

## **Board of Public Works Special Meeting of January 11, 2018**

### **Agenda**

A meeting of the Board of Public Works is scheduled for Thursday, January 11, 2018 at 4:00 p.m. in the Auditorium at City Hall, 229 Main Street, Nashua, NH 03060.

**I. Roll Call**

**II. Motion:** To approve the agenda as presented.

**III. Public Comment**

**IV. Informational:** DPW Facebook Page Launch

**V. Larry Budreau, Human Resources Director** ó DPW Hiring Process

**VI. Wastewater Permit Fees**

**VII. Personnel**

**A. Motion:** To approve the selection of Mr. Emil Bravo of Little Egg Harbor, NJ for the position of Assistant Construction Engineer in the Engineering Department. Starting salary is \$57,327/year. Funding for this position will be through:  
Department: 169 Wastewater; Fund: Wastewater; Account Classification: 51 Salaries & Wages.

**VIII. & R P P L V V L R Q H U ¶ V & R P P H Q W V**



# City of Nashua

Human Resources Department  
229 Main Street - Nashua, NH 03060

(603) 589-3230  
Fax (603) 589-3244

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To: Members of the Board of Public Works

From: Larry Budreau, Human Resources Director

Cc: Lisa Fauteux, Public Works Director  
Andy Patrician, Assistant Director of Public Works  
Jon Ibarra, Superintendent of Streets

Subject: DPW Hiring Process

Date: November 20, 2017

Attached: Nonpublic Meeting Procedural - (prepared by Steven A. Bolton, Corporation Counsel)

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In this memo I seek to address questions / concerns posed during your October 26, 2017 meeting regarding the Division of Public Works hiring process.

## CDL license

HR has customized the AppliTrack employment application for certain job classifications to ask what level of driver's license applicants possess. We can't ask the question of candidates who apply for jobs that don't require a license. Motivated by your discussion, we learned how to customize the form for specific job types.

## Background checks

The City (and most employers) does not conduct background checks until after a conditional offer of employment has been made - pursuant to guidance from the federal Equal Employment Opportunity Commission. DPW background checks regularly include a drug test and criminal and driver's record checks.

## Current Hiring Process Example

The following motion carried unanimously at the Board's October 26, 2017 meeting.

*To approve the selection of James Young of Milford, NH to the position of Mason/Pipelayer, Street Department. Starting salary for this position will be \$23.42 per hour. Funding is through Department: 161- Street Department; Fund: General; Account Classification: 51-Salary & Wages.*

The Board's motion resulted in the City confirming a conditional offer of employment to Mr. Young via letter on October 27, which is reproduced here in part.

Dear James,

*I am pleased to confirm the City's offer to you of the position of Mason / Pipelayer reporting to Jon Ibarra, Superintendent of Streets. This offer is contingent upon the acceptable results of a driving record check, criminal record check and pre-employment drug test. Continued employment will be contingent upon the results of random drug testing. (Emphasis added)*

Subsequently, pursuant to NRO § 50-10 and § 50-15, upon satisfactory completion of the record checks, Human Resources endorsed the hire, and in conjunction with the Superintendent, scheduled a start date and new employee orientation.

### Discussion

I share the Board's interest in ensuring that applicants' criminal and driving records reflect past behavior that sparks no concerns about the City's decision to hire them to operate City vehicles or equipment.

Bottom line is that for the Board to review the driver's record or criminal record before hiring, then the matter would have to come before the Board twice; first to approve the conditional hire, then to approve the actual hire. That would extend the process to an unreasonable length from a practical (getting the work done) perspective, and fail to comply with AFSCME's requirement that "the job will be filled within thirty (30) days following the close of the posting period."

If record check results are questionable, Human Resources reviews the results with Legal. In my two-year tenure, I believe we have retracted the offer made to one seasonal employee but not to any regular full-time employees. If there is a concern that HR and Legal believes the Board would wish to review, I'll ask to present the matter to the Board in nonpublic session.

I suggest that we continue the current process and rely upon HR, Legal, and the Public Works Director to ensure that conditional employment requirements are satisfied. Our hiring process is common to most employers. It is thorough and legal from an employment law standpoint.

### However

Upon review, there are three suggestions that will improve our compliance with N.H. RSA 91-A.

