

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: NOVEMBER 21, 2016

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BEATHEM, BLANCHETTE, CROSTHWAITE,
FORTIER, HUDSON, MOORE, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, MICKI
SUMPTER, JEN MADORE, AMANDA TUPPER, MICHELE GAGNON, JOHN
WEDIN, RICHARD TUPPER, GARY SAUNDERS, PETER BICKMORE, DOTTI
SMALL, AND HEIDI GRINDLE.**

Call to Order.

Chairman Phillips called the regular meeting of the Ellsworth City Council to order at 7:00 p.m.

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 14, 2016 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.

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

- October 17, 2016 Regular Council Meeting.

On a motion by Beathem, seconded by Moore, it was

RESOLVED to approve adoption of minutes from the October 17, 2016 Regular Council Meeting.

A vote was taken on the above motion with 6 members voting in favor (Beathem, Blanchette, Crosthwaite, Fortier, Moore, and Phillips) and 1 member abstaining from the vote (Hudson).

City Manager's Report.

David Cole, City Manager reported that on Friday, November 25, 2016 at 4:30 PM there will be a tree lighting ceremony at the SK Whiting Park. This is the park located at the corner of Main Street and High Street. The Downtown Holiday Market Place located in the former Grasshopper Shop will be open beginning

Call to Order.

Pledge of Allegiance.

Rules of Order.

Approved - Adoption of minutes from the October 17, 2016 Regular Council Meeting.

City Manager's Report.

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November 25, 2016 through Christmas Eve every Friday, Saturday and Sunday. There are eight pop-up stores within this one location. The Holiday Parade will begin at 11:00 AM on December 3, 2016. Cole announced the City of Ellsworth has been selected by Eastern Maine Development Corporation to be named as the Community of the Year. This recognition will take place at Jeff's Catering in Brewer during their annual meeting on December 15, 2016. The Downeast Sunrise Trail will have a grand opening to recognize the conclusion of construction from Washington Junction up to High Street on December 2, 2016 at 11:00 AM. The grand opening will take place at the trail head on High Street. Ellsworth will now be the western terminus and the beginning of the Sunrise Trail which extends 90 miles across the State of Maine reaching almost to Canada. Wreaths Across America will pass through Ellsworth on December 11, 2016 with a quick stop at the Maine Coast Mall parking lot between 10 AM and 11 AM.

Committee Reports.

- *Recreation Commission:* Councilor Fortier reported the winter maintenance has been performed at the basketball courts and they are now locked for the winter months. The Commission is now working on the installation of the ice skating rink at the Knowlton Park. The Public Works Department has been working on the necessary ground work. Councilor Blanchette announced the Winter Carnival is scheduled for February 11, 2016. Union Square would like to be involved this year by offering different games at the Moore Community Center. These may include an outside snowball toss as well as inside games. Some other additions this year may include music downtown and a fire pit. Another idea includes renting fat tire bikes to be used for some type of competition.

- *Harbor Commission:* Councilor Moore reported the Harbor has closed for the season. Chairman Phillips noted action on naming a vendor for next season is on the agenda for action tonight.

Appointment of Councilors to various City Committees by the Chairman of the City Council.

Chairman Phillips announced not much has changed within the appointments of committee membership for the 2016-2017 Council year. The only change was Marc Blanchette was removed from the Recreation Commission and Dawn Hudson

Committee Reports.

Appointment of Councilors.

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joined the Commission. The list of appointments was entered into the record as attachment #1.

Citizens' Comments.

There were no citizens' comments this month.

Presentation of Awards.

Eric Maclaughlin, for 10 years of service with the Ellsworth Public Works Department.

Eric Maclaughlin was absent from the meeting. The award will be given to his supervisor for presentation at a later date.

Presentation of Commendation for diverting a dangerous situation and displaying courage.

Harold "Pete" Bickmore recognized Sheriff Deputy Shane Campbell and Ellsworth Police Officer Troy Bires, with letters of Commendation for their willingness to divert a dangerous situation which displayed courage during a drug investigation assignment with the MDEA as Special Agents.

Small Business Day Proclamation – November 26, 2016.

Chairman Phillips read the Small Business Day Proclamation (attachment #2) into the record. An original signed copy of the Proclamation was presented to members of the Downtown Business Association and other small business owners that were present at the meeting.

