

**RECORD OF REGULAR MEETING  
ELLSWORTH CITY COUNCIL**

**DATE: DECEMBER 16, 2019**

**TIME: 7:00 PM**

**PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS**

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, HAMILTON,  
KAPLAN, MILLER, MOORE, AND PHILLIPS.**

**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,  
JENNIFER MERCHANT, MARK REMICK, BERNIE HUSSEY, DARYL  
CLARK, KELLY HERRICK, BOBBY DORR, RICHARD TUPPER, MICHAEL  
HANGGE, GARY SAUNDERS, JANNA RICHARDS, JOHN HAMER (LEGAL  
COUNSEL), AMY WISEHART, LARRY GARDNER, AND HEIDI GRINDLE.**

*Call to Order.*

Chair Hamilton called the regular meeting of the Ellsworth City Council to order at 7:00 PM.

*Pledge of Allegiance.*

All stood for the pledge of allegiance.

*Rules of Order.*

The meeting was conducted under Robert’s Rules of Order and other rules adopted at the November 13, 2019 Annual Organizational Meeting of the Ellsworth City Council. After being recognized by the Chairman, a person may speak not more than three (3) minutes on any one item on the agenda. In addition, the person may speak not more than two (2) minutes in rebuttal.

Chair Hamilton noted items #19 and #20 will be removed from the agenda this evening.

Adoption of minutes from the following meeting (s) of the Ellsworth City Council:

- November 8, 2019 Special Council Meeting.
- November 13, 2019 Organizational Meeting.
- November 18, 2019 Regular Council Meeting.

*On a motion by Blanchette, seconded by Moore, it was unanimously*

**RESOLVED to approve adoption of minutes from the following meeting (s) of the Ellsworth City Council: November 8, 2019 Special Council Meeting, November 13, 2019 Organizational Meeting, and November 18, 2019 Regular Council Meeting as presented this evening.**

*City Manager’s Report.*

**Call to Order.**

**Pledge of Allegiance.**

**Rules of Order.**

**Removing - Agenda items #19 and #20.**

**Approved - Adoption of minutes from the following meetings: November 8, 2019 Special Council Meeting, November 13, 2019 Organizational Meeting, and November 18, 2019 Regular Council Meeting as presented.**

**City Manager’s**

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David Cole, City Manager noted City Hall will be closing early on December 24, 2019 for Christmas Eve and will be closed on Christmas Day. City Hall will also be closed on New Year's Day (1/1/2020).

**Report.**

*Committee Reports.*

**Committee Reports.**

➤ *Harbor Commission:* Councilor Moore attended the Commissioner's meeting. The gasoline sales for 2019 surpassed those in 2018 by nearly a 1,000 gallons. Moore thanked Ron Fortier for his electrical work and assistance in closing the Harbor for the season. The walking extension featuring a concrete path is scheduled to be completed before the end of 2020. There was a follow-up discussion on potential changes to the Harbor Ordinance relating to certain residential or commercial structures on or in the waters of the City. For example, a house boat. There was further discussion on the Harbor Commission organizing a summer festival. A possibility is an oyster and beer festival in the Harbor including other groups or activities; there will be more discussion on this topic. The new harbor boat has been put away for the winter.

➤ *Recreation Commission:* Councilor Miller and Chair Hamilton attended the Commission meeting on December 4. At this time, 2 additional members were needed; a decision was made to fill those slots with students. One would be a junior and the other a senior and both will be voting members. There was a discussion on the Maine Bicentennial Celebration being held in conjunction with the Heart of Ellsworth on March 15, 2020. This celebration may include closing down Franklin Street and having food trucks, music, fire pits, and fireworks that evening. Shane Lowell was not present; however, did email the YMCA youth sports report. The ice rink has been constructed; however, is waiting for a long cold stretch so that the ice will be ready for skating. There was a discussion on the capital requests which included a feasibility study for a recreational complex including a dog park. There will be a meeting with the Heart of Ellsworth concerning the future of parades in the City; primarily how they will be handled which may require amendments to the Ordinance. The next meeting will be on January 8, 2020.

➤ *Solar Project:* Councilor Grindle explained RFPs have been requested with a due date of December 18, 2019 at 2 PM. There have been many changes

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throughout this time period. David Cole, City Manager noted the bid period was extended from the original date of December 4 until December 18 because there were a number of questions. This extra time allowed for the solar operators to tour the sites as well as conduct research on them. At this time the RFPs will be opened on December 18, 2019 at 2 PM.

➤ *HCTC Steering Committee* – Councilor Grindle noted the Committee has been meeting over the last couple of weeks and conducting interviews with potential firms to partner with, based on the request for qualifications that were distributed. The goal is to decide on a firm to partner with for the feasibility study and bring a recommendation to the January meeting.

➤ *EBDC Board* - Chair Hamilton noted he had originally appointed himself to this Board; however, he is going to remove himself from that group and will appoint a different member from the Council. He encouraged anyone with an interest in serving on this Board to let him know so he can make that appointment. The reason for this decision was because the EBDC Board and the HCTC Steering Committee are currently working very closely together on a project. To ensure there is not a conflict between those two committees Hamilton felt it was best if he did not serve simultaneously on both groups.

*Citizens' Comments.*

Cara Romano, Executive Director of Heart of Ellsworth explained today there was a very important visit from the Maine Development Foundation's Main Street Maine Program representatives. A tour of the City of Ellsworth was conducted with some of the spectacular Downtown sites being visited. The Heart of Ellsworth members have been working with Janna Richards, Director of Development Services for the past year to ready the City for this site visit. Today, parts of City Hall including the Council Chambers, Ellsworth Public Library, State Street Petersburg Block, lower Main Street, John Edwards, The Grand Theatre, Airline Brewing Company, Fogtown Brewery, Atlantic Art Glass were toured with the event ending at the Union River Center for Innovation. There were five different representatives including Ann Ball who is the Program Officer for the Maine Development Foundation's Main Street Maine Program. Although it is not clear if this phase of the process has been completed yet things are looking very promising

**Citizens' Comments.**

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for Ellsworth to become the next and the only affiliate community this year. Romano felt the notification would be received at the very end of 2019 or early 2020. Ellsworth is the only community in Maine that went through the application process. Once the City does reach the next phase there will be a couple of press releases as well as the National Main Street program will issue a press release stating Ellsworth has become an Affiliate Community. Today was a very big step in the right direction for Ellsworth with a heavy focus on the Downtown and revitalization. This covered everything from walkability, design, to events happening as well as community involvement. A highlight was community members working in connection with the City. Councilor Moore inquired if other groups have been involved throughout this process. Romano noted this process has been added to the Heart of Ellsworth's website, where it lists all the affiliate groups that have been involved, the agendas, a photo, and a solid example as well as explanation of the program. The reasons why Heart of Ellsworth wants this designation is also included on the website. Richards and Romano have been working together to lead this effort with a diverse group including community members, a representative from the Chamber of Commerce, a couple of downtown business owners, and a couple of Ellsworth residents. One of the comments received at the State-wide level was most Cities, where they conduct site visits do not have as many different members from the community involved. They also applauded the City for having such a diversification of people involved in the process. Councilor Blanchette inquired if the tour included properties above Hancock Street from Main Street. The tour did not extend into that area as there was only approximately 3 to 4 hours for this portion. As decisions had to be made on which places to tour due to a tight timetable; priority was given to businesses that fit the different criteria set by the program. Blanchette felt an opportunity was missed by not including the diverse group of businesses located in this area.

