kade Birks, 168 N Main Street, Attleboro, MA
- Dennis R O’Donnell, 126 Wilmarth Street, Attleboro, MA

REFERRED TO THE LICENSE COMMITTEE

Application for a 2015 Hawkers & Peddlers License from Renee Lumb, 62 Sycamore Avenue, Attleboro to sell food, novelties and beverages.

REFERRED TO THE LICENSE COMMITTEE

Communication from Gerald F. Chase, 48 Nick Rock Road, Attleboro, MA relative to the Joint Public Hearing to amend sections of the ordinance pertaining to asphalt and concrete plants.

REFERRED TO THE ORDINANCE, ELECTION AND LEGISLATIVE MATTERS COMMITTEE

Acting President Blais invited Massachusetts Deputy Regional Director, Millie Garcia-Serrano and Mayor Dumas to the podium.

Appearing before the Council was Mayor Kevin J. Dumas who discussed the summary page outline and the work that must be completed at Finberg Field. He stated that this is a follow up from the ten year audit and that he has been working with the Massachusetts DEP as six locations (parking lot area which is the old tennis court area and baseball fields) inside the field area and seven locations (wetlands) outside of the field area were identified as problem areas. He explained that there are elevated levels of lead in these areas. He discussed the long history of the site as being a landfill many years ago and that excavation work to remove the contaminants was done later in the 1970's through 1990's. He explained that the removal would not be more than three feet deep and if through the audit process, other things came up they will be addressed. He stated that there is no imminent threat to health and safety and that these areas have a higher than acceptable lead levels. He went on to say that this is the best permanent solution to remove a three foot by three foot area and replace it with clean soil. He testified that the removed material would be properly disposed of to a proper site. He advised the Council that Millie Garcia-Serrano of the Mass DEP will be onsite during the removal process. He stated that approximately \$80,900.00 is needed for the excavation and backfill, oversight, reporting, updated activity use reports and filings with the Mass DEP; and in addition the LSP to monitor the removal and fill. He stated that this area could be paved, but that eventually cracks in the pavement could expose the areas. He also noted that he would like the site cleaned up so that the Attleboro Farmer's Market could be up and running and to also allow for full summer use of the site.

Mr. Kirby asked Mayor Dumas is there any chance there might be other findings or if additional funds would be required.

Mayor Dumas responded that the LSP has completed at least thirty site probes and that 31, 29A and 29B sites are close together in the area near the old tennis courts. He stated that if needed, the scope of removal would have to be expanded. He went on to say that the only exposures that are specific are to lead and that is what the city is dealing with.

Mr. Conti asked the Mayor if the search is for lead only.

Mayor Dumas answered yes. He stated that of the required areas a multiple variety of things were tested and only thing that came up was lead.

Mr. Conti asked if this testing was done in 1980.

Mayor Dumas responded that the test was done in 2014 and revised in 2015. He stated that the entire site was reviewed and that the only six spots are located in the fenced area with another seven spots located outside the fenced area in the wetlands.

Mr. Conti asked Mayor Dumas why he did not get a copy of the report with the map.

Mayor Dumas stated that there is a report with the map and a summary (that he prepared) of the report. He stated that he would supply the Council with the complete report. (a copy of the report was supplied to all councilors)

Mr. Conti asked Mayor Dumas if it is the on-site person who determines if additional areas need to be excavated and if this could change future studies and future exposure.

Mayor Dumas responded that the DEP is on site to help save the city money and that the City would go forward.

Mr. Conti asked Mayor Dumas that in the opinion of the Massachusetts DEP, had the site been surveyed adequately since 1980's and have the corrective actions been taken.

Mayor Dumas responded yes and that the solution to the problem was approved by the DEP before funding was requested from the Council. He stated that the funds are being requested to take corrective actions so that there will be no further lead issues on the site.

Mr. Weydt asked if the areas that were probed and tested done by the DEP and if it was for lead only.

Mayor Dumas responded that CDM, a licensed professional did the testing for lead.

Mr. Weydt voiced his concern for radium, nuclear and other contaminants.

