

**Auburn City Council
Regular Meeting
Thursday, July 23, 2020 5:00 P.M.
City Council Chambers
Memorial City Hall
24 South St.
Auburn, NY 13021**

Minutes

The meeting of the Auburn City Council was called to order at 5:00PM in the City Council Chambers, 24 South St. Auburn NY by Mayor Quill.

ROLL CALL – The City Clerk called the roll. Mayor Quill, Councilor Debra McCormick, Councilor Jimmy Giannettino, Councilor Terry Cuddy and Councilor Tim Locastro were all present.

The following City Staff was present for the meeting:

- City Manager, Jeff Dygert
- Assistant Corporation Counsel, Nate Garland
- City Clerk, Charles Mason
- Director of Municipal Utilities, Seth Jensen
- Director of Planning and Economic Development, Jennifer Haines
- Director of Municipal Utilities, Seth Jensen
- Police Chief, Shawn Butler
- Fire Chief, Mark Fritz
- Planner, Holly Glor

Pledge of Allegiance to the Flag – Mayor Quill led the Pledge of Allegiance.

Moment of Silent Prayer or Reflection – Mayor Quill asked for a moment of silent prayer.

Public Announcements –

The next meeting of our Zoning Board of Appeals for the city of Auburn will be held on Monday, July 27, 2020 at 7pm that meeting will be held here in council chambers, City Hall 24. South Street.

Ceremonial Presentations and Proclamations. None.

PUBLIC TO BE HEARD – Mayor Quill opened the Public to be Heard portion of the Council meeting and the Clerk read the Public to be Heard rules. The following members of the public made the following statements:

Richard Stankus

Good evening Mayor, Quill, councilors, and city staff. My name is Richard Sankus. I live at 130 South Street, Auburn, New York, as everyone here tonight is aware Auburn is also well known as history's hometown and I think that's a very deserving title. As all of you are aware, I think we have wonderful gems in this city, historical sites and an equal gem in this city is the historic South Street neighborhood. And I call the neighborhood because in a sense over the past 30 years, 30 plus years actually, that I've lived in Auburn, there has been in a sense a renaissance in the South Street district. My family and I moved here over 30 years ago we purchased the home on South Street originally owned by the Hislop family which many of you who have lived here in the past, remember the Hislops, so a wonderful family. At that time it had been converted into four apartments. Next to it was another historic home that was originally owned by the Osborne family. I'm sure everyone knows who the Osbornes are because they've been benefactors to this city through generations. At that time, it actually was converted into offices for the American Red Cross and the Auburn citizen newspaper, directly across the street, catty corner to those these two homes was a 10,000 square foot home again, originally owned by the Osborne family. That home at the time that we lived on South Street and continued to live on South Street was actually operated by Cayuga Seneca ARC, again it was a commercial building for close to a century. All of these homes including and I can go on and name at least a half a dozen others on South Street, have since been converted from commercial properties into single family dwellings. So they fit the mold for the title, histories hometown. These are homeowners who contribute to tax dollars for the city. And they live here in the city and will continue to live here in the city because they enjoy the local neighborhood of South Street. Tonight, you're being presented shortly, I'm sure, with a proposition to convert another historic home, this case into eight apartments, which the city code doesn't even allow they need a special use variance to do so. Most of you may remember the days of urban renewal when some wise people thought it was reasonable to knock older homes down, and basically just convert them to a variety of commercial properties. If this is allowed, then we're going back I think, to the days of urban renewal, what you're going to have is an eight unit apartment complex, that doesn't contribute to the historic South Street district and owned by an absentee landlord. So, I'm gonna say You have two choices. One is to again confirm history's hometown, or go back to urban renewal. Thank you.

Mike Deming

Mike Deming, 165 Franklin Street. I'm the chair of the historic board. The reason we voted this down, we were not informed what was going on, we were left out of the loop. On Friday before our Tuesday meeting is the first notice that at least five of the board members, I have a breathing issue not COVID, that we're even aware of this. So, Monday was the only day we could even talk and get anything together on this. So, it's a difficult thing, we were left out of the loop. We voted down, in the ordinance on certificates of appropriateness, it states if something is in the spirit of the ordinance and if it'll affect the neighborhood, whether it's in the value of the homes, or the use of the neighbors, it's, around this house is residential and as the doctor said, that's the way this neighborhoods going, and I would think the people on the historic board are experts in this many on this board have been doing this for 20 plus years, some, you know, so there's a lot of expertise here. And we just felt that this would not contribute,

make the neighborhood better, it would be a downgrade. And we asked the representative if they wanted us to break this into proposals for the roof or separate things, and they said no, all or nothing. So five were for turning it down, one abstained and one voted yes, that's what we did. We think for the betterment of this neighborhood, on the upsurge, just like you did with the Seymour mansion, you looked at and put residential in there and that's what, this is a big Seymour Street. So hope you take this all into account. Thank you.

Dr. Elkovitch

Thank you, Mayor, board members. This is new to me its my first meeting I've ever been to here. But I'm Dr. Elkovitch I'm a dentist. I'm located at 73 South Street. And at that place at one time, there used to be a historical home. General Shedells home that was destroyed, taken down I think in the 50's, it's gone. But now, now there may be a problem with 70 South Street being converted into apartment buildings. And I just want to express my opinion and my feeling on this. I've been in practice for many years, as many years as I don't even want to mention, but I have an elderly practice. A lot of people with walkers, a lot of people with wheelchairs. It's nice to park right in front of my office, walk across the street and come in. With the apartments there, the parking most likely is going to be an issue. Even though it was mentioned to me that there are plenty of spaces in the back, 14 of them if I remember correctly. What's, what's going to happen in the wintertime? A plow cannot get down their driveway. That that driveway was always plowed with a blower. Dr. Clary was over there all the time blowing it out. As a matter of fact, this past winter, I don't think it was plowed out once or twice. The only way that sidewalk was clean was with Dr. Tom Donohue plowing the drive, plowing the sidewalk. It's the same thing with the lawn. I don't think the lawn was mowed two or three times until I got about that high. Now I thought the city would come down and mow it for them. These are just my concerns. I mean, there's, I could go on with all the other residential places that are nice and remodeled and and all but board members, I just want you to keep this in mind. It's a lot of changes. There's never been a rental in that place. You change it, t's grandfathered in. Thank you.