Nicole Grohoski, Ellsworth citizen and State Representative for Ellsworth and Trenton confirmed thoughts shared by Cara Romano in regards to the tour. Grohoski joined the tour at the Union River Center for Innovation and was very impressed with the presentation given by Janna Richards, Director of Development Services as well as the way the community joined together on this project. Grohoski noted the 5 representatives from the Maine Development Foundation had glowing things to say about the City in regards to what is currently happening and where the future is going for Ellsworth. Secondly, Grohoski was present as a

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member of the Ellsworth Green Action Team which is part of the Ellsworth Green Plan. Although there has been an extension granted on a bill from the State Department of Environmental Protection which would essentially help municipalities with the cost of recycling, she wanted to address the Council on this topic. This would be accomplished by putting some of the burden and responsibility of all of the packaging that the municipalities are left dealing with back to the producers of the packaging. The DEP has been working on this for a number of months. Grohoski will be sharing the bill with the Council once it is passed because the Green Action Team is hoping the Council will consider it and decide if Ellsworth would like to approve a resolution to pass the Bill. Grohoski invited the Council to an event that is being held at the Moore Center on January 9, 2020 beginning at 7 PM; the topic will be Recycling Reform for Maine. Grohoski will be presenting, showing a couple of different films, providing more details about the Bill, and conducting a community question and answer session. This will be a public forum for anyone that may be concerned with the current status of waste management and recycling within the State. The snow date for this meeting will be January 10, 2020 at 7 PM. An attempt will be made to Facebook live the event so anyone unable to attend could also hear the information. The Bill number is not available yet.

Steve Wasson provided a letter to the City Councilors prior to the meeting explaining his recent concerns regarding his signs and action by the Code Enforcement Office. He recognized Code Enforcement has a tough job and they have been very professional in dealing with this matter. The current Code of Ordinance regarding signs makes it almost impossible for the Code Enforcement Officer to enforce it. Many past practices are in violation of the current Code of Ordinance. Wasson is just asking for permission to put signs up for craft shows including ones held at Churches; many of these events need to use inexpensive forms of advertisement. Wasson noted the signs are put up for a particular event and then removed promptly; even if a sign is in an area the officials do not like it will not be there very long. He asked for a review of the Code of Ordinance in an effort to make it a little friendlier to businesses that already exist. Wasson stated they do advertise on Facebook as well as other arenas but the best way of advertising for these types of events is the temporary signs. The event becomes more exciting depending on the number of signs that are put up. Councilor Kaplan asked what type of signs Wasson would like to put up. Wasson explained the signs

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are plywood and measure 24x32 and are painted with a white background. The difference between craft fairs that will be around for a while and those that will not make it are their signs are easily read, attractive, and are removed in a timely fashion because otherwise they do not mean anything. If the sign is put up too soon or left too long it will lose the desired impact of drawing customers to an event or show. His signs are never left up beyond a day of the show ending. David Cole, City Manager noted political signs are governed by State Law not local ordinance. The State Law refers to all temporary signs not just political signs. This request should not be confused by the yard sale style signs that appear everywhere; Wasson did not have advise on those as they are too numerous to enforce.

Councilor John Moore, spoke as an Ellsworth citizen regarding signs that the City has on Main Street. He is not advocating the City disallow signs; however, he believes the City needs further conversation on regulations and holding individuals responsible for their signs. Sidewalks are required to have a certain amount of space left open per the ADA regulations and currently there are times when a sign is in the middle of the sidewalk. Moore circulated photos he noticed on the traffic light post which had been left up past their intended purpose. The suitcase sign had blown into the street, while others were on their sides and could not be read. Moore feels there should be some organization required as well as where they should be placed and for how long. Time has been spent on beautifying Ellsworth and now it needs to be kept clean; Moore would also like to see the street light poles painted.

Councilor Marc Blanchette congratulated members of the administrative staff at City Hall who took it upon themselves to use the money that is collected at the Transfer Station over the course of the year from bottle returns to purchase Christmas gifts. In November social agencies are contacted for names of children needing Christmas gifts; purchasing the gifts is done on the employees own time. This project does not take time away from their City responsibilities. This year approximately 109 children received gifts that otherwise would not have; which is an increase of 20 compared to last year.

*Presentation of Awards.*

There were no presentations of awards this month.

**Presentation of  
Awards.**

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UNFINISHED BUSINESS

**Unfinished Business.**

There were no items under Unfinished Business this month.

CONSENT AGENDA

**Consent Agenda.**

*CONSENT AGENDA: All items with an asterisk (\*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.*

**Approved - Consent agenda as presented this evening.**

*Council Order #121900, Request of the Harbor Commission to accept a resignation letter from Robert Merrill with a term to expire on June 30, 2022. \**

**Approved – CO#121900, resignation letter from Robert Merrill, Harbor Commission.**

See attachment #1 for the request.

*On a motion by Blanchette, seconded by Miller, it was unanimously*

*RESOLVED to approve the consent agenda as presented this evening.*

NEW BUSINESS

**New Business**

*Public hearing and action on the following applications for new and/or renewal on the following licenses:*

*Finelli's of Maine Inc., 12 Downeast Highway, for renewal of a City Class B License (Victualer/Liquor/Arcade) and renewal of a State Restaurant Liquor License (Malt and Vinous).*

**Approved - Finelli's of Maine Inc., 12 Downeast Highway, for renewal of a City Class B License (Victualer/Liquor/Arcade) and renewal of a State Restaurant**

The staff reports the premises are in compliance with required codes and ordinances necessary to issue the requested licenses.

Public hearing was opened.

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There were no comments.

Public hearing was closed.

*On a motion by Moore, seconded by Kaplan, it was unanimously*

**RESOLVED to approve the request of Finelli's of Maine Inc., 12 Downeast Highway, for renewal of a City Class B License (Victualer/Liquor/Arcade) and renewal of a State Restaurant Liquor License (Malt and Vinous).**

*Ellsworth CI, LLC d/b/a Ellsworth Comfort Inn, 130 High Street, for renewal of a City Lodging License.*

The staff reports the premises are in compliance with required codes and ordinances necessary to issue the requested licenses.

Public hearing was opened.

There were no comments.

Public hearing was closed.

*On a motion by Phillips, seconded by Miller, it was unanimously*

**RESOLVED to approve the request of Ellsworth CI, LLC d/b/a Ellsworth Comfort Inn, 130 High Street, for renewal of a City Lodging License.**

*Council Order #121901, Request of the Public Works Director to authorize payment for motor repairs to the highway 2009 International plow truck #34.*

Tammy Mote, Deputy City Manager stated she was presenting the request to pay an invoice for repair work completed on 2009 single axle truck, as the Public Works Director was ill this evening. This truck is the only remaining reliable backup truck. The truck was delivered to Colwell Diesel to be diagnosed with estimates being requested per the procurement policy so that a purchase order could be issued for the work. The City did not hear from Colwell until an invoice was received in

**Liquor License (Malt and Vinous).**

**Approved - Ellsworth CI, LLC d/b/a Ellsworth Comfort Inn, 130 High Street, for renewal of a City Lodging License.**

**Approved - Tabling Council Order #121901, payment for repair services for Highway truck #34 in the amount of \$23,360.90 to be funded from Highway department**