Mayor Dumas responded that Radium is not within the DEP purview and that this is under the Public Health Department. He stated that the testing is specific to the Rules and Regulations regulated by Mass DEP and that everything is on the record. He explained that all other materials were removed and the site was capped and still deemed as having safe levels.

Mr. Churchill stated that he is not against the cleanup (he lives across the street) and voiced his concern for children playing at the site now. He asked if there would be a delay in the use of the fields.

Appearing before the Council was Millie Garcia-Serrano. She stated that this site has been substantially evaluated since the 1980's and discussed the landfill history. She went on to discuss the cost savings by collecting samples to determine what needs to be removed and that it can be tested right on the site. She stated that at this time it does not warrant the Federal Government or the Department of Public Health to do further testing. She stated that there are only six hot spots and the DEP is more than willing to help with the removal.

Mr. Churchill asked if the emergency measure is so that the Attleboro Farmer's Market could open.

Ms. Garcia-Serrano responded that the work should start so that the fields could be used in the summertime and that they would not dig below the three foot marker. She went on to say that there is a DEP Consent Order that must be fulfilled.

Mayor Dumas discussed the emergency measure and that he is under time constraints (June 20th) so that the site can be used this summer. He went on to say that Attleboro is mandated to clean up the site.

Ms. Garcia-Serrano testified that when parties cannot work within the time frame, the document could be amended. She recommended that this project be completed during the good weather when the DEP is available to assist. She went on to discuss the deed restriction and proper notification.

Mr. Conti asked if it is 1,000 per millions of lead concentrate is the required level.

Ms. Garcia-Serrano answered yes. She discussed a soil boring sample of 4,600 per millions at two feet. She stated that the focus is on the first three feet and that the six locations have been fully characterized. She stated that this was once a burn dump that has a lot of ash. She stated that the wetland area contains a lot of briars and is a protected area. She stated that there is only one hot spot (4,600 per millions) and the other areas are under that number. She went on to say that it may be less funding than is being requested by the Administration.

Mr. Weydt discussed the excavation and digging down three feet. He asked if the City had obtained a legal opinion.

Mayor Dumas responded that he has already stated that all of the required removal work of other contaminants had been completed appropriately. He went on to say that a legal opinion is not required and that the City has a mandated DEP Consent Order that must be responded to.

Mr. Weydt voiced his concern that the city may be throwing the dice and that something else may be discovered. He asked if radium is found when would the removal work begin?

Ms. Garcia-Serrano stated that all persons who are removing this material must be licensed and if they did not report the findings, they could lose their license. She stated that she works in eighty-five cities and towns and that the DEP does not have a license to report on other contaminants. She stated that the record speaks to the twelve years of investigation at a Federal Government level and that the Department of Public Health deals with this type of contamination. She went on to say that the Nuclear Regulatory Commission is also involved. She advised the Council that the Mass DEP does have the instrumentation (Geiger counter) it could bring out and do a quick survey and check to see something suspect like the past disposal of some watches.

Ms. Porreca thanked Ms. Garcia-Serrano. She stated that she is very impressed with the DEP's vast knowledge. She asked her to speak a little more to those who utilize the area and the levels of exposure.

Ms. Garcia-Serrano stated that there is no significant risk and that the DEP is very active and focused on resources on what has to be done. She stated that the risk assessment was performed by using a conservation model and that there is exposure and by completing the removal, it will close the book on this site.

Ms. Porreca noted that lead is not airborne and that one would have to eat a cup of dirt for exposure.

Ms. Garcia-Serrano agreed.

Mr. Churchill noted that there is a greater risk from lead paint than what one would find a Finberg Field.

Ms. Garcia-Serrano agreed.

Mr. Kirby noted that the appropriation would come from the Stabilization Fund as the city is near the end of the fiscal year.

Mayor Dumas stated that this would come from the Stabilization Fund and that this is a one time issue.

Mr. Weydt asked Mayor Dumas if he is sure there would be not be any nuclear exposure and that nothing else would be uncovered.

Mayor responded that he is not qualified to answer this question and is relying on the submitted documents. He stated that this proposal is a safe gap measure.

Mr. Weydt stated that this is a nine-week project and if more soil is removed would there be a contingency clause in the agreement.

Mayor Dumas responded that fifteen cubic yards are to be removed and that no additional materials need to be excavated in the wetlands. He stated that it would depend on the results.