UNFINISHED BUSINESS

There were no items under Unfinished Business this month.

CONSENT AGENDA

CONSENT AGENDA: All items with an asterisk () are considered to be routine*

Citizens' Comments.

**Presentation of Awards.
E. Maclaughlin – 10 years with the Public Works Dept.**

Letter of Commendations - Troy Bires and Shane Campbell for diverting a dangerous situation/ displaying courage.

**Small Business Day Proclamation.
November 26, 2016.**

Unfinished Business.

Consent Agenda.

Approved - Consent

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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.

*Council Order #111601, Request of the Deputy Treasurer/Tax Collector to accept payments on tax acquired time share units per the attached spreadsheet and to authorize the City Manager to release said properties through Municipal Quit-Claim Deeds. **

See attachment # 3 for a complete list of timeshare units sold during the previous month.

*Council Order #111602, Discussion and action on the request of the Branch Lake Water Steward to set the Branch Lake boat and aero plane sticker fee at \$0 for the calendar year 2017. **

The Branch Lake boat and aero plane sticker fee was approved at \$0 for the calendar year 2017.

On a motion by Crosthwaite seconded by Fortier, it was unanimously

RESOLVED to approve the consent agenda as presented this evening.

NEW BUSINESS

Public hearing and action on the following business licenses:

VFW 109, 419 Main Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Bottle Club Registration.

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.

**agenda as presented
this evening.**

**Approved –
CO #111601,
payments on tax
acquired time share
unit, issue a quit-
claim deed.**

**Approved –
CO #111602, Set
Branch Lake sticker
fee at \$0 for calendar
year 2017.**

New Business.

**Approved - VFW
109, 419 Main Street,
for renewal of a City
Class B License
(Victualer, Liquor,
and Amusement) and
renewal of a State
Bottle Club
Registration.**

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SMALL, AND HEIDI GRINDLE.**

Public hearing was closed.

On a motion by Fortier, seconded by Moore, it was unanimously

RESOLVED to approve the request of VFW 109, 419 Main Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Bottle Club Registration.

Cellar Bistro, LLC d/b/a The Cellar, 112 Main Street, for renewal of a City Class C License (Victualer/Liquor) and renewal of a State Restaurant/Lounge (Class I, II, III, IV) Liquor License (Malt, Spirituous and Vinous).

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 Moore, seconded by Blanchette, it was unanimously

RESOLVED to approve the request of Cellar Bistro, LLC d/b/a The Cellar, 112 Main Street, for renewal of a City Class C License (Victualer/Liquor) and renewal of a State Restaurant/Lounge (Class I, II, III, IV) Liquor License (Malt, Spirituous and Vinous).

Council Order #111603, Request of the Deputy Treasurer/Tax Collector to waive foreclosure on the property located at 1436 Bangor Road (Map 102 Lot 010) and to authorize the Deputy Treasurer/Tax Collector to execute a promissory note with the resident of the property.

Amanda Tupper, Deputy Treasurer/Tax Collector explained that Melissa MacGown contacted the City of Ellsworth and indicated that she was financially unable to pay the \$2,977.63 necessary to stop the impending automatic foreclosure by the

**Approved - Cellar
Bistro, LLC d/b/a
The Cellar, 112 Main
Street, for renewal of
a City Class C
License
(Victualer/Liquor)
and renewal of a
State
Restaurant/Lounge
(Class I, II, III, IV)
Liquor License
(Malt, Spirituous and
Vinous).**

**Approved - Council
Order #111603,
Request of the
Deputy
Treasurer/Tax
Collector to waive
foreclosure on the
property located at**

