

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 17, 2017

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

Call to Order.

Chairman Phillips 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 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:

March 20, 2017 Regular Meeting.

March 27, 2017 Special Meeting.

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

RESOLVED to approve adoption of the Ellsworth City Council minutes from the March 20, 2017 Regular Meeting and March 27, 2017 Special Meeting as presented this evening.

A vote was taken on the above motion with 5 members voting in favor (Beathem, Blanchette, Fortier, Hudson, and Phillips) and 1 member abstaining from the vote (Crosthwaite). Crosthwaite was not present for the March 27, 2017 Special Council meeting.

City Manager's Report.

David Cole, City Manager announced the City in conjunction with the Frenchman

Call to Order.

Pledge of Allegiance.

Rules of Order.

Approved - Adoption of the Ellsworth City Council minutes from the March 20, 2017 Regular Meeting and March 27, 2017 Special Meeting as presented this evening.

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Bay Conservancy will be conducting the annual Card Brook Cleanup Day on Saturday May 6, 2017 from 9:30 AM to 12:00 PM. They are still looking for volunteers for this project. Contact information was provided for anyone interested in helping. There will be many prizes given out during the cleanup. Cole provided the list of dates for upcoming budget workshops. The workshops are scheduled on Monday nights starting at 6 PM with the first one being April 24, 2017. Cole provided an update on the Rt. 1A construction project. It appears by early June MaineDOT will be completed with their portion of the project with the exception of activating the traffic light at the new intersection of Forrest Avenue and State Street. The light will likely be operational beginning July 8, 2017.

Committee Reports.

- *Recreation Commission.* Councilor Fortier stated the Commission met earlier in the month for normal business. Upon the approval of the City Manager, Fortier unlocked the basketball courts. The sound curtain barriers are not being installed yet; both neighbors have agreed to try the season without the curtains. They will contact the City if the situation warrants the need for the bottom sound curtains to be installed. The option to install the upper sound curtains will be available anytime during the season if the need arises. The ice skating rink has been cleaned up and stored for the season. The Knowlton Park has been turned over to the Economic Development Director for spring preparations. The Park has already had a lot of activity.
- *Harbor Commission.* Councilor Phillips attended the monthly meeting. The Harbor is on schedule to open May 15, 2017. The Harbor is busy with local activities. The Harbormaster applied for and received a grant for life jackets to be available at the Harbor. He has applied for this grant in the past; however, this year he was awarded the grant in the form of adult and children lifejackets along with a dispenser to keep them in. Last week the Coastguard set the cans/markers. Due to the Council approved food vendor not arriving at the Harbor Park, it appears there will not be concessions available at the Harbor this season.

Citizens' Comments.

There were no citizens' comments this month.

Presentation of Awards.

Committee Reports.

Citizens' Comments.

Presentation of Awards.

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No awards or recognitions this month.

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 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 #041700, Request of the City Clerk for appointment of Wardens and Ward Clerks for the four voting districts within the City of Ellsworth for the June 13, 2017 City of Ellsworth School Budget Validation Municipal Referendum Election and Special State Referendum Election. **

See attachment #1 for a complete list of the Wardens and Ward Clerks for the City of Ellsworth School Budget Validation Municipal Referendum Election and Special State Referendum Election.

*Council Order #041701, Request of the City Clerk for approval on setting the polling places opening time as 8 AM for the June 13, 2017 City of Ellsworth School Budget Validation Municipal Referendum Election and Special State Referendum Election. **

*Council Order #041702, Request of the Deputy Treasurer/Tax Collector to accept payments on tax-acquired timeshare units per the attached spreadsheet and to authorize the City Manager to release said properties through Municipal Quit-Claim Deeds. **

See attachment #2 for a complete list of timeshare units that were sold during the course of the last month.

*Council Order #041703, Request of the Deputy Treasurer/Tax Collector to release Alfred L. Wyman property (Map 051 Lot 017) through a Quit-Claim Deed. (Residency at 10 Danico Lane) **

Unfinished Business.

Consent Agenda.

Approved - Consent agenda as presented this evening.

Approved – Council Order #041700, Wardens and Ward Clerks for 06/13/2017 Elections.

Approved – Council Order #041701, 8 AM Polls opening time on 6/13/2017.

Approved – Council Order #041702, payments on timeshare units and issue quit-claim deeds.

Approved – Council Order #041703, release Map 051 Lot

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

RESOLVED to approve the consent agenda as presented this evening.

NEW BUSINESS

Public hearing and action on the issuance of Business License (s):

Driftwood, LLC d/b/a Chummies 59 Franklin Street Unit 2B for renewal of a City Class B License (Amusement, Liquor, and Victualer) and renewal of a State Class X, Class A Lounge Malt, Spirituous, and Vinous Liquor 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 Fortier, seconded by Beathem, it was unanimously

RESOLVED to approve the request of Driftwood, LLC d/b/a Chummies 59 Franklin Street Unit 2B for renewal of a City Class B License (Amusement, Liquor, and Victualer) and renewal of a State Class X, Class A Lounge Malt, Spirituous, and Vinous Liquor License.

Ellsworth Moose Lodge #2698, 47 Foster Street, renewal of a City Class B License (Amusement/pool tables, Liquor, and Victualer) and renewal of a State Class V, Club w/o Catering Malt, Spirituous, and Vinous Liquor License.

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

Public hearing was opened.

017 through quit claim deed.

New Business.

**Approved -
Driftwood, LLC
d/b/a Chummies 59
Franklin Street Unit
2B for renewal of a
City Class B License
(Amusement, Liquor,
and Victualer) and
renewal of a State
Class X, Class A
Lounge Malt,
Spirituous, and
Vinous Liquor
License.**

**Approved -
Ellsworth Moose
Lodge #2698, 47
Foster Street,
renewal of a City
Class B License
(Amusement/pool
tables, Liquor, and
Victualer) and**

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AMANDA TUPPER, AND HEIDI GRINDLE.**

There were no comments.

Public hearing was closed.

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

RESOLVED to approve the request of Ellsworth Moose Lodge #2698, 47 Foster Street, renewal of a City Class B License (Amusement/pool tables, Liquor, and Victualer) and renewal of a State Class V, Club w/o Catering Malt, Spirituous, and Vinous Liquor License.