Jacqueline Guntow

I just prepared this slide when we get off course, a time. Jacqueline Guntow, 8Hamilton Avenue in Auburn, and I'm here to voice my objections to the zoning variance from the four unit to the eight unit at 70 South. This will be a non resident owner who currently owns other rental properties in our city. He purchased the property knowing that the current zoning, special commercial, does not allow for an eight unit complex. There's no hardship or any other reason to convert this property other than for the owners economic benefit. Granting a variance for eight units including 13 parking spaces will negate all that has been accomplished in trying to keep the density in check and preserving the nature of the historic district. It creates a precedent for more structures to be converted into apartment complexes and other commercial uses. It nullifies the zoning laws put in place to protect and keep our current neighborhood safe and stable. In 2018, the same issue arose and council voted to keep the current zoning instead of changing it to commercial. I worry about the impact this will have on residential property owners and the values of their properties on Elizabeth Street. I can't imagine having a 13 space parking lot in my

backyard. Even with a fence there'll be noise and lights at all hours of the day and night. And even though there are only 13 spaces, this will not allow for guests and couples who have their own cars. There'll be more than 13 cars parked in that lot with overflow on South Street and this does not even address problems that will arise with trash pickup and dumpster service. The rain garden, if not properly maintained, can become a mosquito haven. And it may not be adequate to control all of the runoff and impurities from cars and salt buildup in the winter months. If the variance which benefits one individual is allowed to progress, it will set a dangerous precedent for our historic district and our city. Those well kept homes that we and the city desire to enhance our tourism and preservation of our past are not guaranteed. Each one that is allowed to be converted into a commercial apartment space has the potential to endanger our district. We can possibly look forward to overcrowding, a drain on city services, and eventually a loss that all we've accomplished to increase the beauty and integrity of our district. Today many of these homes are being sought after and purchased as single family dwellings. Just look at the interest in the Seymour mansion. And the recently sold homes at 144, 88 and 50 South Street. These homes are very residential friendly. The city's well being ebbs and flows depending on the care of the occupants. In the watchful eye of our government officials. *(Mayor asked her to conclude due to exceeding the three minute time limit)* I will, to follow our zoning laws. If we grant one variance, there will be others and soon we may not recognize or even want the new commercial Historic District. Thank you. So I request you vote yes to the future of Auburn and no to this request for a variance. Thank you so much.

Alex Vanderpool

Alex Vanderpool, 3 Elizabeth Street. This started at the planning board, I want to say back in March, plus or minus, maybe February. At that time, my wife and I were very against it. The plans had no concerns for us. The applicant came back, they did address some of our concerns, not all of them. To be honest, we're on the fence. We're not completely for this. We're not completely against it. We're hoping for what's best in the community. The question I believe you're going to face today, though, is did the planning board have jurisdiction to vote no as they did. The application had a roof. It had a fence. It had a parking lot. And I think I remember seeing in some of the notes something about replacing a window with a door for ADA compliance. Technically, I think it'd be fair housing compliance but whatever. I believe that those are significant changes to the exterior in the planning, or that the historic board, did have the authority to review those items. The applicant did ask to have everything looked at as a single project. And with that, you start talking about the roof then you talk about the fence, next thing you know this project as a whole didn't seem like a good fit in their eyes. That's how I take their ruling. And I would, I don't think the right remedy for this is to remand this back to the Historical Review Board right now. I think the best remedy might be for the applicant to come forward with either, ideally a smaller unit, but I know that may not be a choice they want to entertain, but possibly come forward with a few other ideas. The applicant did reach out to our family this week we're a little late in the process for that but I appreciate it. I understand they have life issues and and what not too. I just believe the planning board did have authority to do what they did at their meeting and that's that is the limit of what I'm bringing to you today.

Elaine Oughterson

Good evening. My name is Elaine Oughterson and I live at 1 Elizabeth Street. My husband and I have lived there for over 40 years we raised our family there. I am here to agree with the speakers that were before me and oppose this based on the undermining intent of the historic district and its deterioration. If one person is allowed this eight apartment variance, every landlord will has a house on South Street will be in line to get a special use permit. I will be the one looking at the parking lot out my back yard window. Thank you.

Kim Dungey

My name is Kim Dungey. I've lived at 5 Elizabeth street since 1984. Who is in charge here? Why was the Historic Resources Review Board brought into the conversation about drastically altering 70 South Street only after the Planning Board held two meetings to discuss and then approve a special use permit that will destroy the population density of my neighborhood. Per code 178-11-c-1 it profound will have a substantial adverse effect on the aesthetic significance of neighboring properties, such as the home I've lived in for 36 years on Elizabeth Street. If the review board's decisions make a difference. Why do you not require they be brought into conversations about proposed changes in the historic district right from the start? If the review board's decisions don't matter, why does the board exist? Why waste everyone's time? Does an absentee landlords whining to City Council about a decision matter more than the board's authority? Should the neighbors whine louder? Maybe we should have griped to you after the Planning Board's decision. Three times since March, I've sent comments to or addressed in person decision making bodies of our city about proposed changes to the property whose southern border is the entirety of my backyard property line. Only through the neighborhood grapevine, you see I live in the neighborhood, I'm not an absentee landlord, did I discover the City Council was meeting tonight to hear an appeal about a manner that I thought had been resolved? Why is it that we property owners who are directly impacted, were not notified? If they're not required I request you change things so they are. If you want people to invest in their communities invest in them with a postage stamp and a little courtesy. I read with interest the materials provided tonight by Mr. Onori and Mr. Blair to sway the Council to reconsider. How convenient to not include items that directly impact my property. They failed to mention a commercial parking lot for 13 cars overlooking my property. They failed to mention a swamp which they call a rain garden directly behind my dining room. They failed to mention that due to the slope of the property, the proposed six foot property line fence will do absolutely nothing to screen my view of lights from in the parking lot, or for much of the swamp. Disease carrying insects will not be deterred by a fence. They whine about the historic Resources Review Board overstepping their bounds but failed to mention the city code 178-11 item D requires the board to address aesthetics, and not just appearances. They include numerous photographs. But not this photograph from my dining room window that shows the fence will do nothing to keep the lights out of my dining room. Few people are more interested than we neighbors in having 70 South Street maintained.

Andrew Roblee

Good evening. Good to see everyone. My name is Andrew Robley. I live at 14 Vanpatten Street in Auburn. I hold a master's degree from Cornell University in historic preservation planning. As an architectural historian, my day job consists entirely of assessing the potential impacts on historic properties so that client developers can avoid litigation. That's what I do for a living. The National Historic Preservation Act, the New York State Historic Preservation Act and Auburn's Historic Preservation ordinance, were all born out of a reaction against the destruction caused by urban renewal and decades of unrestrained subdivision of homes into multi unit apartments. Auburn's local ordinance marked the beginning of a long and difficult path to undo that damage. In the midst of the current economic insecurity, the city should use this issue as an opportunity to reaffirm its commitment as guardian of the quality of life for its citizens and not repeat the same mistakes in the past. Preservation ordinances are not simply about saving pretty buildings. They exist specifically to give an expanded review of a project's impact on historic properties, and to serve as a backstop against development that threatens the qualities that make historic neighborhoods meaningful. Auburn's preservation ordinance clearly allows for the consideration of factors beyond any of the specific project points. These ordinances however, also promote collaboration with developers in order to accommodate the highest and best use of the property. And an array of financial incentives at the city, state and federal level exist to make that happen. Currently, state and federal historic tax credits can finance up to 40% of the project's qualified expenses. And there's a bill on the Senate floor that will increase that to 50% if it passes and is signed. Auburn's ordinance gives the city council the power to remand this matter back to the historic resources review board so that a compromise can be reached. As a property owner and resident of Auburn and somebody who loves its historic fabric I ask the Council to do that tonight. If the developer in this case is serious about his passion to sensitively develop property in Auburn he will return to the table we will work with him to find a solution that works. Thank you.

