



Presque Isle City Council Meeting

January 24, 2024

6:00 p.m.

Presque Isle Council Chambers

Call to Order - Roll Call

Present: Chairman K. Freeman, Deputy Chairman J. Willette, Councilors C. Green, H. King, J. Carroll and G. Nelson

Absent Councilors D. Cyr

Interim City Manager Lewis Cousins and City Clerk Kimberly Finnemore were also present.

Pledge of Allegiance

Citizens Comments

Chairman K. Freeman stated that the last meeting was tabled due to a conflict with the Planning Board already having the Council Chambers scheduled for their meeting.

There were no citizens comments

Old Business

1. Presque Isle Industrial Council Appointments

Frank Bemis 1 or the 7 Directors on the Presque Isle Industrial Council Board gave a brief description of when the by-laws were changed in 2022 by City Council. Frank Bemis doesn't agree that Council should change article 8. Frank stated it would be an inherent conflict of interest putting adverse position on the person that is also owner or tenant on the park. Frank gave a few examples of conflict that could occur.

Chairman K. Freeman asked Frank Bemis if he would like his email to be part of the minutes Frank Bemis said "Yes." The following is the email to Council from Frank

To directly answer the questions you posed, I believe you are correct that the Membership of the PIIC may change the bylaws. The Membership consists of the City Council, the City Manager and the Executive Director of the PIIC. Whether the Membership should change the bylaws is the question before us.

The need to discuss what the bylaws should be is not problematic. I believe it would be advisable to discuss city policy in a public meeting as Maine law requires and for everyone to be cognizant of materials related to conflicts of interest.

As to me shooting the messenger, I disagree with that contention. I merely set out my understanding of Maine law, advice from MMA and a City policy. I provided an accurate copy of each document. If you are the messenger referred to, note that I had not received and had not read your email and your memorandum. The time stamp on my email is at 2:05 today and on yours is at 2:09. As Derik noted, I have not seen Mr. Currier's proposed language and cannot comment upon it.

As to the memorandum you created, I believe that the Industrial Council was created to take the administration of Skyway Industrial Park out of the direct control of the City Council and to create a means by which the Park could be administered without it being part of the direct politics of the City Council where all discussions would be subject to the Maine Freedom of Access Act. Since we only have two City Councilors as Directors, our discussions are not subject to public disclosure. I would argue that this lack of public disclosure would make it more essential that the Directors do not have a conflict of interest.

I read your memorandum as a denial that someone owning or renting real estate on the park would have a conflict of interest. I disagree with this argument. Such a Director would have a "Business Interest" conflict of interest as described in the MMA materials. The challenges of this direct conflict of interest are many and include:

- **Fiduciary Duty:** Directors owe a fiduciary duty to the Industrial Council to act in the best interests of the Industrial Council as a whole, putting the Industrial Council's financial well-being and long-term sustainability above any personal interests. A tenant/owner would be in the impossible situation of setting policy for all tenants/owners of the Skyway Industrial Park which would include the tenant's own company. The setting of lease policies, rates, land prices and amenities for the Park as a whole would not align with one particular tenant or owner's interests. A Director who is also a tenant/owner on the Park presents a clear danger of a situation where the Industrial Council's interests are in direct conflict with a particular tenant/owner.
- **Confidential Information:** The Industrial Council receives confidential information from prospective tenants and owners that is not readily available to the general public or even to City Councilors. This information could be used to gain an unfair advantage in negotiating lease/sale terms or influencing decisions that benefit the individual as a tenant/owner at the expense of the Industrial Council as a whole.
- **Employee Interactions:** Directors of the Industrial Council vote on the appointment of the Executive Director and the Deputy Executive Director, and the salaries and benefits of all employees of the Industrial Council. These same employees would be asked to interact with the tenant/owner Director and be asked to treat that Director like every other tenant/owner on the Industrial Park. The risk for undue influence is too strong.
- **Transparency concerns:** The presence of a tenant/owner on the Board of Directors could raise concerns about transparency and the fairness of decision-making processes. Other board members, tenants or citizens might suspect that the tenant/owner Director member is using their insider knowledge to influence decisions in their favor, impacting trust and confidence in the Board. The perception of a conflict of interest can damage the Presque Isle Industrial Council's reputation and credibility.
- **Undue Influence:** The tenant/owner Director might exert undue influence on other Directors due to personal relationships or leverage, leading to biased decision-making that isn't in the best interests of the Presque Isle Industrial Council.
- **Legal implications:** Enacting decisions in defiance of the Presque Isle Industrial Council Bylaws is dangerous and may lead to litigation, potential release of Industrial Council confidential records and piercing of the corporate veil.