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December 12, 2016 deadline. The \$2,977.63 balance on Ms. MacGown's account is for the delinquent taxes from FY 2015. This property is still taxed under Edward and Anne MacGown who are deceased. No action has been taken through probate court at this time to change the ownership over to Melissa's name. There is no mortgage holder on this property. As it stands, Ms. MacGown is not eligible for a REPIC (Real Estate Purchase Installment Contract) as the property is not in her name. The City Council has the option of waiving foreclosure and allowing MacGown to enter into a Promissory Note; monthly installments would be required on the outstanding taxes. The note would be structured so that the FY 2015 and FY 2016 taxes are paid prior to the foreclosure date in 2017. Councilor Moore inquired whether MacGown was legally responsible for all the back taxes associated with this property. Tupper stated, the City Attorney advised her given nothing has happened in regards to this property within the probate court, MacGown only has three years to initiate and finalize the probate process. If the probate process is not completed within this window of time, Tupper was not sure who would end up with the property in question. The City is required to tax the individuals named on the property deed, even though they are both deceased. The only way the tax records/property deed can be amended is through a ruling by the probate court. Chairman Phillips clarified if through the discussions with the Attorney does it stand true that the liens follow the land no matter if MacGown is successful through the probate court or not. The taxes are still due to the City and the liens remain on the property until they have been financially satisfied; a clear title cannot be obtained until the tax obligation has been paid in full. Tupper confirmed these statements were accurate. Councilor Fortier explained the City could waive foreclosure without losing their interest in the property; while at the same time allowing MacGown the next year to pay down the financial obligation and complete the probate process. If the required payments are not made on the promissory note the City could exercise their right to foreclose on the property next year. The property is currently occupied by MacGown and her children.

**1436 Bangor Road
(Map 102 Lot 010-
000-000) and to
authorize the Deputy
Treasurer/Tax
Collector to execute a
promissory note with
the resident of the
property.**

On a motion by Blanchette seconded by Moore, it was

***RESOLVED to approve Council Order #111603, Request of the Deputy
Treasurer/Tax Collector to waive foreclosure on the property located at 1436
Bangor Road (Map 102 Lot 010-000-000) and to authorize the Deputy
Treasurer/Tax Collector to execute a promissory note with the resident of the
property.***

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**A vote was taken on the above motion with 6 members voting in favor
(Beathem, Blanchette, Crosthwaite, Fortier, Hudson, and Moore) and 1
member abstaining from the vote (Phillips).**

*Council Order #111604, Request of the Deputy Treasurer/Tax Collector to waive
foreclosure on the property located at 931 Bangor Road (Map 075 Lot 013-000-
000).*

Amanda Tupper, Deputy Treasurer/Tax Collector reminded the Council that they approved waiving foreclosure on this property last year. This was approved last year because there were questions regarding the ownership and/or assessment of the building/land at this location. Last year, when the Council approved waiving foreclosure it was with the hope that everything would be resolved before the 2016 foreclosure period. At this point, the property is still being reviewed. The goal of waiving foreclosure this year would be to allow more time for this matter to be resolved. Tupper noted that the FY 2014 taxes have now been paid. This parcel will only be a few years behind on taxes once this matter is resolved. They will just need to pay the FY 2015 taxes, which could be waived tonight to avoid foreclosure.

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

**RESOLVED to approve Council Order #111604, Request of the Deputy
Treasurer/Tax Collector to waive foreclosure on the property located at 931
Bangor Road (Map 075 Lot 013-000-000).**

*Public hearing and action on the request of the City Planner to amend the City of
Ellsworth Official Land Use Map by rezoning Tax Map 16 Lot 34-1 (9.72 acres)
from the Commercial Zone to the Rural Zone.*

Michele Gagnon, City Planner explained she is asking for consideration on a proposed zone change from Commercial to Rural. If the zone change were approved it would allow for the owner of the parcel to build a single family home. The lot in question is located on the town line between Lamoine and Ellsworth. This parcel is not accessible from Ellsworth; it can only be reached from Lamoine. This is an extremely unique situation which necessitates the above request. The owner of the approximately 10 acre lot was denied a building permit for a single

**Approved - Council
Order #111604,
Request of the
Deputy
Treasurer/Tax
Collector to waive
foreclosure on the
property located at
931 Bangor Road
(Map 075 Lot 013-
000-000).**

**Approved -
Aamendments to the
City of Ellsworth
Official Land Use
Map to rezone Tax
Map 16 Lot 34-1
(9.72 acres) from the
Commercial Zone to
the Rural Zone as
depicted on the map
in Attachment #4**

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family home because the Commercial Zone does not allow for this proposed use. Only multi-unit structures are allowed within the Commercial Zone. If the proposed zone change from Commercial to Rural were approved a single family home would be allowed within the new zone. The designation of the lot as being in the Rural Zone would be consistent with the designated zone within Lamoine. This change will not alter the character of the existing neighborhood; this lot is very secluded. Chairman Phillips noted the parent lot splits the town line between Ellsworth and Lamoine. The house would be located in Ellsworth; however, the road to access the house would be located in Lamoine resulting in a very unique situation. Gagnon explained why this would not be viewed as spot zoning, a complete explanation can be found within attachment #4. Due to the uniqueness of this particular situation, Gagnon is recommending the proposed zone change.