The Eagles Lodge Inc. 278 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 Blanchette, seconded by Fortier, it was unanimously

RESOLVED to approve the request of The Eagles Lodge Inc. 278 High Street for renewal of a City Lodging License.

Morse, LLC d/b/a Tag's Sports Bar 248 State Street Suite 4 for a new City Class A License (Amusement, Liquor, Arcade and Victualer) and a new State Class XI, Restaurant/Lounge Malt, Spirituous, and Vinous Liquor License.

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

Barbara Morse was present, as it was required by the Licensing Ordinance in regards to new business licenses.

Public hearing was opened.

renewal of a State Class V, Club w/o Catering Malt, Spirituous, and Vinous Liquor License.

Approved - The Eagles Lodge Inc. 278 High Street for renewal of a City Lodging License.

Approved - Morse, LLC d/b/a Tag's Sports Bar 248 State Street Suite 4 for a new City Class A License (Amusement, Liquor, Arcade and Victualer) and a new State Class XI, Restaurant/Lounge Malt, Spirituous, and

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AMANDA TUPPER, AND HEIDI GRINDLE.**

There were no comments.

Public hearing was closed.

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

RESOLVED to approve the request of Morse, LLC d/b/a Tag's Sports Bar 248 State Street Suite 4 for a new City Class A License (Amusement, Liquor, Arcade and Victualer) and a new State Class XI, Restaurant/Lounge Malt, Spirituous, and Vinous Liquor License.

Taste Jamaica, LLC 282 High Street for a new City Class C License (Liquor, and Victualer) and a new State Class IV, Restaurant Malt Liquor License.

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

Gilmore Griffiths was present, as it was required by the Licensing Ordinance in regards to new business licenses.

Public hearing was opened.

There were no comments.

Public hearing was closed.

Councilor Fortier inquired how many tables or seats are available at the restaurant for onsite consumption. Griffiths stated he has 29 seats available.

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

RESOLVED to approve the request of Taste Jamaica, LLC 282 High Street for a new City Class C License (Liquor, and Victualer) and a new State Class IV, Restaurant Malt Liquor License.

B&B Burgers Inc. d/b/a Fuddruckers, 367 State Street Suite A, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Class III and IV,

Vinous Liquor License.

Approved - Taste Jamaica, LLC 282 High Street for a new City Class C License (Liquor, and Victualer) and a new State Class IV, Restaurant Malt Liquor License.

Approved - B&B Burgers Inc. d/b/a

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Restaurant Malt and Vinous Liquor 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 Beathem, seconded by Blanchette, it was unanimously

RESOLVED to approve the request of B&B Burgers Inc. d/b/a Fuddruckers, 367 State Street Suite A, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Class III and IV, Restaurant Malt and Vinous Liquor License.

Council Order #041704, Request of the Water Superintendent to approve a contract with Woodard and Curran for associated permitting and fees for the Backwash Lagoons and Spray Irrigation project at the Water Treatment Plant.

Larry Wilson, Water Superintendent stated he has been working on the backwash lagoons project for the past year and with each step forward there are more permits needed. Wilson introduced Nate McLaughlin from Woodard and Curran to explain the Site Location of Development (SLOD) Permit application process. See attachment #3 for the complete explanation and Water Systems Improvements – Backwash Lagoons and Spray Irrigation Installation Scope Adjustment for Site Location of Development Permitting as prepared by Woodward and Curran. McLaughlin provided an update on the project by listing all the different pieces that have been completed up to this point. The new larger lagoons will be capable of storing up to eight months of backwash volume from the facility. There will be a switchover process that takes place every fall, at this time the contents will be drained from the active lagoon and transferred to the spray irrigation area. The lagoon will then go through a freeze thaw cycle which will reduce the volume of sludge in the bottom of the lagoon. Then next year the process starts over again. McLaughlin is working with DEP on the Discharge Permit for the spray irrigation area. The other permit that has been determined to be necessary according to the

Fuddruckers, 367 State Street Suite A, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Class III and IV, Restaurant Malt and Vinous Liquor License.

Approved - Council Order #041704, Request of the Water Superintendent to approve a contract with Woodard and Curran for associated permitting and fees for the Backwash Lagoons and Spray Irrigation project at the Water Treatment Plant at a price not to exceed \$28,000; to be funded from the water capital account.

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DEP's Land Use Branch in Bangor is the Site Location of Development (SLOD) Permit. By obtaining this permit the City will be in compliance with Site Law. The threshold is a 3 acre disturbance which will not be revegetated. There were preliminary discussions based on provisions in Statutes that may have allowed the City to avoid this permit. However, after meeting with the DEP it was determined the City would need to comply with Site Law. This permit was not included in the initial scope of work as proposed by Woodard and Curran a year ago when the project started. The request before the Council this evening is to include the permit requirements within the scope of work performed by Woodard and Curran so that this permit can be obtained and allow the project to move forward. Chairman Phillips clarified this permit is necessary based on the size of the lagoons at a cost of \$28,000. The State is requiring the City to take some action in regards to the lagoons. Councilor Beathem asked McLaughlin to explain the process being developed in a little more detail. There was a technical discussion on the backwash process and how the lagoons fit into this process. It was determined by the Bangor Branch of the DEP that this permit was required. Councilor Blanchette inquired if there was an appeal process for the requirement of this permit. McLaughlin stated the DEP worked with the City to explore different options to avoid the permit such as calling the lagoons a farm pond, as well as other avenues. After a lot of discussion it was decided the appropriate course of action within their rules was to require a Site Location Permit. David Cole, City Manager stated this is an odd situation; traditionally Site Location Permits are triggered by parking lots and building areas of 3 acres. Currently, the backwash process is conducted three times a week and during the summer this may be increased to four times a week. McLaughlin estimated 251 backwash cycles in a calendar year based on a review of the records for the past five years. A description of how the two different lagoons are used throughout the process and the seasons was discussed. The total lagoon project cost including contingency is \$1.7 million. At the end of the project the City will be brought into compliance. Councilor Fortier noted this request will not be spending unexpected money; there is enough money left in the contingency to cover this expense. McLaughlin stated approximately \$216,000 was set aside as contingency for unknown expenses related to the project. Traditionally, a minimum of five percent contingency is reserved for the construction phase and even factoring in this expense the project will still be well within that window. There was a lengthy discussion on how the discharge area will be designed in regards to whether fencing and signage will be required. There will not be any chemical residue in the spray irrigation area to be concerned with. There was a short discussion on the impact this project will have on the real estate values abutting the City's property