Mr. Thibodeau discussed two Brownfield sites such as the Apco Mossberg site (Lamb Street) and the Balfour Company (County Street). He stated that both these sites were cleaned up and capped. He stated that less than the removal of three feet of soil would not be dangerous. He went on to say that the Balfour Riverwalk is now only used for passive recreation and cannot be built upon.

Acting President Blais stated that he does remember with the Finberg Field property was a dump.

Mayor Dumas reminded Councilors that Attleboro is an industrial city and that the city is dealing with what was done in the past.

JOINT PUBLIC HEARING to amend certain sections of the Zoning Ordinance relative to new sections pertaining to Bituminous/Asphalt Plants and Concrete Plants as follows: Amend §17–3.4 TABLE OF USE REGULATIONS – WHOLESALE, TRANSPORTATION, AND INDUSTRIAL; §17–3.5 TABLE OF ACCESSORY USE REGULATIONS; and §17–11.2 DEFINITIONS.

1. Amend §17–3.4 TABLE OF USE REGULATIONS – WHOLESALE, TRANSPORTATION, AND INDUSTRIAL by inserting new land uses #15 and #16.

PRINCIPAL USES – WHOLESALE, TRANSPORTATION, AND INDUSTRIAL

		GR	SR	CB	GB	PHB	I	IBP
15.	Bituminous Concrete/ Asphalt Plant	N	N	N	N	N	S	N
16.	Concrete Plant	N	N	N	N	N	S	N

2. Amend §17–3.5 TABLE OF ACCESSORY USE REGULATIONS by inserting new accessory uses #28 and #29.

		GR	SR	CB	GB	PHB	I	IBP
28.	Bituminous Concrete/ Asphalt Plant	N	N	N	N	N	S	N
29.	Concrete Plant	N	N	N	N	N	S	N

3. Amend §17–11.2 DEFINITIONS by inserting the following definitions alphabetically:

Asphalt plant: a use of land, building or structure, or parts thereof, whether portable or non-portable, which produces and/or recycles asphalt or similar coated road stone and has equipment designed to heat and dry aggregate and to mix mineral aggregate with asphalt cement, bitumen, liquid asphalt, and/or tar. Asphalt plant includes, but is not limited to, the systems for screening, handling, storing and weighing hot aggregate, systems for loading, transferring and storing mineral filler, systems for mixing asphalt concrete, stockpiling and storage of bulk materials used in the process or finished product(s) manufactured on the premises, the storage and maintenance of equipment, and facilities for the administration or management of the business.

Concrete plant: a use of land, building or structure, or parts thereof, whether ready mix or central mix, which combines various ingredients such as, but not limited to, sand, water, aggregate (rocks, gravel), fly ash, potash, and/or cement, to form concrete. A concrete plant shall include those parts

and accessories, including mixers, cement batchers, aggregate batchers, conveyors, radial stackers, aggregate bins, cement bins, heaters, chillers, cement silos, and batch plant controls.

Acting President Blais announced that testimony would be taken in reference to the proposed ordinance and not to a specific site.

Speaking in favor was City Solicitor Robert Mangiaratti, City Solicitor. He stated that he had reviewed the proposed ordinance change and has advised the Department of Planning & Land Use staff. He explained that the proposed change would rectify an ambiguity consistent with the original intent of the ordinance when the Industrial Business Park zone was established. He described the large number of residential neighborhoods located around the Industrial Business Park in the County/Tiffany Street area. He stated that the IPB zoning district was intended to attract businesses of low impact and compatible with the surrounding residences. He stated that there is not a definition of heavy manufacturing or processing or treating of raw materials. He read the definition of light manufacturing: *“Light Manufacturing: Fabrication, processing, or assembly employing only electric or other inoffensive motor power, utilizing hand labor or quiet machinery and processes, mechanical or chemical transformation or materials or substances, whether the new product is finished or semi-finished as raw material in some other process, into new products including the fabrication, processing, assembly or blending of materials such as lubricating oils, plastics or resin that are free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or bright lights, refuse matter, electromagnetic radiation, heat or vibration.”* He discussed the asphalt plant operation and stated that this is not a light manufacturing or processing or treating of materials; and in addition, not the intended use of the ordinance. He described his visit to a concrete plant and that this type of use was not what the City had in mind when the Industrial Business Park zone was created. He stated that the proposed ordinance presents an opportunity to bring clarity to the Zoning Ordinance and what Attleboro intended to be permitted uses in the Industrial Business Park.