1.) The Board of Public Works should incorporate conditional offer language into its motions to approve the selection of new employees. Doing so will eliminate any opportunity for misunderstanding - as the Board's current votes aren't actually the final step. Example:

*To approve the selection, **contingent upon the acceptable results of criminal and driving records checks, and a pre-employment drug test**, of James Young of Milford, NH to the position of Mason/Pipelayer. Starting salary for this position will be \$23.42 per hour. Funding is through Department: 161- Street Department; Fund: General; Account Classification: 51-Salary & Wages.*

2.) The Board should not make employment applications public documents pursuant to RSA 91 A:5 Exemptions –

*Section IV. - Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a public body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected. (Emphasis added)*

In practice, I suggest that employment applications and supporting memorandums be emailed to the members of the Board of Public Works separate from the material provided to the Board for matters to be considered in public (and posted on the City's website). I further suggest that, following the Board's consideration, each member deletes said email and attachments.

3.) The Board should consider these matters in non-public session pursuant to NH RSA 91-A:3 Nonpublic Sessions – *Section II. - Only the following matters shall be considered or acted upon in nonpublic session: (b) The hiring of any person as a public employee.*

When a meeting agenda includes a consideration to hire an employee, the Chair (or other member) should move to go into non-public session citing RSA 91-A:3 Section II (b).

Upon return to public session, the Chair should a) seek or make a motion to seal the minutes, b) report on the matter without specificity, and c) seek or make a motion to unseal the minutes at a future prescribed time contingent upon the actual hiring of the employee

For example:

- a) Motion to seal the minutes of the Board's nonpublic session pursuant to RSA 91-A:3 *Section III - Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself,*
- b) While in nonpublic session, the Board unanimously approved a motion to approve the selection, contingent upon the acceptable results of criminal and driving records checks, and a pre-employment drug test, of an applicant for the position of Mason/Pipelayer.
- c) Motion to unseal the minutes following the candidate's hire date.

Lastly

The Legal Department has reviewed and contributed to this memorandum and recommends adopting its suggestions in full. Attorney Bolton's 'Nonpublic Meeting Procedural' is attached.

The hiring process outlined above should meet the required timeframes, fulfill the Board's rightful need for due diligence, maintain applicant privacy, and conform with local, state and federal laws. I am available at any time to participate in the Board's discussions concerning hiring. Thank you.



# THE CITY OF NASHUA

*Office of Corporation Counsel*

*"The Gate City"*

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RSA 91-A: N.H. Right-to-Know Law

“Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.” RSA 91-A:1

## NONPUBLIC MEETING PROCEDURAL

Five (5) steps to the proper use of nonpublic meetings pursuant to RSA 91-A:3

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### STEP #1: OPEN A PUBLIC MEETING OF THE PUBLIC BODY – A NONPUBLIC MEETING MUST BEGIN IN AND BE FOLLOWED BY A PUBLIC MEETING

- Open a public meeting (previously posted in two (2) appropriate places with 24 hours notice per RSA 91-A:2)
- Take Attendance
- Ensure a quorum is achieved
- Ensure someone is keeping meeting minutes (per RSA 91-A:2, minutes of both public and nonpublic meetings must include the names of members, persons appearing before the public body, and a brief description of the subject matter discussed and final decisions made)

### STEP #2: MOTION TO ENTER NONPUBLIC MEETING - THERE MUST BE A ROLL CALL VOTE TO ENTER THE NONPUBLIC MEETING TAKEN IN THE PUBLIC MEETING

- Motion to enter nonpublic meeting by \_\_\_\_\_. Second by \_\_\_\_\_.
- The Motion must state one or more of the following exceptions for nonpublic meeting PURSUANT TO RSA 91-A:3, II, which shall be included in the meeting minutes:
  - (a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.
  - (b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. (This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.)

(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. (Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.)

(f) Consideration of applications by the adult parole board under RSA 651-A.

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county correctional facilities by county correctional superintendents or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

(j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.

(k) Consideration by a school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general public or the school district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations. A contract negotiated by a school board shall be made public prior to its consideration for approval by a school district, together with minutes of all meetings held in nonpublic session, any proposals or records related to the contract, and any proposal or records involving a school district that did not become a party to the contract, shall be made public.

Approval of a contract by a school district shall occur only at a meeting open to the public at which, or after which, the public has had an opportunity to participate.