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including the need to trade some land within the conservation area for some land not currently designated for conservation. This project was within the intended use when the conservation easement was established. The positive impacts on the drinking water due to this project were discussed. Cole noted DEP is being tolerant until the City creates a solution to bring this situation into compliance. Beathem inquired about the equipment that will be placed throughout the woods for the spray irrigation. McLaughlin explained the future maintenance requirements in regards to the equipment each year. Councilor Blanchette inquired about any possible dangers to the spray irrigation equipment from wildlife. McLaughlin explained some possible additional maintenance requirements that could be necessary with the addition of the spray irrigation system. There was a short review of the different options that were explored a year ago when the lagoon option was approved. Phillips reminded the Council tonight the only action required is with regard to the \$28,000 required DEP permit; there will be additional opportunities provided for questions once the design phase is completed. This permit is holding up a \$1.7 million dollar approved project.

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

RESOLVED to approve Council Order #041704, Request of the Water Superintendent to approve a contract with Woodard and Curran for associated permitting and fees for the Backwash Lagoons and Spray Irrigation project at the Water Treatment Plant at a price not to exceed \$28,000; to be funded from the Water Capital Account.

A vote was taken on the above motion with 5 members voting to approve (Beathem, Crosthwaite, Fortier, Hudson, and Phillips) and 1 member voting in opposition (Blanchette).

Council Order #041705, Request of the Recreation Commission to approve the Tobacco Free Policy.

Tammy Mote, Deputy City Manager/Finance Director explained the Recreation Commission recently met with a representative from Healthy Acadia. The discussion centered on the importance of tobacco free recreation. The Commission is recommending the Council approve the Smoke & Tobacco Free Recreation Policy as attached (attachment #4). Maria Donohue from Healthy Acadia presented the Policy that she worked on developing with the Recreation Commission for

Approved - Council Order #041705, Request of the Recreation Commission to approve the Smoke & Tobacco Free Recreation Policy as presented in

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municipally owned recreational areas. The areas covered under the Policy are Knowlton Park, S.K. Whiting Park, Ellsworth Harbor Park, Union River Waterfront, Leonard Lake Picnic Area, Branch Lake Boat Launch & Recreation Area, Branch Lake Public Beach, Demeyer & Wilson Fields, and the Ellsworth Bike and Pedestrian Path. Donohue explained this Policy will support healthy activities and promote safe environments within the recreation areas where children and families are playing and being physically active. Providing a smoke free environment maintains the goal of promoting healthy behaviors. Smoke free environments include electronic nicotine delivery devices or electronic cigarettes. Donohue listed many of the substances that will not be allowed under the Policy as it covers smoke and tobacco products that are exhaled, chewed, spit or other non FDA approved nicotine delivery devices (electronic cigarettes). In Maine the rates are increasing among youth using electronic cigarettes. Councilor Crosthwaite inquired if a similar policy is being developed for marijuana use. Donohue explained at the last minute the proposed Policy was expanded from a Tobacco Free Policy to include a Smoke and Tobacco Free Policy. Smoked products are defined as anything being exhaled; the proposed Policy would include smoked marijuana. This Policy would not extend to edible marijuana products at this time. Crosthwaite inquired if new signage would be necessary if the Policy is adopted and whether that expense would be to the City or not. Overall the Policy was received positively by the Council, the only concern voiced was with the prohibition of chewing tobacco during the adult softball season. Councilor Beatham was concerned with the language in the last paragraph. He felt the signage and communication tools to achieve compliance should come from just one place not both the City of Ellsworth and the Recreation Commission. Beatham would prefer to see it come through the City and not the Recreation Commission. Chairman Phillips agreed it would be the City Council making the decision; the recommendation can come from the Recreation Commission as an arm of the City. Cole noted the Recreation Commission does not have police powers.

On a motion by Blanchette, seconded by Hudson, it was

RESOLVED to approve Council Order #041705, Request of the Recreation Commission to approve the Smoke & Tobacco Free Recreation Policy as presented in attachment #4 and the amended language in the last paragraph to state: The City of Ellsworth upon recommendation from the Recreation Commission is authorized to take reasonable steps.”

attachment #4 and the amended language in the last paragraph to state: The City of Ellsworth upon recommendation from the Recreation Commission is authorized to take reasonable steps.”

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Before a vote was taken on the above motion, Councilor Fortier made a suggestion in regards to the last paragraph based on the Recreation Commission being charged by its Ordinance to advise the City Council on all matters recreational. He suggested changing the wording to “the City of Ellsworth upon recommendation from the Recreation Commission is authorized to take reasonable steps”. That doesn’t mean the City Manager will order signs tomorrow without consulting the Recreation Commission who are charged by their Ordinance to do that. Fortier felt that wording would allow recommendations to come to the City Manager from the Commission and then the task would be completed by the Manager. Fortier offered that language as a friendly amendment. Beathem accepted that language; however, the other portion of that for the Recreation Commission would include making reasonable steps which could include the enforcement as well. The issue that still remains is the Recreation Commission does not have police/enforcement powers. Councilor Blanchette inquired if the proposed wording would require the Council to wait for a Recreation Commission meeting where suggestions and recommendations are developed before the Council could make any changes. This could cause delays and problems depending on the timing between the next Recreation Commission meeting and the issue relating to the Policy that requires action by the City Council. Beathem noted the City has never had a policy before and if it takes a month for the Council to get the details in line and ready to take place that would still be an improvement over the current situation. Blanchette accepted and Beathem seconded the friendly amendment offered by Fortier.

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

Council Order #041706, Request of the Wastewater Superintendent to accept a proposal from Woodard and Curran to conduct a cost analysis study on upgrading the dewatering process at the Wastewater Treatment Plant at a cost of \$15,000.