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the amount of \$23,360.90. See attachment #2 for the complete request and invoice. The repairs to this truck included pistons, rings, EGR valve, six injectors, main bearings, rod bearings, head bolts, and turbo work. This request is before the Council because the City Manager can only approve expenditures up to \$15,000 and this invoice is for \$23,360.90. Councilor Moore inquired if Colwell's had been contacted to discuss this invoice. Councilor Kaplan inquired if the labor rate could be negotiated as this invoice reflects a rate of \$105 per hour. She felt \$75 was a fair rate based on the amount of work the City of Ellsworth provides them with and maybe it would be possible to negotiate a static labor rate. Councilor Phillips noted this is a franchised dealership and their labor rate is comparable to any other franchised dealership in the area. Kaplan also noted when she was reviewing the invoice she noticed the injectors in the amount of \$3,000 appeared to be a duplicate item because they appeared on two different bills. Kaplan requested the accuracy of the bill be checked as well as whether they would be willing to give the City a better rate. Bernie Hussey, Highway Foreman reported one invoice had one injector and the other invoice listed the remaining five injectors. Councilor Grindle inquired if Colwell Diesel was aware of the City's procedures as far as the purchasing process. Hussey stated he has mentioned this to the owner of Colwell Diesel many times. Hussey noted when the truck was delivered he was kind of told what the situation was going to be, although he asked for an estimate and one could not be provided at that point. Hussey called and then spoke to the Public Works Director who told him to go ahead with some of the work and then an invoice arrived in the amount of \$23,360.90. Councilor Blanchette inquired if Mr. Colwell had explained why the work was completed without authorization. Hussey indicated he had not; Hussey stated Colwell assumed the City wanted the work completed. Hussey noted one of the other trucks was taken to Bangor for repairs for a reason similar to this. A quote was received from that business and when the invoice was received it was for the exact amount of the quote. Blanchette would like to hear from Colwell why the work was completed without first submitting an estimate. Councilor Moore inquired if it would serve any purpose to table this item until next month. Mote indicated that would be fine because it would give City staff an opportunity to speak with Colwell about the invoice and look into negotiating a lower hourly rate.

**general fund, Vehicle  
Equipment &  
Maintenance  
(1030300-52032).**

*On a motion by Moore, seconded by Miller, it was*

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**RESOLVED to approve tabling Council Order #121901, payment for repair services for Highway truck #34 in the amount of \$23,360.90 to be funded from Highway Department General Fund, Vehicle Equipment & Maintenance (1030300-52032).**

A final vote was taken on the above motion with 6 members voting in favor (Blanchette, Grindle, Hamilton, Kaplan, Miller, and Moore) and 1 member abstaining from the vote (Phillips).

*Council Order #121902, Request of the Library Director to accept a bid for the library roof repair project.*

Amy Wisheart, Library Director explained the Library roof is in poor condition and there have been several leaks throughout the fall. The plan is to repair the roof in the older portion of the building which is the Tisdale House or the historic structure. The shingles are in poor condition and there is leaking in the cupola area. The newer portion of the building which is the addition requires some minor repairs. An RFP was issued earlier in the fall and only two bids were received on the project. One was from Williams Construction Company and the other was from Sinclair Builders. The Library Trustees reviewed the two bids and they approved the one from Sinclair Builders. Wisheart is requesting approval from the City Council on the recommended bid from the Library Trustees. The funds would come from the Library Fund Balance monies that in 2017 the City Council allocated toward Library Capital Improvement requests pending availability of funds. See attachment #3 for the complete request and proposal from Sinclair Builders, Inc. Councilor Kaplan reviewed the bids and agreed it seemed like a very fair rate considering the extent of work they were willing to conduct. Kaplan was wondering if Sinclair Builders would be willing to update their liability insurance form, it apparently expired on December 11, 2019. Wisheart will look into that and secure an updated one. Wisheart explained the request for proposals was advertised in the Ellsworth American and the Library Custodian reached out by phone to several contractors approximately 5 or 6; formal bid packets were not mailed out. Councilor Phillips inquired when this project would start. Wisheart indicated they have availability in the spring, the goal is to get on their schedule for early spring. This will not be winter work. The pricing on the Williams Construction Company quote was difficult to read on the backup material. The pricing just for completing

**Approved - Council Order #121902, the bid from Sinclair Builders for \$24,372 to make repairs to the library's roof and cupola and install sheathing, to be funded from the Library Assigned Fund Balance.**

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the Tisdale House was \$10,630 and for the full job it would be \$29,000, which is higher than Sinclair Builders quote. Councilor Moore inquired if anything needs to be done in the interim to avoid any further damage. Wisehart stated the custodian has reviewed the situation thoroughly and keeps a close eye on the cupola; at this point everything is protected. Although, the goal is to complete the project as early in the spring as possible.

*On a motion by Moore, seconded by Kaplan, it was unanimously*

**RESOLVED to approve Council Order #121902, the bid from Sinclair Builders for \$24,372 to make repairs to the library's roof and cupola and install sheathing, to be funded from the Library Assigned Fund Balance.**

*Public hearing and action on enacting Ellsworth Code of Ordinances, Chapter 62 Taxation of Timeshare Estates Ordinance.*

David Cole, City Manager stated a proposed new Ordinance has been provided to the Council prior to this meeting, see attachment #4 for the request and proposed Ordinance. The Ordinance was prepared by the City's attorney John Hamer. In summary, the proposed Ordinance would shift the responsibility of tax collection on individual timeshare units (approximately 3,000 timeshare unit weeks) to the Timeshare Owner's Association through their managing entity. They would be responsible for the tax collection as well as covering any delinquencies owed to the City. If this Ordinance is adopted by the City Council it would go into effect on July 1, 2020 which is consistent with the City's fiscal year. City staff has met with representatives from Acadia Village Resort to discuss the Ordinance; during those discussions Acadia Village Resort representatives asked if the Council would consider an effective date of July 1, 2021. This would allow time for them to build up sufficient reserves to cover the obligation. John Hamer, City Legal Counsel explained the Ordinance as prepared is based on the home rule authority as well as Title 33, Chapter 10-A, which specifically permits these types of Ordinances. Section 3 of the proposed draft Ordinance authorizes the City to send a tax bill for the entire timeshare project to the managing entity. If there is a developer still in the picture that could be the managing entity otherwise it could be a homeowner's association. The overriding group will be receiving the tax bill. Section 4 of the proposed draft Ordinance authorizes the managing entity to collect money from the

**Approved - Tabling  
Public hearing and  
action on enacting  
Ellsworth Code of  
Ordinances, Chapter  
62 Taxation of  
Timeshare Estates  
Ordinance until next  
month at the  
January 13, 2020  
Regular Council  
meeting.**

**RECORD OF REGULAR MEETING  
ELLSWORTH CITY COUNCIL**

**DATE: DECEMBER 16, 2019**

**TIME: 7:00 PM**

**PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS**

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, HAMILTON,  
KAPLAN, MILLER, MOORE, AND PHILLIPS.**

**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,  
JENNIFER MERCHANT, MARK REMICK, BERNIE HUSSEY, DARYL  
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individual timeshare owners and deposit it into an escrow account which would be held jointly by the City and the managing entity. If the managing entity is successful in collecting enough money to cover all of the taxes than the tax obligation is paid in full; unfortunately if they are unable to collect the full tax obligation than the managing entity is required to pay the difference. This will prevent new foreclosures by the City. The goal is once this Ordinance is passed there will not be any more new foreclosures. The Ordinance as proposed also authorizes the managing entity to place liens on the appropriate timeshare weeks. In the case the managing entity is forced to pay for someone's taxes that timeshare unit will receive a lien. The managing entity will replace the City in the lien process, it will be a different type of lien from what the City would place but it is still a lien to secure their interest. The City also has the right to ask the managing entity for a list of the non-paying owners should the City decide they want to prosecute or take the normal lien foreclosure route as well. Section 7 of the Ordinance provides that if the City does have foreclosed units that the City would be exempted from paying the agency or maintenance fees of the Association for the period of time while the City owns the units but not actually having them in use. If the City should sublet one of the timeshares for any period of time than that period of time would be taxable and would be subject to any agency or maintenance fees. Section 8 of the proposed Ordinance authorizes a civil action to enforce the Ordinance. Hopefully, this would not be necessary; however, this type of wording is always required within Ordinances. Hamer explained what the penalties are as proposed. This Ordinance is based on State Law which dictates what can be included and what is not allowed. Cole noted among other timeshare associations throughout the State some collect taxes by the same process Ellsworth currently uses while others use the method being proposed this evening. Ellsworth has been using the same practice of collecting taxes for the past two decades. Later in the agenda is a proposed master lease agreement with the timeshare association to work on trying to sell the 300 individual timeshare units that the City has currently foreclosed upon. Those units are not impacted by this proposed Ordinance; however, once those units are sold the goal is for no additional units to be foreclosed on. The City's relationship with Acadia Village Resort is very good. This process was setup many years ago and has now become a burden to City staff who have to manage this situation. Recently, the City has been trying to figure out a way to sell the stranded units and get them back into tax producing status. Councilor Blanchette inquired if the managing entity changes would the Ordinance