Robin Casper

Hello, everybody. My name is Robin Casper. I am the current owner of 70 South Street. I prepared some talking points. So, I want to make sure I address things I want to. So I've introduced myself to a few of you this week, knocking on your doors and I just want to kind of tell my my side of things my story so I've been investing in Auburn for the past seven years. My family is from Auburn, my grandparents on my father's side own a farm in Auburn, and my mother was born and raised here, along with her five siblings. Auburn has always played a big role in my life. For the past five years I've lived and worked overseas building U.S. embassies in Chad, Africa, I helped build a new \$500 million embassy. Most recently, the past three years, I've been renovating the existing U.S. Embassy in Tel Aviv, Israel, for which I was the foreman on that project. I only point those things out because at the Historic Resources Review Board, I know it came into question of whether I'm getting in over my head or not. And I just want to point to those things to say I'm not. Before my work building U.S. embassies I was in the US Navy's Construction Battalion, and I'm a proud U.S. veteran. Now I'm home with my family and I'd like to work for the city of Auburn and repairing the existing broken housing stock and 70 South Street is a big part of that. Being a tradesman, I'm always first attracted to the architecture of a building, especially if it's a building that has been neglected and long forgotten about. I went to school for architecture for

two years. And that was enough for me but and have a deep appreciation for it. 70 South Street has been vacant for 15 years. I've developed a plan to make it financially feasible for me to properly restore this great building with the proper materials, the best materials and to do it right. And to get it back on the tax roll instead of it continuing to be a non performing asset for the city. 15 years is a long time. To the neighbors and members of the Historic Review Board I'd like to say the fact that that this property is historic has been the biggest excitement for me and I intend to be a respectful steward of this property and member of the community. Before purchasing 70 South Street I did my due diligence with the help of Beardsley Architects. I picked Beardsley specifically because they're on South Street, and they're local. I trusted their expertise in making sure that all the criteria was met, that the city of Auburn set in place. The Planning Board also did a good job in taking steps to ensure this project met or exceeded all the requirements.

Karen Walter

Good evening. My name is Karen Walter, 15 Case Avenue. I'm Alex's mom, so my grandkids are going to be raised at 3 Elizabeth Street just as Alex was. I will point out when he spoke, it wasn't the Planning Board that had denied it, it was the Historic Review Board, kind of a stickler for the details. Just to mention a couple things, properties that are vacant or condemned, if they're vacant for six months or more, there's a there is a means in which the city can have them revert back to their prior use. Reason I mentioned that is that last week, a couple of ladies were present, they spoke and they said they were concerned about dilapidated properties. So, if that's a tool that you've got at your disposal, that might be a means in order to try to clean up housing stock. 70 South Street was sold as a single family house and in 2007, when Mr. Simpson bought it was assessed for \$285,000 and it was purchased in September of 2019 for \$51,000. The residents from Elizabeth Street were present at the public hearing at the planning board. Some of the things that they were concerned about was increased noise, increased traffic, that driveway will only accommodate one car. So, imagine you want to take a left hand turn off a South Street into your driveway to get down to one of your 8 apartments and you've got somebody else coming up the other way. What happens? Do you play chicken? Does somebody back out into South Street? And God forbid if there's an emergency at Westminster Manor and traffic is held up on South Street, that could be fatal. So the Planning Board looked at increased noise and increased traffic. They looked at storage and waste, they looked at whether it was compatible with the dominant site and my concern is they received a checklist from staff and it only looked at the numbers. It looked at the square footage and looked at how many units. It didn't look at the neighborhood. And I really believe that without that aspect, those, that rear part of South Street is the backyards of Elizabeth Street. Elizabeth Street is in the historic district in its R1 and I just think they're not getting a fair shake in this at all. One Planning Board Member, Theresa Walsh, did vote no. But the other Planning Board members all agreed with what staff had pointed out, just the numerics and to think that you're going from a single family to 8 and not say there's going to be an increase in noise blows my mind. To go from a single family, that it was used for from 2007 until the man vacated the property and say that there's not going to be increasing traffic blows my mind. It just doesn't make sense. So, I would give those thoughts to Council and make the best

judgment that they can, knowing, just as reminder, in 2017 there was a move to obliterate the historic district all together. Thank you.

Cathy Diviney

Thank you, Council, people, Cathy Devaney at 100 South Street in the historic district, I would just like to say I support the neighbors, the South Street historic district, and the Historic Review Board and urge you to consider all that you've heard today to demonstrate that this, making this house into eight units, this is not going to further the interest of the city, or, the historic district. In fact, from what I can tell it'll hurt the tax roles of the city because it will bring down the values of all the adjacent properties and multifamily houses are assessed much lower than single family houses. And really the only person that benefits from this is the property owner who owns the multifamily unit. And I, it's unclear to me why the Planning Board would think that putting eight units in this building and making it a multi family building furthers the interest of the city of Auburn and the historic district. Thank you.

Chris Mack

Chris Mack, 100 South Street. I'm also a member and the sitting president of the historic South Street Neighborhood Association. I have all concerns that my fellow neighbors have expressed, I completely agree with. We especially have concerns about the process. We've been back here many times, you all know me, you all know all of us. And we have prevailed numerous times upon the city Planning Board, to contact us when there are measures that especially involve the historic district. We've fought on numerous occasions to preserve the character of historic district, we fought manfully, and we thank the Council for helping us to amend the code so that we could at least get the specialized commercial district. In that code. It says you can have three to four apartment units, you may with a special use permit get up to eight. Why 8? What's wrong with 5, 6, 7? And the planning board never addressed that. If I think members of our group, were able to work with the Planning Board, with the developers, then we might have a chance to actually find some positive way out of these situations, rather than always have us have to be here as an antagonists. As I ask for your consideration, I seriously ask you to consider to find a remedy that does not include an eight unit residential housing unit at 70 South Street. Four is what's in the code, four is what it should be. Thank you.

Approval of Meeting Minutes - none

Reports of City Officials

A. City Manager's Report

- The City of Auburn has issued a Request for Proposals (RFP) for Combined Sewer Overflow (CSO) Facility Upgrade and Design including construction administration and inspection. The RFP responses are due back July 30; more information is available on the city webpage under the tab "Bids/RFPs."

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- The City of Auburn is accepting bids for the 2020-2021 Annual Revolving Loan Sidewalk Program. Bids are due back July 28; more information is available on the city webpage under the tab “Bids/RFPs.”
- The City of Auburn is accepting bids for the Wholesale Sewer Metering Project which is made up of three components – Flow Meter Supply and Installation, General Construction, and Electric Construction. Bids are due back August 4 and more details are available on the City of Auburn webpage under the tab “Bids/RFPs”.
- The City of Auburn is accepting bids for the 2020 Water System Improvements Project. Bids are due back August 4 and more details are available on the city webpage under the tab “Bids/RFPs”.
- The City of Auburn is accepting bids for an Unmanned Aerial System – Public Safety Drone. Bids are due back on August 5 and more details are available on the city webpage under the tab “Bids/RFPs”.
- The City of Auburn is accepting bids for the construction of a new Public Safety Building. Bids are due back on August 11 and more details are available on the city webpage under the tab “Bids/RFPs”.
- The City of Auburn is accepting bids for the structural repair of the Lincoln St. Parking Garage due to fire damage. The bid documents will be posted this weekend on the city webpage and are due back August 18.
- Auburn Civil Service has announced a new Police Officer test. The test is scheduled for September 26 and those interested must apply by August 26. More information is available on the City of Auburn webpage under the tab “departments”, then “Civil Service”, and finally “Job Opportunities.” A short cut and announcement will be displayed on the main page soon.
- On Tuesday Mayor Quill and I delivered the annual State of the City presentation that had been postponed from its typical March date due to Covid-19. The presentation may be viewed via a link on the city webpage.