Michael Harris, Wastewater Superintendent provided a brief background on the thought process behind accepting septage as an additional revenue source at the time the Plant was originally built. This anticipated revenue source has grown beyond expectations during the last five years. Last year the Plant received 3.3 million gallons of various types of hauling weight which the Plant charges for. Harris stated this service has been grown to the point where what was installed originally is causing a few capacity issues at the Plant. Harris provided a technical explanation on how the Plant components process this waste and the issues being

Deny - Council Order #041706, Request of the Wastewater Superintendent to accept a proposal from Woodard and Curran to conduct a cost analysis study on upgrading the dewatering process at the Wastewater

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encountered with the increased volume. See attachment #5 for the complete request and proposal from Woodard and Curran for upgrades to hauled waste handling facilities preliminary study, engineering design, bidding, and construction phase services. Last year there were a number of times that a Plant employee would stay late to process the waste longer to ensure the Plant could receive the waste scheduled for delivery the next day. This process has reached the point where expanding the capabilities with the dewatering process and installing some type of redundancy into the process is necessary. If a malfunction occurs currently this process would be shut down until the problem is fixed. Harris stated the first step to solving this concern is to investigate the available options and the associated costs. The second step would be to decide on the future goals of this service and how the City would like to move forward on reaching those goals. Woodard and Curran provided Harris with their recommendations on proceeding with a study, through that study provide some options and then based on that information create a strategic plan to move forward. Chairman Phillips noted when this product initially started being accepted the Council authorized modifications to correct initial issues with accepting this type of waste. Harris confirmed the details of how the Plant was redesigned initially to make this process more efficient. Harris stated the Plant is at capacity right now with the current commitments and it is difficult to estimate the current market needs because the regulations change every year. It was noted that there are a few private facilities located near the City that specialize in taking this type of waste. Harris noted those facilities are starting to get pressure based on their type of service offered; if this pressure causes them to go out of business it will have a serious impact on the market in terms of which businesses could absorb this waste. Originally it was estimated the City would receive approximately \$10,000 in the first year from offering this service; last year the City received \$180,000 in revenue from this source. Even considering the associated expenses incurred by taking this waste the City is still receiving \$100,000 in profit. Currently, because of the redesign Harris developed this waste does not go through the Plant process. Harris explained the process used currently so that it does not impact the Plant capacity; however, while actually helping with other procedures currently being used at the Plant. Councilor Beathem stated after his earlier conversations with Harris, he feels the City is a step ahead of where they should be. Based on Harris's knowledge of the Plant, many helpful scenarios have been developed; however, would need to be decided on at a Council level not a Plant level. One of those decisions would be whether the Council wants to continue to grow the septage business and what is the best process for the City in the future. Beathem was not in favor of hiring Woodard and Curran to study what the City needs until the Council

Treatment Plant at a cost of \$15,000.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 17, 2017

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

has decided where they are going in the future. Beathem would like to see this decision delayed until more Council level discussion occur with Harris on future goals of the Plant. The goal would be to have a more precise plan for the future so that excess money is not spent on designs the Council is not interested in. Phillips noted the \$15,000 requested tonight will only be the start and then additional money will be necessary based on the results of the study. Councilor Hudson agreed with Beathem as she does not currently have a strong understanding of where the City is with this project or where it hopes to get with this study and would appreciate more discussions on the topic before incurring the expense of a study. Phillips thanked Harris for his enthusiasm and desire to expand this process but noted more discussion is necessary before committing to a study. Councilor Crosthwaite noted his concern is the City may be moving in a direction of commercial competition. It was noted that this service is currently making a profit for the City and if this investment is to be made the City needs to know from the start what the return on investment will be. Crosthwaite would like to know before making a final decision on this investment if expanding the service is helping anyone besides the City; protecting tax payer money must always be considered throughout the decision process. A short discussion was held on whether to table the request for additional information or to deny the request this evening. Beathem was in favor of denying the request because after further discussions the request may be completely different from what is before the Council tonight.

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

RESOLVED to deny Council Order #041706, Request of the Wastewater Superintendent to accept a proposal from Woodard and Curran to conduct a cost analysis study on upgrading the dewatering process at the Wastewater Treatment Plant at a cost of \$15,000.

Before a vote was taken, Councilor Fortier inquired what the rules are for bringing a subject back multiple times after it has been denied. Robert Rules may require a 6 to 9 month period to elapse before a subject can be considered again after it has been denied. Phillips noted it may take that long before a plan is developed and it may not return as the same subject. Fortier was not necessarily in favor of tabling the request this evening; however, was just confirming denying the request would not have an unanticipated consequence later. Realistically, it appeared a lengthy amount of time would elapse if Harris needs to conduct more research on the topic.

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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

A vote was taken on the above motion with 5 members voting in favor (Beathem, Blanchette, Crosthwaite, Hudson, and Phillips) and 1 member voting in opposition (Fortier).

Public hearing and action on proposed amendments to Ellsworth Code of Ordinances Chapter 5 Sewer Ordinance Section 1008 – Abatements.

Michael Harris, Wastewater Superintendent explained currently the City has an abatement ordinance that allows residents to apply for an abatement once a year for water that does not go down the sewer. Over the years, the abatement language has been vague and inequitable. Harris would like to tighten up the language to allow an abatement with clear language regarding what situations are eligible and what steps would be taken to apply for an abatement. Abatement language has been added for residential swimming pools. This would be a separate abatement that residents could take advantage of if the City was made aware of the volume of the pool and shown a bill following the filling of the pool to reflect an increase in usage to correspond with the volume of the pool. Language for a catastrophic event has been added within the request this evening. See attachment #6 for the complete request as well as the proposed amendment wording and reasoning behind the changes. Harris stated the City should not be giving an abatement for a leaking toilet because this water still goes through the sewer system and has a treatment cost associated with it. The abatement process was designed for flow that does not go through the sewer system. However, there have been situations where a financial hardship has been incurred through excess water going through the meter. There was a situation where a customer had a regular bill of \$140 per quarter and they suddenly received a \$5,000 bill because a catastrophic event occurred during that billing cycle. Harris would like the ability to help that customer with their unexpected abnormally high bill. Commercial non-residential accounts would not be eligible for an abatement. The wording regarding the frequency of when an abatement could be requested was amended slightly. Originally, the wording stated a calendar year. Under that wording a customer asked for two abatements within 8 months or so because one calendar year passed putting them into the next calendar year which allowed them to ask immediately for another abatement. That language is being amended to state every four quarters instead. Harris explained in order to qualify for the catastrophic event the bill must have a 150% increase. For example, a normal bill of \$100 would need to suddenly become a \$250 bill to be eligible to request an abatement because the water did go down the sewer system. The 150% increase does not apply to a bill that was increased due to water usage that did not

Approved - Ellsworth Code of Ordinances Chapter 5 Sewer Ordinance Section 1008 – Abatements changes as requested by the Wastewater Superintendent. (Per attachment #6).