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follow onto the new entity. Hamer confirmed it would as the Ordinance specifies the managing entity, which is described within the definition section. Hamer read the definition into the record and stated if there is not a managing entity the responsibility falls onto the joint owners. Councilor Kaplan explained some timeshare establishments are taxed as the entire facility and then those costs are distributed equally among the owners of the timeshare units. She questioned why that process was not used in this situation. Larry Gardner, City Assessor explained the State Law mandates that each individual week be assessed separately. It cannot be appraised as a motel, resort, or lodging facility. Gardner stated even if this Ordinance is adopted it will not change what happens in the assessment of the properties; it will only impact the tax collection process. Kaplan inquired if that was because each unit is contained within a real estate deed; Gardner confirmed that was correct. Chair Hamilton inquired how that would work if the managing entity is required to pay the difference in the taxes if the individual owners fail to pay their tax obligation. Hamer explained the managing entity would be the one that gets the lien, the City would not be getting the lien because the City's taxes would be paid in full. The Ordinance which is authorized by State Law says that the managing entity must collect all the monies on the entire units. The only group that would be getting a lien would be the managing entity. The City would not need to worry about foreclosures. The only net gain would be the City moving the responsibility for the lien and foreclosure process. The City will no longer take those units if those individuals do not pay the taxes. Hamer explained if the individuals do not pay their tax obligation, it becomes the responsibility of the managing entity to pay those. The City is shifting the burden of trying to track down all of the individual owners onto the managing entity. The managing entity would mail out the tax bill and be responsible for paying any deficiencies in amounts collected compared to the outstanding tax obligation. Blanchette inquired what would happen if there was not sufficient funds in the managing entities escrow account to pay the tax obligation to the City. Hamer stated there are two possibilities, the first is there is an enforcement mechanism within the Ordinance so that the managing entity could be brought to court to collect a deficiency and penalties are assessed on top of that. That would be the worst case scenario. The second option is, the City would also have the right to pursue the individual unit owners on their own. If it were determined the managing entity had tried their best to collect the total tax obligation; however, they were unable to collect the balance than the City can elect to file the traditional certificate of lien on the unit and

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proceed as normal. In the end if the money is not available to pay the tax obligation it is just not there. The idea is with so many owners, there would be a large group of people with a similar interest in preserving the same piece of property and therefore, they should be able to generate the money to pay off those taxes. In the end, if the City needs to place a lien on an individual property they can as well as the managing entity could create a lien on the property and eventually execute on it. Councilor Miller asked for a clarification on why the one year delay in implementing the Ordinance was being requested. This question will be addressed during the public comment section.

Public hearing opened.

Jim Killam, Resort Manager of Acadia Village Resort explained Acadia Resort is a 39 unit timeshare. They have 14 employees with an annual budget of a little over \$900,000. Killam stated upon review of the proposed Ordinance, he shared with Cole how difficult it would be for the Resort to receive a \$175,000 real estate tax bill with the expectation to have that paid in full within 30 days. The resort feels it would be best to let the City continue handling this situation the same that it has been; the Resort was billing the taxes when it opened in the late 80's for approximately 10 years. At that point for unknown reasons the City decided to take over billing for the taxes beginning in approximately 1996. The burden on the Resort alone makes this very difficult to comprehend; for example if the Resort was successful in receiving 75% of the tax money in 30 days that still leaves a balance of approximately \$40,000 for the Resort to pay. This would not be possible. Killam confirmed other timeshare establishments do receive a tax bill from the city or town they are located within. Southwest Harbor does have a very similar timeshare resort as Ellsworth and approximately the same size with a total tax bill of a little more than half of the Ellsworth one. Killam felt if the Council approved these changes it will prompt a review of real estate taxes. In response to the question about why the Resort would like to delay the implementation for a year Killam stated the maintenance fees have already been billed to the first half of the owners. The best case scenario for the Resort would be to add real estate taxes onto the maintenance fee bill as a line item. This would eliminate the need to send out an additional invoice. The total number of owners by his calculation are closer to 2,300, approximately 700 invoices are sent out each half of the year because some owners own every year while others only own every other year. As the Resort

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would not know how much the tax obligation will be for 2020 it would make it difficult to bill the first half of the owners. This process would put them 700 invoices behind for 2020; resulting in 700 owners being billed for the first half and 1600 for the second half. This would be a lot of work for a staff of 14. It would help the Resort meet this new responsibility if the requirement to handle the billing were postponed an additional year (7/1/2021). The foreclosure process would add another burden to the Resort through time, money, resources, and potentially add staff members. If additional personnel is needed it will increase expenses and in turn maintenance fees which will make it difficult for owners to continue owning their timeshare unit. There was not an increase in maintenance fees this year and 80 – 100 HOA units from inventory were sold. There is a proposal next on the agenda to allow the Resort to take over selling the City's weeks. Killam feels they will be successful in selling at least 50 of those next year. It makes sense to keep that process in one location where a single call can result in potential buyers getting all the accurate information. Hamilton agreed the work associated with this process is time consuming for City staff based on the same reasons identified by Killam; however, currently the Ellsworth tax payers are funding the work being completed. Hamilton inquired why Killam felt the City should continue to carry that burden versus having it where the ownership lies. Killam stated it just seems logical to have the people that are already billing real estate taxes continue to do that. The second reason given was the Resort/Homeowners Association has kind of been paying for this position right along with the assessed values on the timeshare units. The City has approximately 275 weeks they are trying to sell for \$100 each and they are not selling. Some of those weeks have assessed values over \$5,000 and the evaluations have not been reduced for 9 years. Killam did not understand how the City could maintain the argument that evaluations are not going down when the City has weeks they cannot sell for \$100. After confirming with Gardner the Resort will receive a tax bill in the amount of \$175,000 compared to Southwest Harbor's tax bill of \$99,000. If the evaluation is reduced by half it will result in a tax obligation within the \$90,000 range. Killam felt this would be a fair starting range of where it should be; he felt it was a reasonable argument that the Resort has been paying approximately \$90,000 in taxes to help the City perform this work. Killam stated the Resort will have to pay money to make up for the unpaid real estate taxes; this Ordinance will require the managing entity to fund any taxes that are not collected. If the Resort has to fund \$20,000 a year out of the \$910,000 budget they will ultimately have to raise fees and that starts the spiral down.