Conflicts of interest arise from time to time for each Director but they are not inherent to the very position itself as a Director. The memorandum attempts to personalize the conflict of interest issue. This is not about one Councilor except insofar as whether there would be a conflict of interest for any one Councilor.

You are correct that the bylaws as to conflicts of interest were changed two years ago. It was adopted after a unanimous vote of the Directors of the Industrial Council and a unanimous vote of the City Council. Why should it be changed now?

I did a little research and I believe that before Greg Freeman became a Director of the Industrial Council, the Town had already entered into a contract with Coca-Cola. After the transaction was in place, Mr. Freeman was appointed as a Director and then recused himself from matters involving Coke. Please note that Mr. Freeman would be eligible to act as a Director under the current bylaws. Historically, no City Councilor who was a tenant/owner on the park has sought to be appointed as a Director.

In relation to the potential competition between the downtown and Skyway Industrial Park, our mission is to create jobs for the City of Presque Isle. Moving a tenant from the downtown to the Park simply moves jobs and does not create them. The competition issue has nothing to do with conflicts of interest.

The comment on "taxation without representation" is a misreading of what that phrase means. Each one of us can vote for City Councilors at elections. They represent our interests as a whole but subject to conflict of interest rules. No one has the right to act in violation of a conflict of interest.

I fully respect and understand that City Councilors are elected to their office. I am not elected to anything right now. The non-City Councilors like me are appointed to the Industrial Council. However, an election of a certain City Councilor does not remove potential conflicts of interest. The ACAP and PIHA boards referenced have stakeholder positions on them. They were designed with that stakeholder philosophy in mind. The Industrial Council was not designed to have stakeholders from the owners or tenants of the park, much less City Councilors, with that type of conflict of interest.

There is a major difference between what is the right thing to do and what one has the power to do. The City Council has the power to change the bylaws to make City Councilors eligible who are not currently eligible but it is not the right thing to do. It is not a trivial issue.

If it is the purpose of the meeting on Wednesday to discuss the bylaws then that meeting can be constructive. If the purpose is to merely advise the Directors as to what has already been decided, then it may be more appropriate to just let us know.

Frank

Motion by Councilor C. Green, seconded by Councilor J. Carroll to reconsider the approval of the Council appointees Councilor C. Green and Councilor G. Nelson to Presque Isle Industrial Council.

Chairman K. Freeman motion accepted

Councilor C. Green said "That as the bylaws are currently written, that he (C. Green) has a conflict interest because the bylaws are so general and so not well written, and written so broadly as to make sure that they covered every facet that was possible. To preclude any one from the park from doing anything on the board. Includes items specifically as shareholder or owner. A shareholder or owner of a property on the Park can include many things, one of them stock ownership. Stock ownership can include

mutual funds, or anything else. So, he (C. Green) would find it difficult to believe that any of the members of the Industrial Council at this point actually legal members of the Council. Probly all in violation of the bylaws. Because the probly own stock in Pepsi Co., Coca Cola or Frito Lay. All of those are held in the S&P 500 index of stock in more than 1.8 million shares that are distributed around the United States. So, the language in itself is problematic cause it doesn't address, that it's a majority shareholder, it doesn't address controlling shareholder, it just says shareholder. C. Green owns mutual funds, they hold Pepsi Co, Cocoa Cola and Frito Lay, they are part of the S&P 500. As the language is currently written C. Green is not currently eligible under the rules as it is written to be a member of their board of directors. C. Green thinks they should have a discussion to change the language of the bylaws. But currently as it is written C. Green is not eligible to be on the PIIC board. C. Green said that he was pulling his name until such time the bylaws can be address."