(l) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

- Roll call vote (need a majority to pass). If passes, enter nonpublic meeting (members of the public must leave the meeting room). Document the roll call vote in the public meeting minutes.

### STEP #3: CONDUCT THE NONPUBLIC MEETING - YOU MAY ONLY DISCUSS THE TOPIC(S) THAT PERMITTED THE BODY TO ENTER THE NONPUBLIC MEETING PER STEP #2 ABOVE

- Take nonpublic meeting minutes separate from the public meeting minutes— general written summary of the events of the meeting (see requirements for meeting minutes in STEP #1 above). Additionally, minutes of nonpublic meetings shall record all actions in such a manner that the vote of each member is ascertained and recorded. Essentially a roll call vote or show of hands with minutes indicating the yeas and nays by member.

### STEP #4: BEFORE ADJOURNING THE NONPUBLIC MEETING

- Discuss, but do not vote on, whether to seal the minutes and determine an appropriate reason for sealing, if any—see Step #5 for permissible reasons to seal the nonpublic meeting minutes. An actual motion, second, and vote to seal, would be made/taken in the public meeting

- Motion to adjourn nonpublic meeting and to re-enter public meeting, with second—vote required, a majority required. If passes, reenter the public meeting (members of the public may return to meeting room).

### STEP #5: AFTER RETURNING TO THE PUBLIC MEETING

- If desired, a motion to seal the minutes of the nonpublic meeting made for only one of the following three reasons pursuant to RSA 91-A:3, III, which shall be included in the meeting minutes, with a second:

- “divulgence of the information likely would affect adversely the reputation of a person other than a member of the body”; or

- divulgence would “ render the proposed action ineffective”; or

- divulgence would pertain to terrorism.

- Vote on motion to seal the minutes which shall only be passed by 2/3 majority of those present;. Document the vote in the public meeting minutes.

- Release of the nonpublic minutes within 72 hours is required if the minutes are not sealed

- Adjourn public meeting when appropriate

NOTE: IF YOU HAVE DONE THE REQUIRED STEPS CORRECTLY YOU WILL HAVE TWO SETS OF MEETING MINUTES: 1.) PUBLIC AND 2.) NONPUBLIC – THE NONPUBLIC MAY BE SEALED OR UNSEALED.

THE PUBLIC MINUTES SHOULD BE MARKED “PUBLIC MEETING MINUTES” AND BE MADE AVAILABLE FOR PUBLICATION WITHIN FIVE (5) BUSINESS DAYS.

THE UNSEALED NONPUBLIC MINUTES SHOULD BE MARKED “NONPUBLIC MEETING MINUTES” AND BE MADE AVAILABLE FOR PUBLICATION WITHIN SEVENTY-TWO (72) HOURS/THREE (3) DAYS.

THE SEALED NONPUBLIC MINUTES SHOULD BE MARKED AS “SEALED” or “CONFIDENTIAL” AND RETAINED FOR POTENTIAL DISCLOSURE AFTER A MAJORITY OF THE BOARD DETERMINES THAT THE NEED FOR CONFIDENTIALITY NO LONGER EXISTS.



# City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: October 26, 2017

From: Stephen Dookran, P.E., City Engineer  
Engineering Department

Re: Sewer Permit Fee Structure

**Informational:** Sewer Permit Fee Structure

**Attachment:** Nashua Revised Ordinances, Sections 225-51, 255-52, 255-53 and 255-54

## **Discussion:**

At the September Board of Public Works meeting, a request was made for information regarding sewer fees. A sewer permit is required to regulate the discharges being collected, transported and treated within the public wastewater system and there are fees associated with obtaining a sewer permit. Note that the all costs associated with the construction, operation and maintenance of the sewer service pipe from the building to the public sewer main is the property owner's responsibility (Sec. 255-21). The fees consist of three parts: a betterment charge, an entrance charge, and a connection, replacement or repair charge.

## **ONE TIME CHARGES**

All three of these fees are charged only once and are due when a property is initially connected to the sewer. If the property use changes (for example converting a two family dwelling to a commercial property) an additional entrance charge may be assessed.