Mr. Churchill asked if this clarification would make it easier for a judicial review or make it more difficult.

Attorney Mangiaratti responded in the affirmative and that an asphalt plant is not permitted in an Industrial Business Park zone but permitted by special permit in an Industrial zone; and that a concrete plant is not permitted in an Industrial Business Park zone and is permitted by special permit in an Industrial zone).

Mr. Denlea noted that it appears that this is the appropriate clarification for two specifically different processes. He asked why one process is different than the other process.

Attorney Mangiaratti stated that light manufacturing is permitted as a matter of right in the Industrial Business Park zone and that an asphalt or concrete plant is not what the City had in mind when the ordinance was written. He stated that an asphalt plant would be mixing materials to make asphalt (heated) and may produce strong smells. He stated that both uses would cause noise from front end loaders putting gravel into bins; noise from the hoppers used to sort rocks; noise from the conveyer belt; and dropping rocks into trucks, etc.

Mr. Denlea summarized Attorney Mangiaratti explanation.

Attorney Mangiaratti reiterated that this is not what the City had in mind as a concrete or asphalt plant is not the processing of raw materials or light manufacturing.

Mr. Conti noted that concrete plants and asphalt plants are not identical and that there is a plant located off of Route 295 that is entirely enclosed. He went on to say that there have been a lot of complaints from Wrentham residents relative to an asphalt plant.

Attorney Mangiaratti responded that the plant that he visited was a very modern plant and was enclosed. He stated that if this is allowed as a matter of right, the City has no jurisdiction as to what is built; but by requiring a special permit, the City would be able control the noise, operation hours, number of trucks, etc.

Mr. Thibodeau discussed the history of the Industrial Business Park zone and that the zone was extended to the Morse Sand and Gravel property. He stated that the property had been used as a gravel operation for many years and that there were too many vernal pools because of the processing of the soils and rocks. He explained that a roadway could not be constructed because of this.

Mr. Denlea asked why not allow the two plants in an Industrial Business Park zone by a special permit.

Attorney Mangiaratti responded that it was never the intention to have this use in that zone and that the use does not fit in the Industrial Business Park zone.

Speaking in favor was Zoning Board of Appeals Chairperson Keith Hutchings, 14A Wolfenden Street, Attleboro Ma. He stated that the Zoning Board of Appeals members are unanimously in favor of this proposal and that when the Industrial Business Park zone was created, it was intended for office use and light manufacturing. He stated that an asphalt plant was not thought of for a use in this zone. He discussed the sports village complex that has recently been approved for the Industrial Business Park and the problems that would occur if an asphalt plant or concrete plant was constructed nearby. He went on to state that the Zoning Board of Appeals unanimously voted in favor of this ordinance change.

Ms. Heagney stated that she likes the special permit process that can attach conditions and that would be under the jurisdiction of the Zoning Board of Appeals.

Speaking in favor was Planning and Development Director Gary Ayrassian. He discussed the meetings with the Zoning Board, his staff, Building Inspector Douglas Semple and City Solicitor Mangiaratti and the process that went into the proposed ordinance. He read Section 17-2.13b into the record.

The “IBP” zoning district is established to accommodate, encourage, attract, and concentrate environmentally sound “I” and “B” development in a park-like setting, to provide flexibility for

an attractive, efficient, and economical design of an industrial business park, to encourage ingenuity and originality in site design, to provide a protective zone, and to ensure compatibility between the land uses within the park and the environment through performance standards. The provisions set forth herein are established to: (a) provide a healthful operating environment for industry and business, (b) protect land uses within the park from the encroachment of other incompatible uses adverse to the operation and expansion of such land uses, (c) reduce, to a minimum, the impact of "IBP" on surrounding uses and to the development of properties adjacent to the park, (d) protect the health and safety of both workers and residents in the area, and (e) dissuade business or industry which depends, targets, or generates residential traffic as its primary source of business.