B. Reports from members of Council - none

Matters to Come Before Council

A. State Environmental Quality Review Act Resolutions (SEQR) - none

B. Ordinances – none

C. Local Laws – none

D. Resolutions

COUNCIL RESOLUTION #79 of 2020

AUTHORIZING THE INSTALLATION OF SIDEWALKS ALONG PORTIONS OF CASE AVENUE AND PERRINE AVENUE

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By Councilor McCormick

July 23, 2020

WHEREAS, the Auburn City Code, Section § 259-36, entitled “Maintenance of Sidewalks” provides City Council the sole authority to authorize the installation of new sidewalks on any street with the City; and

WHEREAS, the property owners of 25, 27, 34, 35, 37, 41, 47, and 49 Case Avenue and 221, 223, 227, 236 Perrine Avenue have been notified of the proposed installation of the sidewalks in front of their properties; and

WHEREAS, a Public Hearing, regarding the proposed installation of sidewalks at the aforementioned properties, was held on July 16, 2020, in accordance with City Code, Section § 259-36.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Auburn hereby authorizes the installation of new sidewalks, funded by the Community Development Block Grant Program, along the properties located at 25, 27, 34, 35, 37, 41, 47, and 49 Case Avenue; and 221, 223, 227, 236 Perrine Avenue.

Seconded by Councilor Locastro

	Ayes	Noes
Councilor McCormick	X	
Councilor Giannettino	X	
Councilor Cuddy	X	
Councilor Locastro	X	
Mayor Quill	X	
Carried and Adopted	X	

Financial Resolution #80 of 2020

AUTHORIZING various OPERATING and capital budget transfers

By Councilor Giannettino

WHEREAS, the City of Auburn staff is requesting various operating and non-operating budget transfers for the fiscal 2019-20 year as outlined in attachment A; and,

WHEREAS, there is no fund balance being used for these transfers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Auburn, New York:

1. That the Auburn City Council does hereby authorize the transfers in Attachment A for the 2019-20 fiscal year; and,
2. That this resolution shall take effect immediately upon its adoption.

Seconded by Councilor McCormick

	Ayes	Noes
Councilor McCormick	X	
Councilor Giannettino	X	
Councilor Cuddy	X	
Councilor Locastro	X	
Mayor Quill	X	
Carried and Adopted	X	

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Resolution 80 of 2020 - Attachment A: 19-20 FY						
7/23/2020						
Amount	Account to		Account From		Reason	
\$ 1,500.00	A1620.130	Buildings - Temp P/T	A1620.210	Buildings - Furniture/Fixtures	To cover additional hours for PT Cleaners (COVID)	
\$ 21,000.00	A3310.425	Sig/Lights - Electric	A3310.250	Sig/Lights - Other Equipment	To cover June NYSEG & ECA bills	
\$ 2,200.00	A5651.110	Municipal Parking - Salary & Wages	A5651.250	Municipal Parking - Other Equipment	To cover final June Payroll	

AWARD RESOLUTION #81 OF 2020

**AWARDING A PROFESSIONAL SERVICES CONTRACT FOR THE BIOSOLIDS
PROCESSING & DRYING IMPROVEMENT PROJECT**

By Councilor Giannettino

WHEREAS, on March 19, 2020, the Auburn City Council authorized Bond Ordinance #4 of 2020, approving funding for the Biosolids Processing & Dryer Improvement Project (the “Project”); and

WHEREAS, on May 21, 2020, City staff released a request for proposals for professional engineering services related to design plans, design-related construction administration and inspection services for the Project; and

WHEREAS, on June 26, 2020, the City received four (4) responses from various qualified professional engineering services firms; and

WHEREAS, City staff reviewed and scored the responses, and the average scores were as follows:

- | | |
|---------------------|--------------|
| 1) Brown & Caldwell | Score: 97.0 |
| 2) Wendel | Score: 79.75 |
| 3) ARCADIS | Score: 72.5 |
| 4) Ramboll | Score: 68.25 |

; and

WHEREAS, City staff recommends that Brown & Caldwell of Syracuse, NY, as the highest ranked firm to provide the above mentioned professional engineering services for the Auburn Biosolids Processing & Drying Improvement Project; and

WHEREAS, now City staff requests that Brown & Caldwell of Syracuse, NY be awarded a contract for professional engineering services for the initial Basis of Design Task in an amount of \$63,000.00, which is necessary to determine the remaining cost of the full design, construction administration and inspection phases of the Project.

NOW, THEREFORE, BE IT RESOLVED that the Auburn City Council does hereby award a contract to Brown & Caldwell of Syracuse, NY for professional engineering services for the initial Basis of Design Task for the Biosolids Processing & Drying Improvement Project in an amount of \$63,000; and

BE IT FURTHER RESOLVED that the Mayor, or appointed designee, is authorized to sign the initial Basis of Design Tasks agreement and related documents for the Biosolids Processing & Dryer Project on behalf of the City of Auburn; and

BE IT FURTHER RESOLVED that the cost of this resolution in the amount of \$63,000.00 is to be charged to the Biosolid Dryer capital account (#HG8130-440-KM).

Seconded by Councilor Cuddy

	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro		X	
Mayor Quill	X		
Carried and Adopted	X		

TABLED ITEMS - none

STAFF/VENDOR PRESENTATIONS - none

OTHER BUSINESS –

Mayor Quill

Very well. Thank you. Other business from Council, appeal of the Historic Resources Review Board's denial a certificate of appropriateness regarding 70 South Street. Councilors, anyone, Councilor Cuddy, please.

Councilor Cuddy

I'd like to start off first. We've heard from the public and Mr. Casper himself. And this is a very unique situation for us on City Council. I've been here for seven years, six and a half years, almost seven, and this is the first that has happened. So, here we have a property that has been denied a certificate of appropriateness because the Historic Resources Review Board deemed that it has not met the criteria of their purview. I have reviewed the various documents, related applications and correspondences between the city and representatives of the developer, Mr. Casper. Tonight we have heard from Mr. Casper, neighbors, concerned Auburnians and members of the Historic Resources Review Board regarding the appropriateness of exterior, the proposed structures and landscaping of the property.

Nate Garland

Councilor Cuddy, if I if I may interrupt with apologies. The attorney for Mr. Casper is here and prepared to present a case for Mr. Casper. So I don't know if you wish to save your remarks until until after hearing from Mr. Blair.

Councilor Cuddy

Absolutely. I'm sorry.

Mayor Quill

So with Council's permission, we'll bring Mr. Blair, is it?

Nate Garland

Yes, your Honor. Unless there are other questions for me about the process. My apologies for not specifically informing Council that Mr. Blair would be presenting a case for his client.

Councilor McCormick

Maybe it would be a good idea if Mr. Garland would go over what we're going to do tonight. Would that be a good idea? Yes?