- **Betterment Charge (Sec. 255-52)**  
This fee is only paid when an initial connection is made to a sewer that was constructed after May 21, 1969, in a street, easement, or a right-of-way. This charge is at a rate of \$8.10 per foot of a property's street frontage. This amount has been in place since at least 1977.
- **Entrance Charge (Sec. 255-53)**  
This fee is based on the use of the property. For residential properties, apartment buildings and condominiums, the cost is \$295 per dwelling unit. For commercial buildings, the fee is calculated based on a flow rate beginning at \$295 and increasing with the amount of flow discharged. (\$295/20 gpm up to 100 gpm, 100-200 gpm peak sewage flow: add \$145/20 gpm, and 200 and above gpm peak sewage flow: add \$70/20 gpm). This amount has been in place since at least 1977.
- **Initial Sewer Connection Costs (Sec. 255-54)**  
There are two scenarios for which a \$600 charge is assessed for the construction of the portion of the sewer service connection located in the right of way. These amounts were last revised in March 1982.

The first scenario is when the residential or commercial property is requesting to connect to a previously constructed service connection that exists from the sewer main to the property line.

The second scenario is when a one- or two-family residence requests the Division of Public Works to construct a new sewer connection from the property line to the sewer main. It should be noted that while the City charges the property owner \$600 for performance of this work, the actual cost could be up to \$6,000 or more depending upon the depth of the sewer main.

Multi-family and commercial properties are required to pay for all expenses to construct their sewer service.

#### **REPLACEMENT AND REPAIR CHARGES**

- Replacement and Repair charges (Sec 255-54)  
Should a one- or two-family residence require a repair or replacement of the sewer connection from the public sewer main to the property line, the property owner would pay \$600 for the City or a contractor hired by the City to perform the work. It should be noted that while the City charges the property owner \$600 for performance of this work, the actual cost could be up to \$6,000 or more depending upon the depth of the sewer main.

Multi-family and commercial properties are required to pay for all expenses to replace or repair their sewer service.

The charge for this section was last revised in March 1982.

**§ 255-51. General policies.**

- A. Any property owner whose property can be served by gravity by a sewer constructed in any street by the City or with City funds after May 21, 1969, may be liable for an assessment, and any property owner who actually connects his property by any means to any public sewer after the effective date of this article, shall be assessed as provided in this article.
- B. This article applies to all connections and extensions applied for after the effective date of this article and to connections to all public sewers existing on the effective date of this article, except that the betterment and entrance charges do not apply to users connected to sewers constructed within subdivisions in which the subdivider has paid all costs of the sewer construction and all applicable betterment and entrance charges.
- C. No owner of a lot served by a sewer connection shall be obliged to pay any further betterment or entrance fees for the use of such connection after a building on that lot is replaced, provided that the new building is in the same or lesser peak sewage flow classification as the original structure. If the new building is in a higher peak sewage flow classification than the original structure, no use shall be made of the connection until the currently applicable entrance fees have been paid minus the fee which would currently be applicable to the original structure. If the City is requested to install a new connection, connection fees shall be charged at the rate in effect at the time the connection is installed.

**§ 255-52. Betterment charge.**

- A. The betterment charge is a one-time assessment against each property which can be served by gravity by a sewer constructed by the City or with City funds after May 21, 1969, or is connected to any public sewer constructed after May 21, 1969, either in a street, an easement, or a right-of-way.
- B. The betterment charge is \$8.10 per foot of a property's street frontage, as computed by § 255-57, regardless of the location or direction of the sewer.
- C. One-half of the betterment charge shall be assessed against the owners of vacant property who are liable for assessment, and the amount paid shall be credited to the owners when the vacant property is developed and connected to the sewer.

- D. Owners of properties whose frontage can be served only partially by gravity by new sewers shall pay betterment charges based on the number of front feet which can be served, in multiples of the then-existing minimum lot frontages required by the zoning ordinances, provided the portion not served is not in common use with the portion served.