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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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go into the sewer system; for example from watering a lawn during the summer. Chairman Phillips noted the changes described tonight are exactly the same amendments discussed at an earlier workshop.

Public hearing opened.

There were no comments.

Public hearing closed.

Councilor Crosthwaite inquired if the proposed language is standard among municipalities. Harris stated the City of Ellsworth is far more generous than the other municipalities surveyed by the Finance Department in preparation for the amendment. Most municipalities do not give abatements at all or if they do it is only for a catastrophic event.

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

RESOLVED to approve the Ellsworth Code of Ordinances Chapter 5 Sewer Ordinance Section 1008 – Abatements changes as requested by the Wastewater Superintendent. (Per attachment #6).

Public hearing and action on proposed amendments to Ellsworth Code of Ordinances Chapter 4 Fire Protection and Prevention Ordinance.

David Cole, City Manager stated this request was the subject of a Council workshop earlier in the month. Michael Hangge, Fire Inspector presented the amendments to Ellsworth Code of Ordinances Chapter 4 Fire Protection and Prevention Ordinance. See attachment #7 for the complete request as well as the proposed amendment wording and reasoning behind the changes. Hangge stated the amendments are all items discussed at the workshop. In answer to an earlier question the amendments relate to both new and existing structures. Many of the amendments are reactive to situations that have been encountered during the enforcement of the codes. Some of the changes deal with streamlining the construction and buildout of commercial structures to allow for a quicker turnaround of plan review. Article 3 proposes conducting municipal plan reviews and sprinkler inspections for one and two family dwellings and townhouses. This amendment could potentially save contractors a substantial amount of money by having the sprinkler system inspected by the

Approved - Changes to Ellsworth Code of Ordinances Chapter 4 Fire Protection and Prevention Ordinance as presented in attachment #7.

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CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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municipality. The items that trigger the amendments to apply were discussed in regards to existing structures. With regard to Article 6, Sprinkler Systems there was a larger section eliminated that dealt with either new construction or existing construction. This was removed because at the time the Ordinance was adopted the City did not have NFPA 101 of the Life Safety Code Chapter 43 adopted. At this time it has been adopted and no longer is necessary within this Ordinance. The portions that were left in are options for sprinkler systems in existing homes or existing buildings if they so choose. If the decision is made to install one they must comply with the current editions of the Codes. They will be inspected accordingly. The item in Article 7 regulates open water sources for fire suppression. It has been discovered that some of the open pools or ponds are not being maintained properly. In some cases the hydrants have filled with mud. It is being proposed that if the open water fire suppression is not maintained on a regular basis to the point where insurance companies and home owners can rely on those for fire suppression protection then they are required to install an underground stationary water tank. Beatham inquired how an existing homeowner would know to install a new fire suppressant system because the existing one had failed in situations where there is no new construction plans to trigger the requirement. He was concerned on how the enforcement would be applied to a resident who has already completed a project, and then is made to comply with a new requirement. Hangge stated this would not necessarily apply to a single family residence; this would impact a homeowners association in the case of a subdivision. This would be discovered through an inspection process and once it was identified then the City would approach the homeowners association. This has been accomplished before when buildings are being renovated and the plans are being reviewed by the City. The process is currently in place when plans are reviewed prior to construction through the permitting process. Councilor Fortier inquired if this only covered fire ponds required by the Planning Board. Hangge does not have jurisdiction over single family dwelling fire ponds. Chairman Phillips clarified whether Hangge was referring to an existing subdivision with a fire pond and the ability to force those to install a new form of fire suppression if the fire pond has not been maintained properly. Hangge stated that is what the proposed language states in addition to the current requirements. The proposed wording would require an existing house located within an existing subdivision with a failed fire pond to install sprinkler systems in those completely finished homes. Hangge explained the reason for this proposed language is that a group of homes located in that subdivision are relying on that water source to supply the fire protection water in the event of an emergency, as well as their insurance policy states they have a water supply that is

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CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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close by and in fact it is not available as an adequate fire pond. Hangge noted the Code currently does not allow for open fire ponds, that language has been completely removed from the current editions of the NFPA requirements. It was noted this would be a significant change which has a substantial financial cost associated with it to the homeowners impacted. Richard Tupper, Fire Chief stated this amendment would only apply to a Planning Board approved subdivision with the requirement to have an available fire pond; if an inspection reveals that fire pond is not in working order than the individual sprinkler systems would be required. If there were a subdivision in the City that did not have a fire pond requirement imposed by the Planning Board then this amendment would not apply to those single family homes located within that particular subdivision. Tupper explained the intent of the amended language in regards to past situations. Councilor Crosthwaite inquired if there is currently an inspection process for fire ponds within the City. The Fire Department currently does not have the enforcement power to ensure the ponds are cleaned out and kept in working order without it being an expense to the City. Some of the ponds have become obsolete which puts a subdivision in a situation where they were required to have a water source but longer has one adequate to be used in the time of need. Councilor Blanchette inquired who holds the responsibility for ensuring the fire ponds remain in working order if the Planning Board required a fire pond. Tupper stated according to the plans he has reviewed this responsibility falls on the original developer or if there are requirements within the subdivision as they sell the lots it becomes the responsibility of the homeowners association if one is established. If there is not a homeowners association it falls to no one or the individual owners of the properties. When there is construction to an existing structure there are triggering factors to be considered within the NFPA and Building Codes; projects fall under new construction generally if the percentage of total cost exceeds a certain amount or if it is over a certain percent of the square footage of the building. There are approximately 8 required fire ponds in the City and out of those only about 3 actually work.