Nate Garland

Thank you, Councilor. Just to piggyback on something Councilor Cuddy was saying, this is not a typical function of the City Council. As everyone here is aware this is the legislative body for the city of Auburn charged with among other things, making laws to, for the benefit of the people within the city of Auburn. One particular section of our municipal code, however, vests appellate jurisdiction in the City Council, and I thought that it might be worthwhile to highlight the fact that sitting as an appellate review body is something entirely different from the the general purpose that this this Council serves.

Specifically, I'd like to take a moment to talk about the appellate review. Now, generally speaking, the best analog and the most common place where decisions are reviewed, of course is the court system. And appellate review in the court system takes place when a higher court, a higher body reviews the decision of a subordinate body. So, a case that's probably familiar to everyone here is a criminal case gets overturned by conviction gets overturned by an appellate judge. When that appellate judge or panel overturns that conviction, they as individuals perhaps do not wish that defendant to walk free. Perhaps they think that the needs of the community require this person to be in jail. But as individuals charged with reviewing a previous decision, they must stick to the particular law which governs that case. There is really not a whole lot of opportunity for appellate courts to review de novo, is the legal term, to essentially stand in the position of the factfinder, of the original judge, rather, an appellate review body must determine whether or not that subordinate body has made a decision which is in keeping with the facts as they present themselves and the appropriate law of the case. So, I would urge this Council to after hearing from Mr. Blair, keep that in mind when deliberating as to what decision you will make. So, one more Oh, sorry, one more question. Will this be done as a vote or how do we do that? I think the best way to address this would be as a motion, which the council would then vote out. Thank you.

Mayor Quill

Mr. Cuddy, you Councilor you had the floor.

Councilor Cuddy

I would like to hear from Mr. Blair. Is that agreeable to the City Council, Councilor Locastro, you go with it?

Councilor Locastro

Yes, sir.

Mayor Quill

Mr. Blair, if you would please.

Mr. Blair

Mayor Quill, City Council members, Mr. Garland, Good evening. My name is Tom Blair, and I'm the owner of the Blair Law Firm in the town of Skaneateles. I'm very pleased to be before this body tonight for what your ordinance considers an appeal. You have a unique ordinance and my perspective, in that we're not appealing to Judge Leone or Judge Fandrich, here we're appealing to City Council. And there must be a reason that the forefathers and foremothers of the city drafted your ordinance that way. So, that's the reason we're here tonight. Briefly, I do represent Rob Casper, who you met briefly earlier. He didn't get a full blown description because of the three minute time limit but I'll represent to you that I've been working with Rob over the past couple of years, acquiring properties that he'd like to see rehabbed on Seminary. I assisted him with 70 South Street. For the most part, he's been in Israel and returned recently. And he's anchored back down here in Central New York now and ready to begin the earnest work on all of his projects. He is a contractor. He is a property manager and he is committed to having a role in each and every property that he does own in the city of Auburn, just by way of background. Also, by way of background, allow me to just briefly tell you that I'm a municipal attorney. I'm a land use attorney. I represent Historic Preservation committees and historic review boards in different areas of the Finger Lakes. And I greatly appreciate the situation that the HRRB found itself in. I greatly appreciate the consideration and the comments of all the residents in the historic district. None, none of the opinions should be discounted. And I think that I know that my client shares that opinion. So, I'm not here to argue with residents. I don't live near South Street. I'm not here to be adversarial. I'm here to, what we call on the legal business, prosecute an appeal. So, very briefly, the four corners of this appeal, as we say, really consists of what jurisdiction did the Historic Resource Review Board have? And what were the HRRB's duties? And did the board follow its call with regards to the ordinance. So, I'll start with all of the materials that have been provided to you and highlight that city planning staff went through the the existing code, the ordinance and through the process of applying for a special use permit. The planning board approved the eight unit use, essentially a conversion at 70 South Street. And I do have to correct for the record one misnomer that I heard from a speaker. Certain folks want to consider special use permits as something as an outlier, something that signifies that these things are not permitted uses in our community. But you should read the local government series from James Kuhn on this, which is available on the internet and you'll find that special use permits, in fact, mean it is an approvable use in the city. It's not that it's not allowed. It's that it is allowed with some extra conditions. And those conditions typically always benefit the city, the town, the County, the village, and that the legislative body has determined that there needs to be some additional conditions when these factors and these applications come in front of you, and it gives you some extra control mechanisms. If you wanted to zone out this kind of use, that special use permit process would not exist in your ordinance. So, this is a use actually welcomed by the city of Auburn pursuant to its code and pursuant to my client's application. He did retain Beardsley Architects, and they went through the entire application process. And during that process, there was not a SEQRA review required that is the State Environmental

Quality Review Act. Any of you that have been in front of the Planning Board or seen significant projects done anywhere in Central New York know that that is the process where members of the public stand in front of the podium and talk about light intrusion, light spillage, noise intrusion, vegetation, drainage, character of the community. I've been serving as counsel for quite some time up in Tyre where they built a casino. We want to talk about SEQRA issues in the changing character of a community, Walmart superstores, all the way down to conversions of buildings in historic districts. This process did not involve SEQRA because it's deemed to be a type two action, not subject to SEQRA. A type two action under SEQRA, by its own definition, has no environmental impact on the surrounding community, or such a smaller, negligible impact that the DEC does not want a municipality's board to bother with a review. So, I want to state that and I understand everybody's concerned with headlights and drainage and, and hopefully, through the Beardsley plans and screening and proper best practices, all that is pretty easily taken care of. So, with regards to the main thrust of the application, there was a special use permit in front of the Planning Board, your Planning Board, the Planning Board, did its due diligence with counsel, went through all of the detail, all of the data, all of the plans, had an opportunity to speak with the applicant, and after due consideration, granted the special use permit. Now in municipalities, I work in where there are historic preservation committees or review boards. That's the first step, you got to know you have a project. And then you want to get to the historic board to figure out what architectural components are like, are not like, are Interior Secretary worthy, etc. And that's the purpose of the Historic Review Board. And I work with certificates of appropriateness. And my client was working with one here, I wasn't involved in the application at that stage. But what I want to highlight for this board, it's sitting in your quasi-judicial role is that that was the sole application in front of the HRRB, it was an application not for the project, but for certain historic components related to the project. A certificate of appropriateness. And I would say that if you listen to the tape of the meeting, or you read the transcript and you get involved, there was a lot of good discussion, valid discussion amongst community members. But with regards to the jurisdiction of the application in front of it, there was not, in our opinion, sufficient evidence in detail associated with the very particular application concerns that were in front of the board, in my opinion, and with all due respect to Mr. Garland, the board's duty was to take a look at the application in front of it, the architectural components, the components, that the board is vested with authority over and to give specific rationale on those items as to whether or not they were applicable, not applicable. And if, as members of the community you have concerns about certain other aspects of the project, you're a private citizen, you have your first amendment rights, you can always approach Rob Casper, he's a very approachable guy. And talk about, hey, is there is there something else that we can do? And specifically, I'm going to mention the the Beardsley items that were in front of the HRRB. One, replacement of roofing on the main part of the building with colorized asphalt shingles to match the existing roof. Two, replacement of deteriorated soffits and fascia with inkind materials. Three, provide an access ramp and an entrance all ADA compliant on the northeast corner of the building essentially where a window is. Four, provide a six foot tall solid wooden fence to provide screening to adjoining properties and five, parking lot layout for nine cars. There's already a garage that fits four cars.