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Killam provided a little history that started approximately 13 or 14 years again when the development company closed their business and essentially caused many units to be foreclosed upon. The development company was called Acadia Village Resort Inc. which is not the same company as Acadia Village Resort Homeowners Association. This process started with approximately 150 weeks being foreclosed on in a short time and then the remaining 150 weeks being foreclosed upon over the next 10 to 15 years which is approximately 15 or 20 weeks a year. Killam felt if they can sell 50 units a year that inventory will decrease quickly. He would like to see the Council table this discussion for one year, give the Resort a year to see how many weeks they can sell, and review it next year with fresh eyes. Kaplan inquired if there was any way the City could reduce the amount owed by the timeshare company. That amount has been sitting on the books but is not doing anything, perhaps give them a percentage of forgiveness once they enter into the conditions of the Ordinance. Cole noted the 300 units the City currently owns are not being taxed and are not directly impacted by the proposed Ordinance. Gardner stated during the planning phase to reach this point it was determined as the weeks have been on the market for \$100 and are not selling that has an impact on value. For the past couple of years the City has been offering these units for \$100 each. Gardner will be reviewing the values on the units which will result in a lowering of the assessment. After a close review by Gardner that will result in a lower tax bill for all of the weeks. An average timeshare week has an annual tax bill of \$65; the maintenance fees range depending on the size of the unit from \$420 to \$608 yearly. Killam felt the average yearly tax bill for an owner that owns their unit for a full year is closer to \$100. If you own a unit every other year the owner receives a yearly tax bill however it is only for \$50. The tax bill is also based on the size of the unit. Cole reiterated the 300 units the City owns will not be the tax burden of the Homeowners Association and they are the less desirable units which explains why the City owns them. Tammy Mote, Deputy City Manager noted as a result of the Ordinance change the taxes associated with those 300 units owned by the City will be written off. If the agreement is approved during the next item on the agenda the City will be writing off approximately \$20,000 in past due taxes. This amount will not be shifted to Acadia Village Resort.

Rusty Weymouth, President of the Acadia Village Resort Homeowners Association noted even though the proposed Ordinance may be legal it is morally and ethically the worst action the City could take for the Resort. This Ordinance will be asking

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an owner at the Acadia Village Resort who is fiscally responsible to pay for his neighbor who is not. He feels this is the wrong course of action to take. He felt the City was asking the Resort's staff who receive minimum wage to conduct the job of the City's professional staff with all the computers and proper programs.

Weymouth felt ultimately this Ordinance will cause the City to own the timeshare establishment within 3 to 4 years; this process will devastate this organization. They cannot even begin to comply with the Ordinance. Weymouth stated he previously spoke with Gardner concerning his assessment and was told he could request an abatement; however, he would not grant it. He further explained timeshare weeks are sold at the Acadia Village Resort business office for \$100 and sometimes it is hard to make that sale. When they receive the tax bill they notice the evaluation is 40 to 50 times the actual market value. Weymouth stated the goal is to remain open while keeping the operating expenses at a minimal and keep it as affordable as possible for people to own at this location. Taxes are a part of this equation. There are a minimal City services associated with the Resort. Weymouth felt Acadia Village Resort is a large economic engine for this area. He was in favor of the master agreement that would be discussed next on the agenda; however, felt in regards to this request the City should continue to be the taxing agency. He would like to see this request denied and not tabled. The tax assessments need to be reviewed according to Weymouth. He did not feel the units were being sold at a distressed sale because everyone is selling them for the same price and that appears to be what they are worth. They were sold years ago for \$5,000 or \$6,000 but now they are worth \$100. The value is no longer what the City is taxing the units on.

Louis Sirois, Ellsworth citizen and timeshare owner explained he has lived in Ellsworth for 41 years and purchased a one week yearly timeshare unit in October 1988. He paid \$5,500 and his real estate taxes were paid through the Association for 8 years. In Fiscal year 1997 the City started taxing owners directly, he has paid his taxes directly to the City for 23 years after receiving a tax bill. He feels this process has been very successful. He understands it is causing a burden and things have changed since the City has obtained a lot of timeshare units through the foreclosure process. Sirois believes the City has the personnel, the computers, and the means to accomplish this and they have been doing it successfully for 23 years. It is the wrong thing to do by placing this process in the hands of the association. They do not have the means to cover taxes that certain owners are not paying. He did not feel it was fair to the unit owners if their maintenance fee is increased to

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cover taxes not paid by certain unit owners. He stated four reasons why he is opposing the new Ordinance. 1) The City has the personnel to accomplish this task. 2) The City has the authority to assess taxes; the association cannot assess taxes. They should also have the responsibility to collect the taxes. If owners do not pay, the City has the responsibility to legally collect those taxes or start the lien process and follow through with the foreclosure process. 3) Acadia Village has an annual operating budget of \$910,000. The City's operating budget is approximately \$12 to \$13 million dollars excluding the schools. The City has the means within the budget to absorb people who do not pay their taxes. If it is \$20,000 unpaid taxes so be it; absorb it and do not expect the Association with a \$910,000 budget to absorb \$20,000 or \$40,000 of unpaid taxes. It is a larger percentage on the Association than it is on the City. 4) Acadia Village is not a problem and is not a burden on the City of Ellsworth. This is a gem within the City and has been a cash cow to the City of Ellsworth. Sirois provided a comparison between his timeshare taxes and his residence on MacDonald Avenue. The timeshare property all combined brings in more revenue to the City than what it is worth. The evaluation is way out of align and grossly overvalued. Sirois's unit generates \$105 per week multiplied by 52 weeks results in tax revenue of \$5,500 per year on just one unit. This is almost twice as much tax revenue compared to his house. The Registry of Deeds also collects a lot of revenue from recording fees and transfer fees associated with the sale of a timeshare unit. In closing he requested the City Council to ask the Assessor to quickly review the assessments on these timeshare units, they are desperately in need of being reassessed. It makes no difference to Sirois if he pays the Association for his taxes or the City. However, when the entire burden for the tax bill is placed on the Association they now have to cover those who do not pay. Councilor Phillips stated which is happening now. It may be legal but not fair and Sirois advocated to leave the current process alone.

Rusty Weymouth, President of the Homeowners Association clarified when the Association was collecting the taxes and submitting the payment to the City that process was under the managing entity of John Walker Inc. the development company. They were making large profits and he had the funds to pay those taxes; however, he has since gone bankrupt and no longer affiliated with the Resort. Now the Resort is operated by the homeowners and they do not have the available funds that Acadia Village Resort Inc. had at that particular time. The \$175,000 tax

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obligation is only on the timeshare units and does not include the commonly owned areas including the tennis courts, clubhouse, pool, and similar areas.

Laura Davis, timeshare owner since 2001 noted the annual maintenance fees are not being collected on the 300 units owned by the City. This shortfall on maintenance fees leaves a whole in the budget. The lack of maintenance fees from the City is causing a huge burden on the Homeowners Association. Acadia Village Resort was the first timeshare she bought; however, her other 2 timeshare units cost far less in real estate taxes. Her Acadia Village Resort taxes are \$129 yearly compared to the \$67 a year in Williamsburg Virginia. The annual dues and maintenance fees are higher. The taxes for her studio apartment style timeshare unit in Aruba are \$29 a year. The yearly dues and maintenance fees are in addition to that amount. These are also deeded properties.

Public hearing closed.

Kaplan felt it was fair to ask the Assessor to reassess the units. Moore initially thought the Ordinance was a great idea; however, he now feels it should be reviewed particularly in regards to adjusting the evaluations. He is not opposed to the concept; however, feels it may need more time (beyond 7/1/2020) and more discussion.

*On a motion by Kaplan, seconded by , it was*

*RESOLVED to approve the City Council reassess their position until the City has further clarification on the impact this would have on the Homeowners Association.*

The above motion died due to failure to receive a second.

Phillips felt whether this Ordinance was enacted this month or brought back next month it likely would not make a difference. He would prefer the discussion amongst the Council including some of the other entities be extended for one month.