Chairman K. Freeman stated that it is well known that Councilor G. Nelson owns a business that is surrounded by the Industrial Park. Chairman K. Freeman asked Councilor G. Nelson if he currently owns his land. Councilor G. Nelson said "Yes, he does and that he doesn't lease anything on the Industrial Park."

Councilor J. Carroll said "That in the spirit of what we wanted was to have someone that has experience on the Park, could be helpful. That's what we wanted to have. But it has got lost among a lot of emails. Personally, with the spirit I'm (J. Carroll) is hearing from the board it's more of a personal conflict. The board had that conversation in 2022 and changed the bylaws. So here we are again. I'm (J. Carroll) am a new Council member and don't have as much experience as some members. The best email I seen all week was one that I (J. Carroll) was sent today from Maine Regional Airport on there bylaws. Something I (J. Carroll) could read and understand, something that made sense and has relative point in what we are doing. Hoping we can get to an agreement. I (J. Carroll) was brought on the Council being told what a great job the PIIC does."

Councilor G. Nelson said "That he went around the industrial park to a bunch of different businesses on the park. I (G. Nelson) had conversations with numerous business owners, renters, and lessee. The general consensus with the majority of them, would welcome a property owner on the PIIC. They highly recommended there be a owner that could represent their interest and their take of the Industrial Park that was the general consensus."

Chairman K. Freeman said "The 2022 vote where the City Council Membership Committee adopted the bylaw change. Which is comprised of the City Council, The City Manager and the Executive Director of PIIC. Bylaws were presented to us as part of an annual review, which is typically look over the shoulder at the past year in a budget format, what they were able to accomplish for the City. Which is a brief summary of what happened for the year. It still takes time to go through. It was

presented to us (Council) in the same vein as an annual review. The paragraph was read, didn't have the opportunity to think about the ramifications. Now it's popping up on us (Council). Normally bylaw word changes are reviewed for 30 days. We (Council) should have said to take 30 days to look at this, we (Council) didn't do that. We voted it that night, I (K. Freeman) made the motion to accept the change, and I (K. Freeman) think Mike seconded it, according to the minutes. Gary was also there that night. We (Council) all voted in favor of it because it was part of the review. Now in trying to do something very quickly, now we discovered we have some issues with it, weather it the shareholder thing, or the ownership thing. I (K. Freeman) think what we need to do next, what I'm proposing is that the two boars put their heads together and try to develop some language that, works for both organizations. That's what we are going to attempt to do. But before we do that we have to take off the two names that are currently there that is the motion in front of us"

With this tonight we can move forward with a discussion about bylaws. And maybe get a draft before Membership Committee of the Presque Isle Industrial Council meets,

Ray Hews said "I have been long time member of the PIIC. First of all, I would support Frank's statement and email outlying his concerns a hundred percent. I also believe Derrick, Margo and Scott do as well. I would like to say I would take a small exception to your characterizing, Mr. Chairman. The amendment to the bylaws that were proposed in January of 2022, had been discussed for at least 3 months if not longer. Two members of the City Council sit on the PIIC Board, I (Ray) assume they report back to the City Council issues that come up or concerns. I (Ray) don't think it was done in haste or done quickly. I (Ray) think it was done with a lot of thought and a lot of consideration a lot of discussion. The recommendation came forth to the City Council at least a month prior to that meeting in January 2022. At that meeting there was ample opportunity to discuss the ramifications of that amendment. As you said Kevin you made the motion to amend the bylaws. It was voted 6-0 unanimously. I (Ray) disagree with the characterization that was presented, that it was done in haste."

Chairman K. Freeman said he would defend that, because he was on the PIIC and Mike or Randy at that time. Neither one of us reported back to the Council and it wasn't part of our discussing. As you mentioned earlier the minutes of the PIIC are not subject to public. So, we don't share those directly to people in the room. 1 or 2 of us may have been to 1 or 2 meeting, we didn't share that with the rest of the Council. They were presented the night of January 2022

BE IT RESOLVED by Councilor C. Green, seconded by Councilor J. Carroll to reconsider Craig Green and Garry Nelson on the Presque Isle Industrial Council

Vote: 6-0

BE IT RESOLVED by Councilor C. Green, seconded by Deputy Chairman J. Willette to remove the names (Craig Green and Garry Nelson) that were ratified on the January 3, 2024 meeting of the City Council. From our published list of appointees.