Mayor Quill

Would you would you repeat that please Mr. Blair?

Mr. Blair

Yes. Number five, a parking lot layout for nine cars. So, there were a lot of project worthy discussion points that were talked about earlier. And I can go back and forth and we can all sit down over a cup of coffee and have a lot of discussions on, well, if it were a single family home, couldn't they still fit nine cars if the family had nine cars and relatives, and there's a four car garage, and, hey, nobody's got wells over here, so, who cares about the salt runoff from cars? And there's many, many points, but really, it's it's chaff, It's what, it's really not germane to what's before this board tonight. With regards to your appellate jurisdiction, I submit it's a very narrow issue. The very narrow issue is did the HRRB use well reasoned and detailed rationale in addressing the applicant's specific components of a request for a certificate of appropriateness and I'll submit to you that the materials that we've provided you that you have in front of you that you've been able to review, detail that there was a lot of discussion about the project in general and the board's unhappiness with the Planning Board moving forward without some sort of consultation. And therefore, in my opinion, having done these cases for many years, the board did not issue a decision with regards to its denial of the certificate of appropriateness that should withstand your scrutiny, and should be subject to remand back to the board to properly evaluate and detail their decision on the items before it. Not the project, the special use permit has been granted. But the architectural components of the project. That's all I have at this time, and I, unless the board has any questions for me, and please ask even after I sit down if you'd like to recall me, I'm more than happy to answer questions. But I think Ed had a couple of things that he wanted to speak about as part of the appeal.

Mayor Quill

Good. Thank you. Thank you.

Ed Onori

Thank you, Mayor Quill, City Manager and Council. I know I heard a lot of talking about parking and what was going on out there. I've been with Beardsley for 37 years. I've lived in Auburn my whole life. I know the parking issues. I know the driving issues. There's daytime parking, there's nighttime parking, there's weekend parking, there's summer parking and winter parking. So, it's not all lumped into one little thing. There's a whole bunch of things that go on to parking. I understand businesses across the street. We have about 75 parking spaces at our office. We had over 100 people there one time. Everybody parked in back, but everybody goes home at night, everybody that worked on South Street, or anybody that had to go away for the day and then come back, the parking changes all the time. It's not just specifically at one time. So, think about, you know, that type of thing with the parking. I've been working with Robin since October, trying to go through the house, trying to do what was best for the house, trying to make sure that we weren't going to hurt the historic value of the home. And we didn't want to rip anything apart. So that's why we spent a lot of time with the actual home to make it what it

needs to be. I worked with the city Planning Department because I knew this was going to be an issue, reading all the regulations, came up with our program and how we were going to move forward. Been in and out of the city a bunch of times, making sure that we had things all documented correctly. We had back and forth, the second meeting that we had with the planning board, they wanted to add additional parking, so we did. We put plantings and trees around the parking area, that was all additional, not part of code. The fence was another thing to help with the neighbors, that's not part of code, but the owner was willing to do that. The rain garden, the rain gardens, kind of interesting, because the planning department asked us to put a rain garden in there to protect the water flow. Well, today after that big rain, I was sitting at my desk and I ran out over there and looked in the backyard. There's not a puddle back there. So, that's one thing, you know, we didn't have water collecting back there. So, that may be something and I think a lot of people don't quite understand what a rain garden is, rain garden is made of, yes. It is circular, it does hump up in the middle with stones, and all kinds of flowers that collect the water, but it's not a pond. It sits there and you see them all kinds of places and you don't even know that it's a rain garden. But it doesn't collect water and it doesn't, it just gives it a way to dissipate and it goes into the ground. It's a lot easier that way. But in working with the planning department and we went through a couple meetings, and they approved it because we did check all the boxes. I do get that. A lot of people I don't think know in the special commercial district, there are nine homes, buildings that have 62-68 unit or 58 units in it. Eight of them, eight of the units are over six, there's only two that are six units in the building. So, but we have as much as 68 or 58 units in one building and 32 in another. So, and that's all in the special commercial district and in the historic district. So, the one thing you know, I'd like everybody to think about all of these projects got approved at one time or another. They weren't this year. They weren't last year. But some of that, but I'm just wondering why 70 South Street has to jump through more hoops than some of these projects did. So, in I think we've met everything with the city regulations and codes. And, you know, we're trying to help the neighbors, if there needs to be more meetings with the neighbors, we can sit down and try to help with that. We know we have to go back to the resource review board for the fence and try to work out what they want that to look like. But I just wanted to give you my two cents. And what we thought and what we've gone through trying to help out the Caspers and trying to help out South Street as we've been here a long time. Thank you.

Mayor Quill

Thank you. Mr. Cuddy, go ahead.

Councilor Cuddy

Mayor may I ask, I don't know who to ask, probably city staff. Can somebody tell me why there was no SEQRA required for this? Why a type two was? Can somebody answer that? Either city staff, or.

Ed Onori

The SEQRA process kicks in when it's something that's done over an acre. And this we're not disturbing anything over an acre. There's a little pieces of concrete being added to the parking in back. So, we're not, we're not disturbing more than an acre.

Councilor Cuddy

So, the property itself is not over an acre that is what kicks in the SEQRA for the DEC?

Ed Onori

That's what kicks in the SEQRA, right.

Councilor Cuddy

Okay, and this, I believe, is definitely a question for the, for the staff. Can somebody answer why the Historic Resources Review Board, how come this project went to the Planning Board first and not the Historic Resources Review Board?

Nate Garland

I can I can feel that one Councilor Cuddy. There's there's nothing in...

Mayor Quill

Oh, hold on one second. We're going to call city staff. You're welcome to stay there. We'll go to city staff. And then then we'll be glad to listen to you.

Nate Garland

There's nothing in the code or the general city's law, which sets up a pecking order in terms of which board comes first. Essentially, it is the applicants choice to petition whatever board they choose in whatever order they choose. And as Mr. Onori said, it sounds like that Mr. Casper along with Mr. Onori made a tactical decision to get the approval for the special use permit first from the Planning Board. But as I said there's that was a decision that was theirs to make and there is nothing that requires any applicant to go in any particular order.

Councilor Cuddy

Very good. And, as far as we did hear from the public tonight about, I guess more or less a courtesy, if it is in the historic district, is there, you know, would it not be just courteous or a courtesy to to let the Historic Resources Review Board know that a project, like any project, is coming down the pipe?

Jenny Haines

Certainly we could do that I do want to point out that as part of the new zoning ordinance, the Council made a change to the notifications for planning board applications and increased the notification distance from 200 feet to 400 feet. That was done in this particular instance, as well. Many addresses on South Street, both sides of South Street, as well as other streets around it receive notifications for the planning board meeting related to the special use permit.

Councilor Cuddy

Um, but there's just, not at this point, no real record?

Jenny Haines

There's, there's not a codified process around that. If the council would like we can, as a courtesy, let that board know of Planning Board applications in the historic district.