*On a motion by Phillips, seconded by Grindle, it was unanimously*

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**RESOLVED to approve tabling public hearing and action on enacting Ellsworth Code of Ordinances, Chapter 62 Taxation of Timeshare Estates Ordinance until next month at the January 13, 2020 Regular Council meeting.**

*Council Order #121903, Request to authorize the City Manager to enter into a Master Lease Agreement with Acadia Village Resort for the marketing and management of City owned timeshare units.*

David Cole, City Manager explained the City Council has a proposed Master Lease Agreement in their packets, see attachment #5 for the request and proposed Lease Agreement. This was discussed a little during the previous agenda item. In summary, the City owns approximately 300 timeshare units, this is not routine business for the City. They found themselves marketing the units on the City website and the lobby televisions. The City is attempting to figure out ways to sell the timeshare units. After some discussion with the City Attorney, City staff, and representatives from Acadia Village Resort a draft Master Lease Agreement is before the Council tonight. John Hamer, City Attorney stated the purpose of the lease agreement is a little different than the Ordinance. The goal of the Ordinance is to stop foreclosures from occurring and the lease agreement is designed to help the City put back into service the units that have been foreclosed upon. The lease would have usefulness with or without the proposed Ordinance. Without the Ordinance the City may obtain more units through the foreclosure process. This lease agreement would turn those units around so that they could be leased by Acadia Village Resort or the managing entity. This would allow them to try to sublet those units owned by the City and market them for sale. The whole point of the lease is to take all of the foreclosed upon units owned by the City either now or in the future, lease them back to the managing entity so that they can try to sublet them. If there is demand for those weeks than the City may be able to capture some rental monies and maybe not. Acadia Village Resort would also be trying to market the units along with their own. The City would still be engaging in the foreclosure process and the management of the units. The units would be transferred over to Acadia Village Resort so that they could try to have a unified marketing approach. The lease would provide for a sharing of the rental and sales incomes on the units, the Resort would be compensated to a point for their marketing and leasing efforts. If a unit is rented, Acadia Village Resort would keep 25% of the rental for that week and 75% would be remitted to the City. In the case of a sale, each entity

**Approved - Council Order #121903, authorize the City Manager to enter into a Master Lease Agreement with Acadia Village Resort for the marketing and management of City owned timeshare units.**

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would receive 50%. The lease is designed to have a 5 year term with 5 successful renewals if the parties agree to it. Chair Hamilton stated the previous item is linked to this request and the Council may want to consider tabling this until the Council has the opportunity to resolve the other aspect of it. Councilor Moore agreed, over the next month it may give the Council an opportunity to hear from the owners of the Association as to how they feel about it. Councilor Phillips noted the substance of the lease agreement will not change no matter how the association is taxed. By approving this lease it will give them the opportunity to market or attempt to market the units which will not change from one month to the next. What may change is the way in which the City handles the taxation. Phillips did not feel anything would be gained by setting this request aside because it is two separate agreements, there is nothing intertwined between the two. Moore agreed with Phillips except he was just thinking for a better dialogue it would not make a difference if the Council waited a month to approve it exactly as written. Cole noted certainly another month is not crucial; however, this has independent utility from the Ordinance. Both the City and the Acadia Village Resort are in agreement regarding the lease agreement details. The details of the split amount could be discussed; however, the primary objective is not the sale price it is getting them back on the tax rolls. The staff can support the lease agreement as written; however, if the Council is more comfortable waiting a month, that would be fine as well. Councilor Blanchette inquired what the oversight would be on the lease agreement. This would be a good faith attempt and could be reviewed year to year to see if it is working. It is a lease agreement so it would be a voluntary agreement between the parties. The City would be working hand in hand with the Acadia Village Resort in order to make this work. The Council could request any type of documentation they would like concerning the efforts that are being made to market the City units. The lease actually puts forth an order of preference in terms of leasing. The City's units would be leased in the middle range in terms of preference. This concept is listed out in more detail within the lease agreement document. There would need to be a degree of trust between the Acadia Village Resort and the City in regards to knowing if a unit has been leased. If a City unit is leased and not reported to the City than that may cross the line into some criminal action. Hamer did not see this as a major concern and the lease amounts are relatively small. Acadia Village Resort does have the opportunity to earn some money off from those sublets if they are done. Jim Killam, Resort Manager of Acadia Village Resort stated what Cole has explained is the barebones of the agreement. They have not received the document yet or had it

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**DATE: DECEMBER 16, 2019**

**TIME: 7:00 PM**

**PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS**

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, HAMILTON,  
KAPLAN, MILLER, MOORE, AND PHILLIPS.**

**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,  
JENNIFER MERCHANT, MARK REMICK, BERNIE HUSSEY, DARYL  
CLARK, KELLY HERRICK, BOBBY DORR, RICHARD TUPPER, MICHAEL  
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reviewed by their attorney. This process would take a little time to complete. To his understanding Acadia Village Resort would handle the sales and present the sales information on the new owner to the City, the City would prepare the quit-claim deed, and Cole would sign it. This process would be quick and easy. They would show proof of the sale including the amount. In regards to leasing or renting of the units, Killam did not feel there would be a lot of that happening. The City does not own a lot of units during the summer months because those have been sold. Those units have a higher value than \$100. The units that would remain are for the off season such as November through February weeks. The City may see rental income during the school vacation weeks. Phillips inquired if Killam felt after seeing the agreement it was a fair agreement for both entities and a good concept. Killam agreed with that statement. Hamer clarified he reviewed the lease quickly and determined there is an accounting demand provision that is contained within the lease. Hamer read that section into the record. Phillips noticed on page 2 under "Use" there was a typo "30" party that should be "3<sup>rd</sup>" party.

*On a motion by Miller, seconded by Phillips, it was unanimously*

**RESOLVED to approve Council Order #121903, authorize the City Manager to enter into a Master Lease Agreement with Acadia Village Resort for the marketing and management of City owned timeshare units.**

*Council Order #121904, Request to authorize the City Manager to accept a grant award of \$20,000 from the Maine Coworking Development Fund.*

Janna Richards, Director of Development Services stated the City has been awarded a \$20,000 grant from the Maine Coworking Development Fund. See attachment #6 for the complete request and emailed decision letter from the Maine Coworking Development Fund and Program. This is a program under the State's Department of Economic and Community Development. The funds will be used at the Union River Center for Innovation for supporting ongoing programming at the Center with a focus on enhancing the Center's coworking membership program. The overall goal as described within the proposal was that the enhanced programming and infrastructure improvements would increase the exposure and use of the coworking program and membership at the Center. This is already a significant source of revenue for the Center and the goal is by instituting some of the programming listed

**Approved - Council Order #121904, authorize the City Manager to execute the necessary agreement to accept a \$20,000 grant from the Maine Coworking Development Fund to support the City's co-working membership program at the**

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**CITY COUNCIL ABSENT:**

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within the grant proposal as well as some of the technical infrastructure improvements that this particular use will continue to be increased and provide additional revenues. Revenues from this use will be used at the Center. The formal contract has not been received yet; however, Richards did provide the award letter for the grant (see attachment #6). Acceptance of the grant funds includes participation by URCI in a state wide collaborative network of other coworking and incubator spaces that were awarded this grant. Richards stated they are looking forward to this piece because throughout the State particularly in the Southern half of the State there are a lot of programs that have longevity and have been able to take out of that many best practices for collaborative workspaces. The goal is to take some of those ideas and incorporate them at URCI.