(marked attachment H and final version marked #4A).

Public hearing opened.

There were no comments.

Public hearing closed.

On a motion by Moore seconded by Fortier, it was unanimously

RESOLVED to approve amendments to the City of Ellsworth Official Land Use Map to rezone Tax Map 16 Lot 34-1 (9.72 acres) from the Commercial Zone to the Rural Zone as depicted on the map in Attachment #4 (marked attachment H as well as a final version marked #4A).

Council Order #111605, Request of IT Systems Administrator to purchase Microsoft Office 2016 Software Licenses

Jason Ingalls, IT Systems Administrator explained the City is currently using Microsoft Office version 7 which is a few versions behind the most up to date version. Ingalls would like to upgrade to version 2016. This item would cost less than the budgeted amount of \$27,500. See attachment #5 for the complete request including the quote from GovConnection, the recommended low bidder. Councilor Moore inquired how long Ingalls felt this version would meet the City's needs. Ingalls explained he generally likes to skip one version before upgrading. This time he went longer than he is comfortable with before upgrading. Compatibility

Approved - Council Order #111605, Request of IT Systems Administrator to purchase 80 Microsoft Office 2016 Software Licenses from GovConnection Inc. in the amount of

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problems are being experienced with the current version of Microsoft used throughout the City departments as they relate to newer server systems and receiving documents created with the newer versions of Microsoft. Skipping one version is fine; however, skipping two or three is often problematic. 80 licenses would need to be purchased to provide all City employees with Microsoft Office version 7.

\$26,851.20, with funding to come from the MS Office Capital Improvement Account.

On a motion by Crosthwaite seconded by Moore, it was unanimously

RESOLVED to approve Council Order #111605, Request of IT Systems Administrator to purchase 80 Microsoft Office 2016 Software Licenses from GovConnection Inc. in the amount of \$26,851.20, with funding to come from the MS Office Capital Improvement Account.

Council Order #111606, Request of the IT Systems Administrator to Purchase Upgrades to the Government Channel Broadcast Equipment.

Approved - Council Order #111606, Request of the IT Systems Administrator to purchase television studio equipment upgrades with an amount not to exceed \$14,500. The City will purchase the equipment and then submit for reimbursement from the PDCTC Equipment Fund.

Jason Ingalls, IT Systems Administrator explained the existing broadcast equipment was purchased within the 2001 original franchise agreement. This equipment is starting to encounter problems. It has been very durable up to this point with only a few failures and the loss of one camera. Only a few upgrades have been made within the studio between 2001 and 2016. Each year a portion of the dues paid by the City of Ellsworth to the Penobscot Downeast Cable Television Consortium goes to an equipment fund that is managed by the Eastern Maine Development Corporation. Ellsworth has only requested minimal funding in the past from this account to purchase some small pieces of equipment. Currently, there is approximately \$16,593.48 available to fund equipment purchases. Ingalls is requesting permission to expend an amount not to exceed \$14,500 for the equipment upgrades, this expense will be reimbursed from the City's Equipment Reserve Fund. See attachment #6 for the complete request including the list of equipment with estimated pricing. At this time, adequate funds are not available to purchase new cameras. The cameras will need to be upgraded at a later date as a second phase to this project. Ingalls stated the new equipment will be compatible with the existing cameras through the use of adapters; the necessary adapters will be purchased as part of this phase. New cameras would not be functional with the current equipment even through the use of adapters. New cameras would cost approximately \$15,000. Councilor Crosthwaite stressed the need for a public

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announcement system in the Council Chambers. Ingalls explained he had the representative who installed the equipment at the Bryant E. Moore Community Center review the Chambers and make recommendations on the necessary equipment; however the company has not provided a cost estimate yet. He will follow up with the representative or locate another company to address this concern. There are not a lot of companies that perform this type of work in the immediate area; there a few in Southern Maine. Councilor Fortier stated the project before the Council this evening is one that he and Ingalls have been working toward for approximately three years. Fortier provided background information on this project as well as the account being used to finance it. The account will still have funds remaining following the project. The installation will primarily be performed by Nate.