Councilor Cuddy

Because as I say, this is very unique, this is a very unique situation that we're in tonight and just wanted to say that...

Jenny Haines

I've been here a long time It's never happened.

Councilor Cuddy

Yes, yes. So okay. Um, Just wanted to at least clarify a few things as to why why we're here now and thank you. Thank you very much.

Mayor Quill

Mr. Blair. Did you did you want to add something in? Please?

Mr. Blair

I did want to clarify the record, I think it's important to just correct the record on an issue. This project is not subject to SEQRA, its a type two action pursuant to and here comes the legal stuff NYCRR 617.5.C.2, properties that are one acre or more do not have to comply with SWPP requirements Stormwater Protection Pollution Prevention plans pursuant to the DEC. With regards to SEQRA this is the language here type two action, again not subject to SEQRA, the following actions are not subject to SEQRA to review under this part, C2, replacement rehabilitation or reconstruction of a structure or facility in kind on the same site, including upgrading buildings to meet building or fire codes unless such actions meet or exceeds any of the thresholds in a different section. So, I just wanted to clarify that for the record. And I would be remiss if I if I didn't say to the board that the unhappiness of certain Historic District residents or board members, with the conversion of stately and large older homes in the city of Auburn can be addressed. I would submit that the proper mechanism to address that should not be through the denial of a certificate of appropriateness for my client, who has already received a special use permit. In fact, my opinion is that that's improper to do so. However, I was Council for the Planning Commission in the city of Cortland that had a very similar issue. There were beautiful stately older homes being bought up by all of the investors for student housing and they would cram as many kids as they could in their city of Cortland passed a standalone local law to address the issue. So, I always say to everybody that if you're not happy with the way your community's laws are written, or if there are some guidelines in there that aren't 100% in your district, well, then you've got to appeal to the legislative body to see if they're willing to undertake tweaks to protect you moving forward. But I would submit to

you that it would absolutely, in my opinion, be an improper decision by the HRRB be to try to deny the project based upon criteria that was already decided upon by the Planning Board.

Mayor Quill

Thank you. Thank you. Council, you still had the floor.

Councilor Cuddy

Yes. Thank you. Thank you, Mayor. Thank you, Mr. Blair. So, we have heard a lot tonight. And I guess it's it's a matter of perspective. But that's the reason why I want to move the way I, I move towards this, so, there's a reason why we have a Planning Board, there's a reason why we have Historical Resources Review Board, and they are they are basically our assigned experts. We are the council. We choose the the membership of those boards, because we see them as the experts as outlined in the code in section 178. I am proposing that this Council remand the issue back to the Historic Resources Review Board with focus and emphasis on the following criteria as laid out in (City Code) Section 178-11 Part C when this and if this is remanded back to the Historic Resources Review Board, I am hopeful in the thinking about the general criteria, will the proposed work have a substantial adverse effect on the aesthetic, historical or architectural significance of the property itself, the district or neighboring properties in such a district, and I want that to be the focus. Now, we have heard a lot tonight, but if we decide to remand this back to the Historic Resources Review Board, your concern needs to be very specific, as Mr. Blair indicated. Second, Part D, ask yourselves and be specific, would the stated modifications be consistent with the spirit and intent of the law? Would such alterations and modifications be detrimental to the character of the neighborhood? Would they adversely affect the functioning economic stability, prosperity, health and safety and general welfare of the community? I was part of the council that passed the municipal code as it stands today. I believe we know the spirit of the code as it relates to our historic district and the neighbors that uphold the aesthetic character, that it should uphold the aesthetic character of the district. From my reading of the drawings of the proposed property changes, I do see major alterations of the carriage house and landscaping that accommodate parking while reviewing the concerns of the neighbors it does relate to these alterations of the visual and landscaping elements of the property. I do believe that the Historic Resources Review Board did denied the certificate of appropriateness based on proper criteria in their first decision, but it is my hope that the developer, Mr. Casper, and the Historic Resources Review Board, find some common ground to address their concerns regarding the proposed exterior structures and the landscaping. This is what I would like to propose, as a Councilor, to remand it back in have this board work it out with Mr. Casper and find some common ground.

Mayor Quill

Council, one second, I just want to refer to Mr. Garland, is that appropriate, legal for the Council to move on that action? Move in that regard?

Nate Garland

Mayor I as the acting attorney for this board, I will, or this Council, traditionally a remand has with it in order to, for the lower body to apply specific law to in making and reconsidering a matter. I believe Councilor Cuddy touched on 178-11-C-3, those are the specific criteria with by which the Historic Resources Review Board must grant or deny a certificate of appropriateness. So, unless I'm mistaken and Councilor Cuddy did not cite that specifically I believe he did.

Councilor Cuddy

And I cited part 1, Part C-1 and what you had mentioned 3, and then Part D, as a whole.

Nate Garland

Okay, so that's, if that is the motion, if the spirit of the motion is it is being remanded for two reasons one to apply the appropriate law to the facts, and two with a general hope that things get worked out, then I think that would be appropriate but a remand has to have a direct order of application of law and thank you for, for clearing up my confusion on that Councilor Cuddy that you did in fact, cite 178 C-1, C-3 and D as specific criteria that the HRRB would apply upon remand.

Mayor Quill

Counselor, if you don't mind, I'd like to hear from the other Council members. So, Councilor please.

Councilor McCormick

Thank you. Where to start? Again, this is a first and I will speak for myself. I have we have to look at the exact, the law here I know that and I have opinions on what I think but I can't, that doesn't matter. I would like to see first of all, it's so great to have people in the community that care this much that serve on these boards, and unless, sometimes we don't even know there's, there's a board things just roll along, it is great, it's wonderful. But when something like this happens, it it takes a lot of energy, work and passion, and, from the neighbors that came tonight and have spoke at the other meetings, to the staff that's worked on this, everybody's got the same intention, is to do do the right thing. And it's somehow, someone put a law in place that brings it back to City Council, which doesn't seem like the right place for it but there we are. I've watched the the Planning Board meeting, I've watched the Historic Resources Review Board meeting and and what struck me is, if we do remand, which I agree we should remand and hope that they can reconsider, but I think they, I don't know if this can be included? I feel funny talking to you. With the law, can we include just to look at the roof, the parking, not the project? Is that too specific?

Nate Garland

Well, Councilor, as Mr. Blair stated, that is what the HRRB is empowered to do is to look at those specific aesthetic additions or subtractions that an applicant proposes, so, yes, I, I would say that is well within your right as City Council.

Councilor McCormick

I would like to add that specifically because I do think the passion, emotion, that kind of over road some of the specifics of what they actually were supposed to look at. It seems to me if I understand it right, the issue of the units has been passed. There's no, to address that was, is another whole avenue or if you want to appeal that, or whoever does whatever, but that what we're here for tonight is what the Historic Resources Review Board's responsibility was was for the roof, the fence in the rain garden and a few other things. I would like them, I would like to remand it back, apply the law to the things that were on the certificate of appropriateness, and hopefully work together, figure something out that can work for everyone. And I do think something with this process needs to be looked at. That's it.

Mayor Quill

All set Councilor McCormick?

Councilor McCormick

I'm sorry. Yes. Thank you.