*On a motion by Phillips, seconded by Miller, it was unanimously*

**RESOLVED to approve Council Order #121904, authorize the City Manager to execute the necessary agreement to accept a \$20,000 grant from the Maine Coworking Development Fund to support the City's co-working membership program at the Union River Center for Innovation.**

*Public hearing and action on proposed amendments to the City of Ellsworth Code of Ordinances Chapter 3, Harbor Ordinance.*

Mark Remick, Harbor Commission Chair explained the request this evening was for a shift in their daily operational hours. This proposal would have the Harbor open an hour later and stay open an hour later. See attachment #7 for the request, proposed amended language, and a clean copy of the complete Ordinance with the proposed language updated. It appears there is more of a demand later in the afternoons than there is earlier in the morning. This would have an emphasis on public service. Councilor Miller inquired if this change would negatively impact any businesses. Remick stated it would not have a negative impact. Councilor Moore agreed it was more important to have the Harbor remain open for an extra hour for those boats returning to the Harbor and may need to refuel. Remick noted generally speaking boaters are getting ready during the late afternoons and early evenings for the following day. When the dual fuel system is added next season the commercial traffic will increase and this amendment will help serve the needs of that population.

Public hearing opened.

**Union River Center  
for Innovation.**

**Approved -  
Amendments to the  
City of Ellsworth  
Code of Ordinances  
Chapter 3, Harbor  
Ordinance to change  
the hours of  
operations to 9 a.m.  
to 6 p.m.; as  
presented this  
evening in  
attachment #7.**

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KAPLAN, MILLER, MOORE, AND PHILLIPS.**

**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,  
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There were no comments.

Public hearing closed.

*On a motion by Moore, seconded by Miller, it was unanimously*

**RESOLVED to approve amendments to the City of Ellsworth Code of Ordinances Chapter 3, Harbor Ordinance to change the hours of operations to 9 a.m. to 6 p.m.; as presented this evening in attachment #7.**

*Council Order #121905, Request of the Fire Chief to purchase a Fire Engine and loose equipment through the Huston-Galveston Area Council cooperative purchasing program with the Dealer/Vendor being Greenwood Emergency Vehicles.*

Richard Tupper, Fire Chief clarified this request is not a fire engine; it is actually for a heavy fire rescue apparatus. See attachment #8 for the complete request, model and pricing update letter from E-One regional director, specifications package for a custom built E-One rescue truck letter from Greenwood, truck design photos, and Capital Improvement Equipment Request. Tupper explained they have been working on this design for approximately two years; there has been a committee responsible for researching the needs of the department. This committee has completed a tremendous amount of work to reach a consensus on what is needed versus what is wanted. Typically there is a 20 year life span, a while back this was structured within the Capital Equipment Replacement Program. Tupper recognized this process has recently changed to include submitting a request for capital equipment through the Capital Planning Committee. This heavy fire rescue apparatus was requested through the Capital Planning Committee; they approved moving this forward to the City Council for consideration at this time. Tupper explained this request was to replace the current rescue truck which is referred to as a “rolling toolbox”. This truck carries equipment above and beyond what can be carried on the rest of the apparatus (typical pumpers or fire engines) and augments the vehicles and other services provided by the Fire Department. This apparatus rolls on practically every call the department responds to, there are some variations depending on what the incident is. If this is not one of the first pieces of apparatus

**Approved - Tabling Council Order #121905, Request of the Fire Chief to purchase a Rescue Apparatus and loose equipment through the Huston-Galveston Area Council cooperative purchasing program for 90 days while they can look and see if there is another truck that would meet their needs.**

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responding it is typically at least the third one. The current apparatus is a 2001 which makes it 18 years old and the typical cycle is 20 years. This apparatus was slated for replacement following a different apparatus but for various reasons this one has been bumped ahead of that one. Most of the reasons related to reprioritizing this vehicle replacement are based on maintenance needs and items they have invested in to keep it safe and on the road. NFPA requirements recommend that any apparatus over 15 years old be refurbished and any equipment over 25 years should be replaced. Tupper noted the City is currently within the middle of that timeframe; he is recommending replacing the apparatus rather than refurbishing it. The request is to purchase this apparatus through the Huston-Galveston Area Council purchasing program. This program helps municipalities by developing a pre-bid situation where all the vendors submit per specification to the program a bid for any type of apparatus (for example fire truck or dump truck). This gives the Department an opportunity to look at an apparatus in question that a department is trying to propose, work off from the base specifications, and make modifications if necessary to fit the department's needs. This has been completed while staying within that bid process. This replaces the formal bid process that the City generally uses per the procurement policy. The Department utilized this process during the last purchase of #2 lead pumper; there are several other towns and municipalities within the State of Maine that have used this program. Tupper explained the Department is considering a fire apparatus versus a custom chassis. The safety factor is the reason for this decision; it is built for and to service the needs of the fire service. The fire apparatus is built 5 times stronger than a commercial chassis which is important for rollover or accident protection. If the purchase is approved this evening there will be an approximate year wait time for the rescue truck to be built and delivered. The trade-in value or sale price on the current vehicle was not available, due to the length of time that will remain before the new truck is in service. Once this purchase is approved, Tupper suggested trying to sell the current vehicle on the auction site currently used by the Public Works Department. At that time the current truck can be assessed for a fair base value; that bid price could be applied to the cost of the proposed new rescue truck. Tupper stated there are many different types of resources the department has that are either stored at the Fire Station or at the training site because of lack of space on the apparatus to carry it. The new rescue truck will provide the Department opportunities to have additional storage space so that those items can be carried on the truck. This will save time from going to the storage area to pick up those

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necessary resources before going to an incident. The last point Tupper made was the service after the sale. The proposed company has given the Department extremely good service in the past as well as complied with the procurement policy when repairs are necessary. The rescue truck purchase was moved ahead of the tanker truck. According to the original capital equipment replacement program the tanker has already gone past a year and the rescue truck purchase has gone past two years. This decision takes into account the assessment of what the current status of both vehicles are. Tupper was referring to the 20 year replacement plan; based on this plan it is estimated the new tanker will be requested in a year or two. The timeframe will be based on the request going before the Capital Improvement Committee and the second truck would be looked at much closer and evaluated on the priorities and how long that purchase can be delayed by making a few repairs or adjustments. The next vehicle purchase will be more complicated because it will have a pump on it and additional equipment. Councilor Kaplan inquired if a used newer truck had been considered or researched. Tupper noted a used apparatus will likely have issues overtime that will start to compare to what the Department is already experiencing. Kaplan described a few of the fire apparatus that she found online; there were pumpers for \$200,000 ranging in years from 2012 and 2015 with approximately 11,000 miles. That could be approximately half the expense as the proposed apparatus. Tupper would be concerned about the condition of those units. Kaplan noted there was a 2016 fire rescue truck as low as \$85,000 and it has less than 5,000 miles. She was concerned with approving a \$500,000 purchase considering it will be valued much less in a few short years. Tupper noted the vehicles online would need to be compared with the truck as specified to be sure they contain all the necessary components. Councilor Miller inquired if Tupper obtained a quote for having the current truck refurbished; Tupper does not have an estimate. The truck could be refurbished; however, that would likely not address the issues with the frontend. The concern is the frontend is a medium duty chassis with a heavy duty workload. Tupper believed it would still have issues regardless of whether it is refurbished or not. One of the major concerns is given the truck has a lighter duty chassis, it was not required to have air brakes and that has been an issue since the first day this truck arrived. The traditional hydraulic brakes have required multiple repairs. There was a question whether more weight has been added to the truck than the chassis should carry. Tupper did not believe that was the case. A year ago when the truck was priced out a quote of \$425,000 was received. There has been a significant increase in only one year's time. The