Public hearing opened.

There were no comments.

Public hearing closed.

There was a short discussion on notifying the insurance companies of the new

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CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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provision concerning fire ponds.

On a motion by Fortier, seconded by Blanchette, it was

RESOLVED to approve changes to Ellsworth Code of Ordinances Chapter 4 Fire Protection and Prevention Ordinance as presented in attachment #7.

Before a vote was taken Beathem stated he would not be supporting the motion because of the proposed requirements that would impact existing structures. The triggers that are in place are fine; however, his concern is with the concept of fire ponds without a proposed solution. He agreed the provisions are necessary and if there was a proposed solution for the fire ponds concern he would likely support the motion. Phillips stated he had some of the same concerns for multiple reasons. Blanchette agreed with Beathem; however, he doesn't like the potential situation surrounding enforcement but he will support it so there are no should of, could have, following an incident. Hudson agreed with Blanchette it will be difficult as they are existing properties; however, they may not survive a fire if the resources are not available during the time of need. Fortier suggested amending the motion to direct the Fire Department to not enforce the retro provisions regarding fire ponds already required by the Planning Board until a better option is presented. This would be a targeted exemption to only the existing subdivisions with nonfunctioning fire ponds. Phillips would be in favor of the amendment offered by Fortier. Beathem stated once it is on the books, it is really is there; however, if it were taken out so that it was not addressed at all in the Ordinance and they worked on some type of method to get them resolved that would be fine. He agreed with Blanchette that once it is adopted it stands. Tupper agreed taking this language out of the Ordinance would not be a terrible thing. The Planning Board approval of a specific subdivision that has that language in it should be adequate enough to enforce the requirements of maintaining a water source. Whether the responsibility falls to the developer or the home owners association after that is to be determined. The only reason the language was included with the amendments was in the case where a subdivision is not developed within a reasonable time and then the original developer walks away from the subdivision at that point the City has lost the ability to have the situation corrected. This language was meant to assist in situations when there is no developer associated with the subdivision and there is not a home owners association to take care of the problem. The goal was to adopt this language to help ensure the neighbors would each be responsible for a portion of the corrective plan to fix the deficiency. Tupper stated if it were the desire of the

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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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Council he could remove the language and work with the Planning Board on getting the deficiency corrected as part of the approval process that was granted on those subdivisions. If there were no other issues with the amendments as presented. Hudson was concerned that would address the future developments but still does not address the existing developments. The amendment proposed by Fortier to the stated motion was not accepted. A vote was called for on the original motion as made by Fortier and seconded by Blanchette to accept the amendments as presented this evening.

A vote was taken on the above motion with 4 members voting in favor (Blanchette, Crosthwaite, Fortier, and Hudson) and 2 members voting in opposition (Beathem and Phillips).

Council Order #041707, Request of the Finance Director to withdraw funds from the Rescue Tool Reserve Account to purchase a replacement breathing air compressor.

Chairman Phillips stated there has been a request to table this item.

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

RESOLVED to approve tabling Council Order #041707, Request of the Finance Director to withdraw funds from the Rescue Tool Reserve Account to purchase a replacement breathing air compressor until the May 1, 2017 Special Council meeting.

Public hearing and action on repealing and replacing the Ellsworth Code of Ordinances Chapter 57 Frenchman Bay Regional Shellfish Conservation Ordinance.

Councilor Beathem stated a few years ago a request was before the Council as a housekeeping item to allow the 7 member Municipal Joint Board to make minor adjustments to the Ordinance without final approval by the Selectmen Boards/ Councils or public vote. At this time some amendments have been made by the Municipal Joint Board; however, the City of Ellsworth does not recognize the changes until they have been approved by the City Council. See attachment #8 for the complete request as well as the latest version of the Ordinance. This version has been upgraded, reviewed and approved by the Department of Marine Resources

Approved - Tabling Council Order #041707, Request to withdraw funds from the Rescue Tool Reserve Account to purchase a replacement breathing air compressor until the May 1, 2017 Special Council meeting.

Approved - Repealing and replacing the Ellsworth Code of Ordinances Chapter 57 Frenchman Bay Regional Shellfish Conservation Ordinance as presented in attachment #8 with an effective date of

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CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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(DMR) with the majority of the changes being clerical for clarity purposes. The final step in order for Ellsworth to use the amended Ordinance for the purpose of administering and enforcing the program, would be for the City Council to formally approve this version. The attached version of the Ordinance is already being used in the other 6 towns that are part of the program. Beathem asked the Council to consider authorizing the acceptance of all changes that come forth after a vote by the Municipal Joint Board; this would allow the Ordinance to become effective without a separate approval by the Ellsworth City Council every time there are changes. Traditionally, there are changes every year or at least every other year from DMR because the associated laws change or the common practices change. Councilor Fortier inquired if having the City Council adopt the amendments makes the Ordinance easier to enforce and gives it stronger enforcement powers for the shellfish warden if a violation occurs in Ellsworth. Beathem stated it would have a stronger enforcement power because now the Ordinance can be enforced by the City Clerk as well. Fortier does not mind reviewing this Ordinance on an annual basis.

Public hearing opened.

There were no comments.

Public hearing closed.

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

RESOLVED to approve repealing and replacing the Ellsworth Code of Ordinances Chapter 57 Frenchman Bay Regional Shellfish Conservation Ordinance as presented in attachment #8 with an effective date of February 23, 2017.

Council Order #041708, Request of the Deputy Treasurer/Tax Collector to award bids for tax-acquired property.

Amanda Tupper, Deputy Treasurer/Tax Collector stated bids were opened on March 21, 2017 for the sale of 47 timeshare units and a vacant building located at 415 Main Street. All of the properties were acquired for non-payment of real estate taxes. See attachment #9 for the complete request and bid results. Certified payment for 10% of the bid amounts were received, and the bids are all more than the total outstanding taxes, interest and costs. Tupper recommended awarding the

February 23, 2017.