**§ 255-53. Entrance charge.**

- A. The entrance charge is a one-time assessment against each property to provide service to the City's sewerage system, and the amount of the entrance charge is as follows:

- (1) For residential or apartment developments or properties: \$295 for each dwelling unit.
- (2) For other types of developments (commercial, industrial, etc.), according to the following schedule based on anticipated gallons per minute (gpm) of peak sewerage flow from the property:

<b>Gallons Per Minute</b>	<b>Fee</b>
0 - 20	\$295
20 - 40	\$590
40 - 60	\$885
60 - 80	\$1,180
80 - 100	\$1,475
100 - 120	\$1,620
120 - 140	\$1,765
140 - 160	\$1,910
160 - 180	\$2,055
180 - 200	\$2,200
200 - 220	\$2,270
220 - 240	\$2,340
240 - 260	\$2,410
260 - 280	\$2,480
Each additional 20	Add \$70

- B. Upon application for sewerage service for developments other than residential or apartments, the applicant shall submit to the City Engineer an estimate of peak sewage flow from the

development, together with any information requested by the City Engineer for verification of the estimate.

- C. Additional entrance charges will be made, as provided herein, whenever the use of any service connection is increased over the use existing on December 29, 1975, or over the use contemplated in the original or subsequent application for service.

**§ 255-54. Connection, replacement, and repair charges.**

- A. Any property owner of an existing one- or two-family residence who desires initial service from the municipal sewerage system when there is not an existing service connection shall be charged a connection charge of \$600 for the City's performance and cost of installing a service connection from the main sewer to the property owner's property line. The \$600 charge may be waived if the property owner performs the work at his or her expense after obtaining permission from the Board of Public Works. All work not performed by the City or its authorized representative shall be performed by a licensed drainlayer.
- B. Any other property owner who desires initial service from the municipal sewerage system when there is not an existing service connection is responsible for performance of all work and all costs to bring service from the main sewer to the property owner's property line. All work shall be performed by a licensed drainlayer.
- C. Any property owner who desires initial service from the municipal sewerage system by connecting to a previously constructed but unused service connection shall be charged a connection charge of \$600.
- D. Replacement or repair charges.
  - (1) One- or two-family residence. A property owner of a one or two- family residence who requires repair or replacement of an existing service connection to the municipal sewerage system shall be charged \$600 for the City's performance and cost of replacing or repairing the existing service connection from the main sewer to the property owner's property line. The \$600 charge may be waived if the property owner performs the work at his or her expense after obtaining permission from the Board of Public Works. All work not performed by the City or its authorized representative shall be performed by a licensed drainlayer.

- (2) Any other property. A property owner of any other property who requires repair or replacement of an existing service connection to the municipal sewerage system is responsible for performance of all work and all costs to replace or repair the existing service connection from the municipal sewer to the property owner's property line. All work shall be performed by a licensed drainlayer.



# THE CITY OF NASHUA

*Division of Public Works*

*Administration Department*

*"The Gate City"*

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## **Board of Public Works Special Meeting of January 11, 2018 Personnel**

### **Agenda**

- A. Motion:** To approve the selection of Mr. Emil Bravo of Little Egg Harbor, NJ for the position of Assistant Construction Engineer in the Engineering Department. Starting salary is \$57,327/year. Funding for this position will be through: Department: 169 Wastewater; Fund: Wastewater; Account Classification: 51 Salaries & Wages.

## City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: January 11, 2018

From: Stephen Dookran, P.E., City Engineer  
Engineering Department

RE: Assistant Construction Engineer

**A. Motion:** To approve the selection of Mr. Emil Bravo of Little Egg Harbor, NJ for the position of Assistant Construction Engineer in the Engineering Department. Starting salary is \$57,327/year. Funding for this position will be through: Department: 169 Wastewater; Fund: Wastewater; Account Classification: 51 Salaries & Wages.

**Attachment:** Applicant's resume and cover letter

**Discussion:** The previous position of CSO Technician/Inspector became vacant upon the retirement of Richard Haberman in May 2017. To aid in the department's overall efficiency and responsiveness, the position was changed in July 2017 to the position of Assistant Construction Engineer. The vacancy was advertised internally by notice board and externally via the City's website and trade organizations.

Interviews were conducted for three qualified applicants. Mr. Bravo was interviewed by a panel composed of City Engineer Steve Dookran, Assistant Director Andy Patrician, Senior Staff Engineer Amy Gill and Senior Staff Engineering Mandeep Gill. All five interviewers agreed that Mr. Bravo was an excellent candidate and he was then interviewed by Director Lisa Fauteux and ultimately selected for the position.

Mr. Bravo's qualifications and experience are very suitable for the position of Assistant Construction Engineer. He has three years of engineering experience including construction oversight.