Councilor Giannettino

Thank you. I'd like to reiterate, what Councilor Cuddy and Councilor McCormick said in regards to the public that not only showed up this evening, but who this week and in previous instances have reached out to us individually. I don't view it as jumping through hurdles, as was stated, I view it as part of the process, I view it as an important part of the process. So, I want to acknowledge all of you for being here tonight and thank you for doing that. Just so I'm clear, my understanding is, as Councilor McCormick said, we're voting on something very narrow tonight. We're not voting on what the Planning Board decided. While we may agree with some of the comments that were made about property maintenance and things like that, we can't take those things into consideration either. Is that correct? Mr. Garland?

Nate Garland

Yes, that's correct Councilor.

Councilor Giannettino

So, Councilor Cuddy seems to be putting a motion on the floor to remand it back to Historic Resources Review Board. I've got two questions, if that motion fails what are our options?

Nate Garland

Yes, Councilor, there, this matter I think is most cleanly resolved by a motion of this Council, I can think of no other way by which a decision can be made. If a motion to remand back to the Historic Resources Review Board for further review fails, then this body is saying that it wants to make a decision. There are two decisions available at that point one would be to affirm the decision of the Historic Resources Review Board and deny, and thus effectively deny Mr. Casper a C of A for the property. The other decision available per code is to reverse the Historic Resources Review Board's decision and upon that reversal, make a finding that the applicant today and through the submitted

papers has proven to this body that Mr. Casper has met the criteria for certificate of appropriateness and make, and that motion then would reverse and grant the certificate of appropriateness. So, those are the two options aside from remand, affirm the denial, reverse the decision and grant the C of A and then the third application or option that this body has been discussing, of course, is remand to the Historic Resources Review Board for further analysis.

Councilor Giannettino

And if we vote to remand, what happens if Historic Resources Review Board denies the certificate of appropriateness again?

Nate Garland

There would be no certificate of appropriateness that would issue, the applicant then would have the option to, pursuant to Article 78 and CPLR file a claim in Supreme Court, that, that particular administrative body, the HRRB made a decision that was arbitrary and capricious and ask for judicial review in Supreme Court. So, that that would be the effect of a second denial, or, at least a possibility which would spring from a second denial by the HRRB and then that matter would have to be litigated in the courts.

Councilor Giannettino

If we don't send it back, we don't remand it back to HRRB, and we turn it down, does the property owner have the option to go to court as well?

Nate Garland

Yes, yes.

Councilor Giannettino

Thank you.

Mayor Quill

Councilor Locastro?

Councilor Locastro

I would like to see the parties try to work it out. Come up with an agreement. And I agree with my fellow Councilors on what they're saying about it.

Mayor Quill

Technical point Mr. Garland. I agree with remanding it back to HRRB. Do we need a full motion, a full resolution, resolution excuse me, written up and work on next week? Can we, how would that proceed at this point? Just one more, it seems like there's a majority of Councilors or it's unanimous from what, I would say it's close right now.

Nate Garland

This is this is all new Mayor. So, I, and there's no particular section in the historic preservation chapter or anywhere else in our code that tells us that it should be finalized in any particular way, that this Council's decision should be finalized in any particular way. With that in mind, a motion of this body is binding and it's public and it would happen today. And those are all positive things in my opinion, so I think that as there is no direct requirement that things go one way or another, that a motion from the floor would, would be a tidy way to bring this matter to conclusion, at least for this body.

Councilor McCormick

And in the particulars, we could I mean, we should take them out tonight.

Nate Garland

Yes, yes. Okay.

Councilor Cuddy

Yes, I'd like to make a motion to remand this issue of 70 South Street regarding a certificate of appropriateness back to the Historic Resources Review Board. Is that enough of emotion? Well,

Councilor McCormick

I'd like to add.

Councilor Cuddy

With, I'm sorry, yes, with with emphasis on on, I'm sorry, it's Part C-1 of the the code of Section 178-11, part C-1, part C-3 and part D as emphasis and focal point that the Historic Resources Review Board should use in their criteria.

Councilor McCormick

Can I also add to this, the specifics on the certificate of appropriateness, just to, that's all that they can look at and discuss. So, it's under their purview. I would like that added to the the remand.

Mayor Quill

So, we have a motion on the floor, which we would need a second and then I believe Councilor McCormick wants to amend it?

Councilor McCormick

Or add to it.

Councilor Cuddy

This resolution is basically remanding it back to the Historic Resources Review Board with focus on the specifics of the code 178-11 part C-1, part C-3 and part D, while the Historic Resources Review Board look at those specifics when rendering another decision, and that we hope that, I mean, obviously we hope that there can be some, some compromise.

Mayor Quill

So, we have a motion on the floor and a second that I take a second?

Councilor McCormick

A second with this added on, Nate's probably?

Nate Garland

Yeah, so I think perhaps a motion could take this form that this Council remands the matter back to the Historic Resources Review Board for further review based on the application of city code section 178-11 C-1, C-3 and D and based on the powers of the Historic Resources Review Board to review exterior changes to a property to look at these specific items presented by the applicant is that is that appropriate?

Councilor McCormick

Okay, thank you.

Mayor Quill

Any any?

Councilor McCormick

I will second that if it makes okay.

Mayor Quill

That'll make it easier. So, we have a, Mr. Garland would you like a few minutes to draw that up? Are we good where we are?

Nate Garland

I'm good, Mayor.

Mayor Quill

All right, very good. Anything else? Mr. Mason you are the one that has to keep the records?

Chuck Mason

So I think we're good here Mayor, we've got everything on the recording too.

Mayor Quill

Mr. Blair if this shows up on law review please do not notify us, alright. Further discussion from the Council in regards to resolution number. Do we have a number for that?

Chuck Mason

We're just making a motion here Mayor. I don't think it's going to be a specific resolution number is it Nate?

Nate Garland

No, no. Okay.

Chuck Mason

Just a motion on the floor.

Mayor Quill

Very good. No further discussion. Clerk, call the roll. Please.

Motion by Councilor Cuddy, seconded by Councilor McCormick, that the City Council remands the matter of the Historic Resources Review Board's June 9, 2020 denial of a certificate of appropriateness regarding 70 South Street back to the Historic Resources Review Board for further review based on the application of the City of Auburn City Code section 178-11 C-1, C-3 and D and based on the powers of the Historic Resources Review Board to review exterior changes to a property to look at these specific items presented by the applicant in the application of the certificate of appropriateness.

Chuck Mason

Councilor McCormick.

Councilor McCormick

Aye.

Chuck Mason

Councilor Giannettino.

Councilor Giannettino

Aye.

Chuck Mason

Councilor Cuddy.

Councilor Cuddy

Yes.

Chuck Mason

Councilor Locastro.

Councilor Locastro

Yes.

Chuck Mason

And Mayor Quill.

Mayor Quill

Aye.

Chuck Mason

Carried

Mayor Quill

We have our second public to be heard. Is there anyone that did not speak earlier that would like to speak now? (no speakers) Do we have a request for Executive Session?

City Manager Dygert

No Mayor.

ADJOURNMENT: By unanimous vote the Council adjourned the meeting. The meeting was adjourned at 6:35 p.m..

Minutes submitted to the City Council on August 6, 2020 by:

Charles Mason

City Clerk