Mr. Churchill noted that the definition proposed prohibits an asphalt plant in the Industrial Business Park.

Mr. Ayrassian stated that the language does not eliminate a plant be located in the city, only in the Industrial Business Park.

Mr. Thibodeau asked Mr. Ayrassian asked what the buffer zone in an Industrial zone is.

Mr. Ayrassian responded there is none. He explained that in an Industrial Business Park zone, the buffer is two hundred feet to minimize the effect on the residential neighborhood.

Speaking in favor Patty McGuire, 235 Tiffany Street, Attleboro, MA. She stated that she never envisioned an asphalt plant in her neighborhood. She stated that the new cement plant is there now but asked the Council not to throw another horrendous use at the neighborhood. She voiced concerns relative to smells and carcinogens caused by asphalt plants and that this needs to be regulated. She stated that ten families have moved since the new concrete plant has been in operation and that more will abandon their homes if an asphalt plant is constructed.

Speaking in favor was Maria Smith, 56 Tiffany Street, Attleboro, MA. She stated that she lives near the sand and gravel operation and has lived at this address for thirty-five years and hopes to remain there. She stated that she does not want a bituminous concrete plant in her neighborhood.

Speaking in favor was Bill Blais, 145 Linden Street, Attleboro, MA who abuts the sand and gravel operation on the Thacher Street side. He stated that he feels bad for the residents of Tiffany Street and that the dust and noise generated from the operation is ridiculous. He stated that when blasting occurs at the sand and gravel operation, his windows shake and that the new facility does not have netting to protect neighbors from rocks.

Acting President Blais interrupted Mr. Blais to remind him to speak only to issues relative to the proposed ordinance and not to a specific site.

Mr. Blais stated that if an asphalt plant is built, it would be disruptive to the neighbors with additional smells, trucks, noise and dust.

Speaking in favor was Paul Costa, 11 Zarek Drive, Attleboro, MA. He stated that he agrees with the previous speakers.

Speaking in favor was Tom Ouellette, 165 Tiffany Street, Attleboro, MA. He stated that he is leasing his home with the intent to purchase it. He voiced concern that his property value would be lowered if an asphalt plant were to be constructed.

Speaking in opposition was Tim Higgins, Edgewood Development Company. He stated that there are only two property owners in the Industrial Business Park zone and one is Attleboro Sand and Gravel. He stated that this proposal would harm Attleboro Sand and Gravel. He stated that if the ordinance was passed, it would make Attleboro Sand and Gravel a non-confirming use and would be considered “spot” zoning. He stated that the proposed ordinance would take away Attleboro Sand and Gravel’s rights and that he is strongly opposed to the ordinance.

Mr. Conti disagreed. He stated that the concrete gravel operation is grandfathered and that the use can continue. He went on to say that if the grandfather operation were to lapse in use for a period of two years, then the concrete plant could no longer operate. He explained that Attleboro Sand and Gravel would still be able to produce concrete.

Mr. Denlea asked Mr. Higgins if he believes he can produce gravel by right or by being grandfathered.

Acting President Blais reminded Mr. Denlea that this is a public hearing relative to an ordinance change and for input and not for a specific site. He asked that he not engage in a legal discussion.

Mr. Denlea objected to not being able to continue his line of questioning.

Ms. Heagney asked if there is a need to have an executive session.

Acting President Blais answered no.

Mr. Churchill asked Mr. Higgins if he has objection to the proposed ordinance clarification as to what is a concrete and what is asphalt.

Mr. Higgins responded that his client feels that the business can produce asphalt as a matter of right and if the ordinance were passed, it would take this right away.

Speaking neither for nor against was Building Inspector, Doug Semple. He stated that present ordinance is very interpretative. He stated that if the proposed ordinance is not approved, then a judge would be permitted to make this decision and not the City. He stated if the proposed ordinance is approved, then the City can make the decision.

Mr. Thibodeau discussed the problems associated with the Conservation Commission when there was not a local conservation ordinance. He stated that the Conservation Commission would make a decision and that a judge would overturn the decision.

Acting President Blais asked Planning Board Chairman Paul Danesi if he wished to continue or close the joint public hearing.