Vote: 6-0

New Business

2. Police Chief Review Committee

Interim City Manager L. Cousins said that Larry Clark, Mike Thibodeau, Jim Carrol, Hank King and My self (L. Cousins) was part of the Committee that will reviewed applicants for the Police Chief position.

3. Economic & Community Development Vacancy Discussion

Interim City Manager L. Cousins said that they have done the advertising thru the HR Department for this vacancy. We have also had a brief discussion taking a good look at what responsibilities that position currently holds and maybe looking to reconfigure that position in some manner. Maybe across a couple different people. I (L. Cousins) would like to suggest that we have further discussions. Chairman K. Freeman, Councilor H. King and Interim City Manager L. Cousins will discuss some ideas on the position.

Interim City Manager's Report

The Airport Director Scott Wardwell does have the new EAS RFP in hand. Expecting to receive bids by February 23, 2024. Scheduled to meet with the Airport Advisory Board on February 26, 2024. Then looking to be on the March agenda for Council Meeting to go forward in the process.

We have gotten word from the County's ARPA grant fund opportunities and Northern Boarder Grant. We had a Department Head meeting with all Departments involved and went through what the opportunities were for projects to get funded. All Department Heads are looking for things within there departments that they can come up with to makes sense for applications for the funds.

DOT and Dana Fowler the City Engineer has the new 2024 work plan in hand. There are several projects in Presque Isle. The one L. Cousins mentioned was Main Street repaving.

Tom, Brad and Lewis met with Nautilus Solar which stated they should be generating in mid-May. Should be seeing results from that which include savings on our electric bill.

Eclipse planning, they are expecting a good turn out here. A lot of discussion and planning involving the Emergency Management Group, Police Department, the local hospital and businesses that will be affected by the influx of people.

Police Department has rehired Joseph Seeley for a specific task a Law Enforcement accreditation program that takes a lot of paperwork to get approved for. Joe Seeley has a lot of experience with.

The D Day 80th Anniversary is coming up. Craig is involved in that. 25th Anniversary of the Presque Isle Air Museum. They will be celebrated at the same time.

The City should have W2's out this coming week.

Dog registrations are due January 31st. After January 31st there is \$25 late fee per dog. Basement floor heat has been turned on.

Announcements

The next scheduled meeting of the Presque Isle City Council will be on Wednesday, February 7, 2024 at 6:00 p.m. in the Council Chambers at City Hall.

Adjournment

BE IT RESOLVED by Chairman K. Freeman, seconded by Councilor H. King to enter into Executive Session at 6:45 PM pursuant to 1 M.R.S.A. § 405(6)(E) for a Legal Consultation.

Vote: 6-0

Out of executive session at 7:14 p.m.

Action taken was to schedule a meeting of the PIIC Membership on Tuesday February 6, 2024 at 6 p.m. in Council Chambers to discuss future amendments to PIIC by laws.

BE IT RESOLVED by Chairman K. Freeman, seconded by Councilor G. Nelson to enter into Executive Session at 7:15 p.m. pursuant to 1 M.R.S.A. § 405(6)(C) to Real Estate.

Vote: 6-0

Out of executive session at 7:29 p.m.

BE IT RESOLVED by Councilor H. King, seconded by Councilor J. Carroll to direct Interim Manager L. Cousins to seek a written offer (either a cash offer or a financed offer) on Real Estate discussed at the meeting and to work this out with the Real Estate agent and the buyer.

Vote: 6-0

BE IT RESOLVED by Chairman K. Freeman, seconded by Councilor H. King to enter into Executive Session at 6 PM pursuant to 1 M.R.S.A. § 405(6)(D) to discuss Negotiations.

Vote: 6-0

BE IT RESOLVED by Chairman K. Freeman, seconded by Councilor H. King to adorn
at 7:55 p.m.

Vote: 6-0

Attested by: Kimberly A Finnemore
Kimberly A Finnemore, City Clerk