Approved - Council Order #041708, Request of the Deputy Treasurer/Tax Collector to accept the bids from the highest bidders as indicated above

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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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AMANDA TUPPER, AND HEIDI GRINDLE.**

tax-acquired properties to the highest bidders as listed in attachment #9. Councilor Fortier inquired if staff contacted the person who was the highest bidder on four timeshare units to be sure they really wanted all four units. Tupper stated the person bid on the same unit four times. This bidder has rejected her three highest bids and went with the lowest bid she submitted. This was the only bidder on that unit. Fortier clarified the Council would be awarding the unit to her highest bid amount; Tupper stated no it would be her lowest bid as submitted. Tupper stated the bidder is allowed to reject her first three bids. Fortier felt the Council had the authority to reject all of her bids. The process and approved procedures do allow for both situations. According to the Ordinance the City does have the right to hold all the certified checks submitted by that bidder as she withdrew her bids. Fortier felt there should be a penalty to the bidder; this situation was not in accordance with the intent of the Ordinance and the competitive bidding process.

(attachment #9) and to release said properties through Quit-Claim Deeds and keep only the highest check for 10% of the \$1,000 bid submitted on the unit that was later withdrew to allow the Council to accept their lowest bid on the unit.

On a motion by Fortier, seconded by Hudson, it was

RESOLVED to approve Council Order #041708, Request of the Deputy Treasurer/Tax Collector to accept the bids from the highest bidders as indicated above (attachment #9) and to release said properties through Quit-Claim Deeds and keep only the highest check for 10% of the \$1,000 bid submitted on the unit that was later withdrew to allow the Council to accept their lowest bid on the unit.

Before a vote was taken on the above motion, Councilor Hudson clarified whether that implied all four of the bidder's checks would be retained by the City. Fortier confirmed, the City would keep the check for her bid amount accepted plus the three checks for the bids she withdrew as part of his motion. Hudson felt a sufficient penalty would be to keep the highest deposit check submitted, based on the 10% requirement of the bid amount equaling \$100. Fortier agreed with Hudson on which deposit check to keep as this was the first time the Council has considered such a penalty. Fortier accepted the friendly amendment to keep only the highest check, Hudson seconded the amendment. Councilor Blanchette clarified the Council is considering keeping only the highest deposit check, which is 10% of the highest bid amount (\$1,000) submitted. The Council was not keeping 10% of all four bids submitted.

A final vote was taken on the above motion as stated incorporating the friendly amendment with all members voting unanimously in favor.

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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

Council Order #041709, Request of the Deputy Treasurer/Tax Collector to write off uncollectible solid waste accounts, per the attached spreadsheet.

Chairman Phillips noted there has been a request to remove this item from the agenda this evening.

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

RESOLVED to approve removing Council Order #041709, Request of the Deputy Treasurer/Tax Collector to write off uncollectible solid waste accounts, per the attached spreadsheet from the agenda this evening.

Council Order #041710, Request of the Deputy Treasurer/Tax Collector to offer for sale by public sale timeshare units located at Acadia Village Resort, acquired by non-payment of real estate taxes. (Complete list available at the City Clerk's Department)

Amanda Tupper, Deputy Treasurer/Tax Collector stated foreclosures occur each year in December following a 30 day redemption period. The City then places the properties out for the sealed bids process. The earlier agenda item was the result of that process. The properties that were not bid on as well as the proposed sale prices for this request are detailed on attachment #10. Tupper is requesting authorization to sell the remaining timeshare units for a fixed price on a first come-first serve basis. The proposed pricing captures all taxes, interest, and lien costs due, recording and transfer fees, advertising costs, and additional revenue to the City. An additional \$100.00 has been added to each unit to help offset administrative costs. Chairman Phillips noted 48 more units will be added to remaining timeshares owned by the City. Tupper confirmed the City currently has 300 timeshare units available for sale.

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

RESOLVED to approve Council Order #041710, Request of the Deputy Treasurer/Tax Collector to offer for sale by public sale all timeshare units, per the attached document (attachment #10).

Councilor Fortier inquired if the City had reached out to the companies that purchase timeshare units for resale. David Cole, City Manager noted the City has

Approved - Removing Council Order #041709, Request to write off uncollectible solid waste accounts, per the attached spreadsheet from the agenda this evening.

Approved - Council Order #041710, Request of the Deputy Treasurer/Tax Collector to offer for sale by public sale all timeshare units, per the attached document (attachment #10).

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CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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contacted a few companies in the secondary market and found out there is currently not a market that supports them purchasing the units.

Council Order #041711, Request of the Deputy Treasurer/Tax Collector to accept the bid from Casella Waste Management, for municipal solid waste curbside collection, effective July 1, 2017 through June 30, 2022.

Amanda Tupper, Deputy Treasurer/Tax Collector explained on March 28, 2017 bids were opened for municipal solid waste curbside collection with only one bid being received (see attachment #11). The current vendor of Casella Waste Management was the only vendor to submit a bid. A bid amount was submitted for Options One and Two. Option One includes pick up service at Fletchers Landing Plantation; the cost for this service is reimbursed from the residents of Fletchers Landing Plantation. They are required to meet the same standards as Ellsworth residents by placing a \$3.00 sticker on each bag. Option Two included going down Scott's Neck Way and Kaiser Way, Memorial Day through Labor Day of each year. These are both only options involving additional fees, and are separate from each other. Casella kept the same rate for this contract; they traditionally increase the rate. Councilor Fortier clarified the contract amount is the fee the City pays Casella and then residents place a \$3 sticker on each bag to be picked up. The County reimburses the City for the exact contract amount of \$3,378.84 and the \$3 sticker fee per bag paid by the residents is kept by the City as revenue.

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

RESOLVED to approve Council Order #041711, Request of the Deputy Treasurer/Tax Collector to accept the bid from Casella Waste Management, for municipal solid waste curbside collection, effective July 1, 2017 through June 30, 2022 for the annual bid amount and Option One but exclude Option Two.

A vote was taken with 5 members voting in favor (Beathem, Blanchette, Crosthwaite, Hudson, and Phillips) and 1 member (Fortier) voting in opposition.

Fortier noted he felt Option Two should have been accepted also because it is only for the summer. Hudson stated the City doesn't do that for anyone else.