Mr. Danesi responded that the Planning Board requests that the joint public hearing be closed.

Acting President Blais asked Mr. Denlea if wanted to keep the joint public hearing open.

Mr. Denlea answered that he would like to keep it open but would close the joint public hearing. He reiterated his objection to the proceedings of this public hearing and asked that these objections be noted on the record.

This matter was referred to the Planning Board Ordinance Committee for study and recommendation. The Planning Board will submit a written recommendation to the Municipal Council within twenty-one days.

Acting President Blais asked for a show of hands by those in attendance in favor and approximately twelve people raised their hands and one person in opposition raised his hand.

Acting President Blais closed the joint public hearing.

PUBLIC HEARING relative to the layout of Riverfront Drive as a public way and accept said way and any related drainage, water or sewer facilities or easements as shown on a plan and profile entitled “Riverfront Drive Attleboro, MA Acceptance Plan and Profile” by Horsley Witten Group dated 4-10-2015, Scale 1” = 40’.

No one appeared to speak in favor, opposition or neither for nor against.

Acting President Blais asked Mr. Churchill if the public hearing should be closed.

Mr. Churchill answered yes.

Acting President Blais closed the public hearing.

Acting President Blais called for a brief recess at 9:19 P.M.

The meeting was called back to order at 9:29 P.M.

VOTED: TO GO INTO COMMITTEE OF THE WHOLE at 9:29 P.M. to hear anyone who wishes to speak on any matter pertaining to City business.

No one appeared at the Committee of the Whole.

VOTED: TO ARISE 9:29 P.M.

Committee Reports:

On recommendation of the **Budget & Appropriations Committee** and on motion of Mr. Kirby, the following votes were taken:

Mr. Kirby discussed the **EMERGENCY PREAMBLE** relative to the request of the Mayor to appropriate \$80,900.00 Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services) relative to the Finberg Field Site Remediation.

A lengthy discussion took place on the matter. A motion was made and duly seconded to move the question.

1. Voted on Roll Call—9 yeas—1 nay to move the question to adopt the following **EMERGENCY PREAMBLE:**

That the Attleboro Municipal Council vote to take action as provided in the City Charter, Section 2-9(b) regarding the emergency which presently exists relative to the request of the Mayor to appropriate \$80,900.00 Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services) relative to the Finberg Field Site Remediation.

Due to time constraints involved the nature of the emergency makes it necessary to take action without waiting the prescribed time as provided in the City Charter.

2. Voted on Roll Call—8 yeas—2 nays (Conti and Weydt voting nay) the following **EMERGENCY PREAMBLE:**

That the Attleboro Municipal Council vote to take action as provided in the City Charter, Section 2-9(b) regarding the emergency which presently exists relative to the request of the Mayor to appropriate \$80,900.00 Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services) relative to the Finberg Field Site Remediation.

Due to time constraints involved the nature of the emergency makes it necessary to take action without waiting the prescribed time as provided in the City Charter.

--Approved by the Mayor on May 7, 2015

The Council discussed at great length the request of the Mayor to appropriate \$80,900.00 Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services) relative to the Finberg Field Site Remediation. A motion was made and duly seconded to move the question.

3. Voted on Roll Call—6 yeas—4 nays (Conti, Weydt, Churchill and Cooper voting nay to move the question.
THIS MOTION FAILED

The discussion continued and a Roll Call vote was taken on the main motion.

4. Voted on Roll Call—8 yeas—2 nays (Conti and Weydt voting nay and Cook absent) to approve, as an emergency measure, the request of the Mayor to appropriate \$80,900.00 Fund 8455 Stabilization Fund to Account 15101000-530101 (Health-Professional Services) relative to the Finberg Field Site Remediation.
--Approved by the Mayor on May 7, 2015

Ms. Porreca left the Council Chambers and abstained from the following vote.

5. Voted on Roll Call—9 yeas—0 nays (Porreca absent and abstaining from the vote) to approve the request of the School Department to exercise the first option year to the H.L. Bloom Transportation contract that was initially entered into on July 1, 2012 and was approved at the March 17, 2015 School Committee meeting.
--Approved by the Mayor on May 7, 2015

Mr. Kirby called for a Budget & Appropriations Committee meeting on Tuesday, May 12, 2015.