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

RESOLVED to approve Council Order #111606, Request of the IT Systems Administrator to purchase television studio equipment upgrades with an amount not to exceed \$14,500. The City will purchase the equipment and then submit for reimbursement from the PDCTC Equipment Fund.

Council Order #111607, Request of the Finance Director to award a lease agreement contract for Harbor Concessions at the Ellsworth Harbor.

Chairman Phillips noted Mark Remick was not present at the meeting due to an illness; however, this contract was discussed two or three times at the Harbor Commission level. The Commission is in favor of awarding this contract and extending the agreement for three years. A few errors were found in the contract; however, those can be taken care of prior to obtaining the necessary signatures. David Cole, City Manager mentioned one necessary correction is the reference to a prior owner. The draft language contained within attachment #7 anticipated a one year lease this would need to be corrected to reflect a three year lease period. The property would be leased for \$300 per month (\$1,500 per season). Councilor Moore noted discussions with this couple were impressive as they related to their goals for the Harbor and if those are met this could be the best vendor experience the Harbor has had in recent years. They appear to have a lot of experience, decent references, and the proposed menu appears to be viable. Councilor Fortier had one question in regards to the request for access to electricity and City water at the

Approved - Council Order #111607, approval of the contract (attachment #7) with the stipulation that the City Manager correct the errors and authorize him to sign it.

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vendor's expense. Fortier inquired if the City could give them access to City water without the vendor having a suitable sewage connection. Cole explained the vendor would be responsible for taking care of any gray water, they create. There was a discussion on whether or not the vendor would be using a contained gray water system or not. Cole stated this topic is covered under the tenant's obligations. Fortier felt this topic may be covered under Section 8, Landlord's obligation and he was not sure if the City had sewage available in this area. Cole stated that may have been standard language and could be reworked if needed. Fortier stated the proposed vendors have a good history and appear to be energetic.

On a motion by Fortier seconded by Moore, it was

RESOLVED to approve Council Order #111607, approval of the contract (attachment #7) with the stipulation that the City Manager correct the errors and authorize him to sign it.

Before a vote was taken on the above motion, Councilor Hudson mentioned Section 9 E (2) states "tenant shall be solely responsible for proper disposal of all gray water and solid waste generated from Tenant's food preparation." Fortier was concerned with the possibility that the tenant would not use gray water which would then require the City to provide the tenant with the infrastructure for sewer according to Section 8. Cole stated this portion could be removed as the tenant would be utilizing the City restrooms. Phillips directed Cole to make sure this concern is addressed in the contract once it is determined what the vendor will need.

A formal vote was taken on the above motion with all members voting unanimously in favor.

Executive Session to discuss the condition, acquisition or the use of real or personal property in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6C.

Before a motion was made to enter the above mentioned executive session, Chairman Phillips stated there would be no action taken on Item #19 Council Order #111608, Discussion and action on the item from the executive session. This item will be withdrawn or tabled following the conclusion of the Executive

Approved - Entering executive session at 7:37 PM for the purpose of discussing the condition, acquisition or the use of real or personal property in

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WEDIN, RICHARD TUPPER, GARY SAUNDERS, PETER BICKMORE, DOTTI
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Session.

On a motion by Crosthwaite, seconded by Fortier, it was unanimously

RESOLVED to approve entering executive session at 7:37 PM for the purpose of discussing the condition, acquisition or the use of real or personal property in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6C.

David Cole, City Manager and Michele Gagnon, City Planner were invited to remain in the executive session.

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

RESOLVED to approve adjournment from the executive session at 8:16 PM.

Council Order #111608, Discussion and action on the item from the executive session.

There was no discussion before a motion was made to remove this item.

On a motion by Crosthwaite, seconded by Moore, it was unanimously

RESOLVED to approve removing Council Order #111608, Discussion and action on the item from the executive session from the agenda this evening.

Adjournment.

On a motion by Crosthwaite, seconded by Blanchette, it was unanimously

RESOLVED to approve adjournment at 8:18 PM.

accordance with
MRSA Title 1,
Chapter 13, Section
405, Paragraph 6C.

Approved -
Adjournment from
executive session at
8:16 PM.

Approved -
Removing Council
Order #111608,
Discussion and action
on the item from the
executive session
from the agenda this
evening.

Approved -
Adjournment at 8:18
PM.

A TRUE COPY

ATTEST: _____
HEIDI-NOËL GRINDLE