Council Order #041712, Request of the Finance Director for transfer of the

Approved - Council Order #041711, Request of the Deputy Treasurer/Tax Collector to accept the bid from Casella Waste Management, for municipal solid waste curbside collection, effective July 1, 2017 through June 30, 2022 for the annual bid amount and Option One but exclude Option Two.

Approved - Council

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 17, 2017

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

Defendants in Rem (criminal forfeiture Doc. No. CR-15-1403) to the City of Ellsworth and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

Tammy Mote, Deputy City Manager/Finance Director covered Council Order #041712, Council Order #041713, and Council Order #041714 in one explanation. Each Council Order requires a separate vote; however they are all related to the same drug case. Mote explained the Ellsworth Police Department recently assisted MDEA with a drug case in which officers executed a search warrant at a local hotel. As a result of the search warrant, three men were charged and subsequently convicted of drug trafficking. A significant sum of money was located in the hotel room during the search. The money was turned over to the court system as part of the investigation. The Assistant Attorney General, Patrick Larson, who is prosecuting the case, has proposed that Ellsworth receive \$1,395.80 from each of the defendants for a total of \$4,187.40 from the forfeiture. State law requires that before any forfeitable item can be transferred to the municipality, the legislative body must publicly vote to accept the items. This council order would also allow Mote to deposit the monies into the Police Forfeiture Reserve Account once those funds are received.

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

RESOLVED to approve Council Order #041712, Request of the transfer of Defendants in Rem in the case of State of Maine vs. Luis Hernandez (attachment #12) pursuant to 15 M.R.S.A Section 5822 paragraph (4) (A) and Section 5824 paragraph (3) to the City of Ellsworth, and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

Council Order #041713, Request of the Finance Director for transfer of the Defendants in Rem (criminal forfeiture Doc. No. CR-15-1402) to the City of Ellsworth and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

The explanation was provided as part of Council Order #041712, there was no further discussion before a vote was taken.

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

Order #041712, Transfer of the Defendants in Rem in the case of State of Maine vs. Luis Hernandez (attachment #12) pursuant to 15 M.R.S.A Section 5822 (4)(A) and Section 5824 (3) to the City of Ellsworth, and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

Approved - Council Order #041713, Transfer of Defendants in Rem in the case of State of Maine vs. Carlos Pemberton (attachment #13) to the City of Ellsworth,

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 17, 2017

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

RESOLVED to approve Council Order #041713, Request of the transfer of Defendants in Rem in the case of State of Maine vs. Carlos Pemberton (attachment #13) pursuant to 15 M.R.S.A Section 5822 paragraph (4) (A) and Section 5824 paragraph (3) to the City of Ellsworth, and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

Council Order #041714, Request of the Finance Director for transfer of the Defendants in Rem (criminal forfeiture Doc. No. CR-15-1404) to the City of Ellsworth and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

The explanation was provided as part of Council Order #041712, there was no further discussion before a vote was taken.

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

RESOLVED to approve Council Order #041714, Request of the transfer of Defendants in Rem in the case of State of Maine vs. Jose Maisonet (attachment #14) pursuant to 15 M.R.S.A Section 5822 paragraph (4) (A) and Section 5824 paragraph (3) to the City of Ellsworth, and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds.

Council Order #041715, Request of the City Manager to approve expending \$80,000 as the 50% matching funds for the MaineDOT Small Harbors Improvements Program (SHIP) to fund fuel tank improvements at the Ellsworth Harbor Park.

David Cole, City Manager recognized Mark Remick, Harbor Commission Chair as being in the audience this evening. Cole, Remick, Adam Wilson (Harbormaster) and Andrew McCullough met last week with the new Director of MaineDOT's Small Harbor Improvements Program (SHIP). Last year, the City of Ellsworth submitted a letter of intent to MaineDOT for installing a new dual-capacity fueling system (gas and diesel) at the Ellsworth Harbor Park. Currently, this is causing a major environmental and safety concern. This funding would require a match of dollar to dollar by the City up to a maximum of \$80,000. See attachment #15 for

allow Finance Director to deposit monies into Police Forfeiture Reserve Account upon receipt of funds.

Approved - Council Order #041714, Transfer of Defendants in Rem in the case of State of Maine vs. Jose Maisonet (attachment #14) to the City of Ellsworth, allow the Finance Director to deposit monies into Police Forfeiture Reserve Account.

Approved - Council Order #041715, Authorize the City Manager to submit a SHIP application to the Maine Department of Transportation for approximately \$80,000 in state SHIP funding to be matched with up to \$80,000 in city funds

**RECORD OF REGULAR MEETING
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FORTIER, HUDSON, AND PHILLIPS.**

CITY COUNCIL ABSENT: MOORE.

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
RICHARD TUPPER, MICHAEL HANGGE, MARK REMICK, JEN MADORE,
AMANDA TUPPER, AND HEIDI GRINDLE.**

the complete request. This was the first community Matt Burns, MaineDOT's new Director has met with and was very impressed with the projects implemented by the Harbor Commission and the proposal. He strongly suggested the City submit the full application to MaineDOT. Cole is requesting Council approval of up to \$80,000 in matching funds needed for the project to move forward and authorize the City Manager to submit a SHIP application. This action will make for a stronger application with an affirmative statement from the Council. Chairman Phillips noted this project has been in the discussion stage for a little while. The Program would contribute toward the needed funds, reducing the amount of local financial dollars to complete the necessary improvements. Councilor Fortier supported this item because this project will be required within the next three years and the possibility of completing it with the assistance of \$80,000 from the SHIP program makes it a positive investment.

for the purpose of installing a new fueling system at Harbor Park with the City portion to be funded from future financing.

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

RESOLVED to approve Council Order #041715, Authorize the City Manager to submit a SHIP application to the Maine Department of Transportation for approximately \$80,000 in state SHIP funding to be matched with up to \$80,000 in city funds for the purpose of installing a new fueling system at Harbor Park with the City portion to be funded from future financing.

Adjournment.

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

RESOLVED to approve adjournment at 9:00 PM.

A TRUE COPY

**ATTEST: _____
HEIDI-NOËL GRINDLE**

**Approved -
Adjournment at 9:00
PM.**