On recommendation of the **License Committee** and on motion of Mr. Churchill, the following votes were taken:

1. Voted unanimously to approve the application for a 2015 Renewal Hawkers & Peddlers License to sell Ice Cream and Frozen Lemonade from Ron Palagi, Palagi Bros Ice Cream, 28 Delta Drive, Pawtucket, RI.
--Approved by the Mayor on May 7, 2015
2. Voted unanimously to approve the application for a 2015 Renewal Ring a Bell License from Ron Palagi, Palagi Bros Ice Cream, 28 Delta Drive, Pawtucket, RI.
--Approved by the Mayor on May 7, 2015
3. Voted unanimously to approve the application for a 2015 Renewal Hackney Carriage Driver's License from Peter Andrew Sorel, 255 Elm Street, Apt. 2, North Attleboro, MA
--Approved by the Mayor on May 7, 2015
4. Voted on Roll Call—0 yeas—9 nays (Denlea, Churchill, Conti, Weydt, Kirby, Thibodeau, Cooper, Porreca, Heagney and Blais voting nay and President Cook absent) to approve the application for a 2015 New Hackney Carriage Driver's License from Timothy George Theodorides, 2340 Cedar Street, Dighton, MA.
--THIS MOTION FAILED and was sent to the Mayor on a separate Certificate of Vote.
--Approved by the Mayor on May 7, 2015
5. Voted unanimously to approve the application for a New 2015 Class 2 Auto License from Automazed, Inc., 923 Washington Street, Attleboro, MA for 7 Customer Parking Spaces and 33 Display Spaces.
--Approved by the Mayor on May 7, 2015
6. Voted on Roll Call—10 yeas—0 nays to approve the application for an Amended License for three (3) 10,000 gallon gasoline underground storage tanks and one (1) 8,000 gallon

diesel tank from Cumberland Farms, Inc., 100 Crossing Boulevard, Framingham, MA for the property located at 220 Pleasant Street, Attleboro, MA said premises being Assessor's Plat #58, Lot #22.

--Approved by the Mayor on May 7, 2015

7. Voted on Roll Call—10 yeas—0 nays to revoke the 2015 Class 2 Auto License of AOK Used Cars, LLC., d/b/a AOK Car Sales, 650 Washington Street, S. Attleboro, MA for 57 Display Spaces and 12 Customer Parking Spaces for the following reasons:
 - a. Several similar complaints from customers relative to being unable to obtain a sticker;
 - b. Displayed a very poor business practice by writing a \$4,999.00 check to a customer with insufficient funds; and
 - c. That the owner is not a proper person to operate this business.

--Approved by the Mayor on May 7, 2015

Mr. Churchill called for a License Committee meeting on Tuesday, May 12, 2015.

On recommendation of the **Public Works Committee** and on motion of Mr. Churchill on behalf of Mr. Blais, the following votes were taken:

1. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to appropriate \$1,205,359.00 and any other future grant amendments into Fund 3106 (Chapter 90 Projects) for the purpose of funding Chapter 90 eligible projects as approved by the Massachusetts Department of Transportation (MassDOT).

--Approved by the Mayor on May 7, 2015

2. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to lay out Riverfront Drive as a public way and accept said way and any related drainage, water or sewer facilities or easements pursuant to M.G.L. c. 82, § 2 and § 16-2.1 of the Revised Ordinances of the City, all as shown on a plan and profile entitled "Riverfront Drive Attleboro, MA Acceptance Plan and Profile" by Horsley Witten Group dated 4-10-2015, Scale 1" = 40', which plan and profile have been deemed satisfactory to the Superintendent of Public Works.

--Approved by the Mayor on May 7, 2015

3. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to accept a deed from the Attleboro Redevelopment Authority conveying to the City of Attleboro in fee in the land on which Riverfront Drive is located.

--Approved by the Mayor on May 7, 2015

4. Voted unanimously to approve the Petition from National Grid and Verizon, 280 Melrose Street, Providence, RI to relocate Pole #6710 26' +/- South East to accommodate the proposed roadway entrance to the new Riverfront Drive on Olive Street.