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specified chassis is identical to the engine other than the box on the back and the pump. The importance of maintaining the consistency of a fleet comes into play when responding to an emergency situation. The controls and switches are all located in the same places. Chair Hamilton reminded everyone of the purpose behind the Capital Committee as well as the importance behind looking at all the necessary expenses over a five year period and planning for those in a fiscally responsible way. Hamilton is hopeful when the Capital Committee meets again, all of the departments will have submitted five year projections so that all of the needs can be considered and vetted appropriately. Councilor Moore inquired if there was any possibility the proposed truck could be scaled down but still useable. The Committee looked at all of the needs and the compartments in the back are designed to hold what the Department needs to carry. Tupper discussed the advantages of the crew cab over the conventional cab and how they relate to storage and efficiencies when arriving at an incident. There was a discussion on the advantages of how the new truck is designed compared to the usefulness of the current truck. Miller recognized this truck will cost a lot of money and agreed that used trucks should at least be looked at first. Kaplan thought possibly if the right deal was found it might be possible to purchase both the heavy rescue truck and pumper truck for the same price as just one vehicle. A 2012 or 2015 vehicle would still be newer than what the Department currently owns. Councilor Blanchette reminded the Council in an earlier conversation this evening it was thought that a labor rate of \$105 was very high to repair a vehicle; it is unlikely labor rates to repair a used fire apparatus will be lower than \$105 per hour. Blanchette felt a lot of time and money would be spent keeping a used truck on the road which takes it out of service. He was not opposed to used equipment in certain respects depending on the situation. Blanchette did not believe in a city the size of Ellsworth used fire apparatus should even be considered. Kaplan contended if the City had a year to look potentially the right vehicles could be located which would meet the needs and does not place a financial burden on the taxpayers. Blanchette was also considering the safety of the firefighters, he did not want to place them in a situation where the equipment is second rate, inadequate, or could not be trusted. Miller noted he was suggesting looking at used vehicles, evaluating them for safety and the intended use. Tupper stated it will be difficult to locate a used truck that will be able to accommodate the size of some of the necessary equipment. Some of the equipment the new truck was designed to accommodate is extremely bulky and specific compartments were created to hold that equipment, such as the ice rescue sled. Blanchette also noted

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the Fire Department bay doors may pose a challenge for a used truck to fit through. Tupper stated every truck with the exception of the pickup was ordered specifically to fit through the bay doors. The doors are much smaller than a typical fire station. Moore agreed he would be opposed to purchasing a used truck; however wondered why more years could not be gained from the trucks. The current rescue truck has less than 40,000 miles but does go out on a lot of calls. The miles are not as much of the problem compared to the wear and tear on the vehicle from the road salt and use. The passenger side floorboard is extremely spongy, the brakes are a concern, the frontend has major wear on it, and the kingpins were just replaced. Councilor Grindle was concerned by the inflation rate between the prices obtained just one year apart. Chris Champagne from Greenwood Emergency Vehicles explained the reason for the inflation between the two prices. The cost of materials have increased in price over that time period. He also noted this type of vehicle is generally customized for each community to address the individual needs and items that they need to transport. The odds of finding a used vehicle that fits in the space and can carry the necessary equipment is very slim. He noted most fire apparatus are dying from the bottom up due to the housing conditions (warm and moist environments) of the vehicles. Champagne described the frames on the new fire apparatus and how it is extending the life of the vehicle as well as the warranties that come with new vehicles versus buying a used vehicle. Grindle agreed based on the amount of the purchase it at least warrants looking at used vehicles to see if there is a 2 or 3 year old vehicle that fits the needs. Champagne described the different branches of the used vehicle market in regards to fire apparatus. Hamilton questioned whether this was the right time to purchase based on the trade wars that are driving the inflation rate on this type of vehicle. Champagne noted he has never seen the price go down on fire apparatus; however, there have been years when the inflation rate has flattened out or does not increase for a year or two. Bobby Dorr, Captain with the Fire Department and Chairman of the Fire Truck Search Committee discussed items that are needed versus items that are wanted. Dorr explained why the rescue sled is needed all year as hypothermia could happen anytime. Dorr described how the proposed rescue truck was designed with ergonomics in mind. A lot of the needs are very potential needs which may never be needed; however, if they are required then they become very important and may be the reason for a safe and successful outcome. This truck was designed to serve the community to the best of the Department's ability with the available resources.

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COUNSEL), AMY WISEHART, LARRY GARDNER, AND HEIDI GRINDLE.**

*On a motion by Kaplan, seconded by Miller, it was*

**RESOLVED to approve tabling Council Order #121905, Request of the Fire Chief to purchase a Rescue Apparatus and loose equipment through the Huston-Galveston Area Council cooperative purchasing program for 90 days while they can look and see if there is another truck that would meet their needs.**

**A final vote was taken on the above motion with 6 members voting in favor (Grindle, Hamilton, Kaplan, Miller, Moore, and Phillips) and 1 member voting in opposition (Blanchette).**

*Council Order #121906, Request of the City Manager to renew the Franklin Street Parking Lot Lease Agreement.*

David Cole, City Manager explained in 1992 the City of Ellsworth entered into a partnership with the United Methodist Church where the City applied for a grant from the State of Maine to build a parking lot. This parking lot is now referred to as the Franklin Street Parking Lot. In order to justify the public grant the City entered into a 25 year lease agreement with the Church. This lease expired in 2017. See attachment #9 for the complete request and proposed Lease Renewal. This has been a mutually beneficial arrangement over the years. The Church uses this parking lot for Sunday services and special events and the City has this area for week to week parking as well as overflow during busy times. In 2017, when the lease expired, Ed Bearor the City attorney worked with a representative from the Church and drafted a lease agreement that was intended to go year to year until such time as the City invested money in upgrading the parking lot. Once that took place the lease would be termed out for an appropriate timeframe. Cole would like permission to extend this lease for one more year, from December 18, 2019 through December 17, 2020 in the amount of \$1.00. The renewal will carry forward the existing terms and the original lease was reviewed by the City' legal counsel. The Church has never experienced a conflict with using the parking lot when they have had a special function or on a Sunday.

*On a motion by Blanchette, seconded by Moore, it was unanimously*

**Approved - Council Order #121906, authorize the City Manager to execute a lease renewal agreement for the Franklin Street Parking Lot with the United Methodist Church of Ellsworth for a period of one year, extending from December 18, 2019 to December 17, 2020. Councilor Blanchette provided the \$1 payment.**

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**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,  
JENNIFER MERCHANT, MARK REMICK, BERNIE HUSSEY, DARYL  
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HANGGE, GARY SAUNDERS, JANNA RICHARDS, JOHN HAMER (LEGAL  
COUNSEL), AMY WISEHART, LARRY GARDNER, AND HEIDI GRINDLE.**

*RESOLVED to approve Council Order #121906, authorize the City Manager to execute a lease renewal agreement for the Franklin Street Parking Lot with the United Methodist Church of Ellsworth for a period of one year, extending from December 18, 2019 to December 17, 2020. Councilor Blanchette provided the \$1 payment.*

*On a motion by Phillips, seconded by Kaplan, it was unanimously*

*RESOLVED to approve removing from the agenda this evening Item #19 (Executive Session to discuss labor negotiations between the City of Ellsworth and the International Association of Firefighters AFL-CIO, Local 3402 in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6D) and Item #20 (Council Order #121907, Request to approve a sidebar agreement between the City of Ellsworth and the International Association of Firefighters AFL-CIO, Local 3402 to redefine the work week to accommodate the TimeClock software).*

*Adjournment.*

*On a motion by Moore, seconded by Miller, it was unanimously*

*RESOLVED to approve adjournment at 9:48 PM.*

**A TRUE COPY**

**ATTEST: \_\_\_\_\_  
HEIDI-NOËL GRINDLE**

**Approved -  
Removing from the  
agenda this evening  
Item #19 and Item  
#20.**

**Approved -  
Adjournment at 9:48  
PM.**