--Approved by the Mayor on May 7, 2015

On behalf of Mr. Blais, Mr. Churchill called for a Public Works Committee meeting on Tuesday, May 12, 2015.

On recommendation of the **Capital Improvements & City Development Committee** and on motion of Mr. Conti, the following vote was taken:

1. Voted on Roll Call—10 yeas—0 nays to approve the Administration’s proposed Program Year 2015 Community Development Block Grant Entitlement Budget for the CDBG entitlement year July 1, 2015 through June 30, 2016, the proposed Program Year 2015 Annual Action Plan, and authorize the Mayor, on behalf of the City of Attleboro, to submit to the Department of Housing and Urban Development the proposed CDBG budget and proposed activities to be undertaken during the upcoming CDBG entitlement year.

--Approved by the Mayor on May 7, 2015

Mr. Conti called for a Capital Improvement & City Development Committee meeting on Tuesday, May 12, 2015.

Mr. Weydt called for a Zoning & Land Use Committee meeting on Tuesday, May 12, 2015.

Mr. Thibodeau called for a Transportation & Traffic Committee meeting on Tuesday, May 12, 2015.

On recommendation of the **Public Safety & Emergency Management Committee** and on motion of Mr. Cooper, the following vote was taken:

1. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to transfer \$8,690.00 to Account 12101000-558310 (Police-Uniforms) from Account 11241000-578300 (Citywide-Reserve Fund for Transfer) relative to purchase Police uniforms which is a contractual obligation.

--Approved by the Mayor on May 7, 2015

Mr. Cooper called for a Public Safety & Emergency Management Committee meeting on Tuesday, May 12, 2015.

On recommendation of the **City Property & Claims Committee** and on motion of Ms. Porreca, the following votes were taken:

1. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to appropriate \$36,950.10 from Account 1000-359000 (Undesignated Fund Balance/Free Cash) to Account 11241000-585075 (City Wide – Sprinkler/Fire Alarm System) for repairs to be made to twelve different city buildings.

--Approved by the Mayor on May 7, 2015

2. Voted on Roll Call—10 yeas—0 nays to approve the request of the Mayor to transfer \$5,581.00 from Account 11241000-587395 (City Wide-Improvement to HVAC) to Account 11241000-578300 (City Wide- Reserve Fund for Transfer) as transferred funding

for the HVAC unit at the Shang Building are completed and these funds are no longer needed.

--Approved by the Mayor on May 7, 2015

- 3. Voted on Roll Call—10 yeas—0 nays, in accordance to M.G.L. Chapter 30B, Section 12, subsection b, to approve the School Department’s 60 month lease with Canon USA for digital equipment for the Graphic Arts Department in CTE.

--Approved by the Mayor on May 7, 2015

- 4. Voted on Roll Call—10 yeas—0 nays, in accordance with Section 2-12 of the Revised Ordinances of the City of Attleboro, to approve the following Water Department as surplus and available for disposition:

<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>SERIAL NO</u>	<u>CONDITION</u>
240	Water Meters		Used
1	Orion Star Bench top pH/Fluoride Multimeter	E01306	No longer works
1	Simplex Consecutive Time clock	B323562003W	No longer works

--Approved by the Mayor on May 7, 2015

Ms. Porreca called for a City Property & Claims Committee meeting on Tuesday, May 12, 2015.

Ms. Heagney called for a Personnel & Human Services Committee meeting on Tuesday, May 12, 2015.

Old Business: None

New Business:

- 1. On motion of Mr. Denlea, voted unanimously to refer the following matter to the appropriate committee for study and recommendation: To ban the sale of nicotine and nicotine products to individuals under the age of 18 years old within the City of Attleboro; this includes, but is not limited to, liquids including nicotine, e-cigarettes and liquid vaporizers utilized to consume nicotine products. (New Business - Mr. Denlea)

REFERRED TO THE ORDINANCE, ELECTIONS AND LEGISLATIVE MATTERS COMMITTEE

--Approved by the Mayor on May 7, 2015

VOTED: TO ADJOURN at 10:52 P.M.

A TRUE COPY

ATTEST: _____
City Clerk/Clerk of the Council

MINUTES APPROVED BY COUNCIL: _____
(DATE)