

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: NOVEMBER 19, 2018

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BLANCHETTE, FORTIER, GRINDLE,
HAMILTON, HUDSON, MOORE, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
LISA SEKULICH, KELLY HERRICK, JENNIFER MERCHANT, MICKI
SUMPTER, GRETCHEN WILSON, DWIGHT TILTON, GLENN MOSHIER,
BERNIE HUSSEY, RICHARD TUPPER, GARY SAUNDERS, DARYL CLARK,
JOHN WEDIN, MANY PAID ON CALL FIREFIGHTERS, JOHN HAMER
(LEGAL COUNSEL), AND HEIDI GRINDLE.**

Call to Order.

Chairman Blanchette 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, 2018 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 15, 2018 Regular Council Meeting. (Request to table)

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

RESOLVED tabling adoption of minutes from the October 15, 2018 Regular Council Meeting.

City Manager's Report.

David Cole, City Manager noted City Hall and all facilities will be closed on Thursday (Thanksgiving) and Friday except for essential personnel. Cole thanked the Fire, Police and Public Works Departments for working while others are enjoying the holidays. The lighting of the City's Christmas Tree will take place at SK Whiting Park on Saturday, November 24, 2018 at 4 PM. This event was

Call to Order.

Pledge of Allegiance.

Rules of Order.

Approved - Tabling adoption of minutes from the October 15, 2018 Regular Council Meeting.

City Manager's Report.

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scheduled for a Saturday rather than the traditional Friday evening based on input from the Chamber of Commerce and The Heart of Ellsworth as well as other groups including citizens who felt they could not get to the event by 4:00 PM on a Friday afternoon. The change in schedule allows the event to be held in conjunction with Small Business Saturday; which provides an opportunity to shop local. Cole noted the Holiday Parade will start at 10 AM on December 1; citizens are encouraged to plan their travel routes to avoid the downtown area that morning. The Holiday Marketplace is open until Christmas in the former J&B Atlantic Building with specialty shops.

Committee Reports.

Harbor Commission: Councilor Moore reported Engineer Andrew McCullough was present at the meeting this month to provide an update on the progress being made on the replacement of the gas tanks at the Harbor. McCullough explained some of the strategies that could be used to obtain favorable bids on the project and the Commission is cautiously optimistic that before the next boating season there will be a new system that allows both gas and diesel to be sold at the Harbor. The Army Corps of Engineers have been at the Harbor all week. The attention has primarily focused on buoy #4, which has significantly filled in with silt. This has been determined to be fairly bad and the Commission is hopeful there will be some dredging completed in the Harbor. This year the total income generated at the Harbor was in excess of \$28,000. The Harbor officially closed on the 15 of November; however, there were some gas sales after that date mostly from commercial fishing interests. The docks located at the launch ramps will remain open as long as weather permits for the few commercial fishing boats that remain at the Harbor; this seems to be very pleasing to the commercial fishing businesses. The presence of commercial fishing interests helps the City with their negotiations with the State and Federal governments. The ice-eaters were installed and are working fine.

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

Committee Reports.

**Appointment of
Councilors to various
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Chairman Blanchette stated this is the annual appointment of Councilors to various City committees by the Chairman of the City Council. These were put in place during the Organizational Meeting held on November 14, 2018. Blanchette stated the Committees consisted of the following (see attachment #1):

**the Chairman of the
City Council.**

Finance Committee (Blanchette, Grindle, and Hudson with an alternate of Moore)
Human Resource Committee (Fortier, Hamilton, and Hudson)
Library Special Collections Committee (Blanchette)
Human Services (Hamilton, Moore, and Phillips)
Street Light Committee (Blanchette, Fortier, and Hudson)

Commissions:

Commissions.

Recreation Commission (Hamilton and Grindle)
Historic Preservation Commission (Blanchette)
Harbor Commission (Moore and Phillips)

Ad-Hoc Committees:

Ad-Hoc Committees.

Solid Waste (Blanchette and Fortier)
Local Roads (Blanchette and Phillips)
Public Safety Planning (Blanchette, Hamilton, and Phillips)

Appointments:

Appointments.

PDCTC/Cable TV (Fortier and alt. Jason Ingalls – City IT Department)
Frenchman Bay Partners (Jennifer Fortier)
EBDC –Business Development Corp. (ex-officio members Blanchette and David Cole – City Manager). Currently, Blanchette is checking with the EBDC Board concerning whether the bylaws allow for a third position to be added. If the bylaws allow for this then Councilor Hudson will be appointed by the Council.

Councilor Fortier asked for consideration on keeping the Emergency Medical Service Committee (EMS) as the City completes the pilot program. Fortier requested permission to remain on this committee for his last year to watch over the partnership, be able to reflect back on the process next fall, and contribute his opinions on the next steps. Blanchette noted this Committee appointment had been

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considered and written within his notes for inclusion this evening. It was accidentally left off the list presented to the Council prior to the meeting this evening. See attachment #1 for the complete list including the EMS Committee.

EMS Committee (Blanchette, Fortier, and Phillips)

Citizens' Comments.

Gordon Workman, Ellsworth resident explained he has been having issues during the past 5 or 6 years with his neighbor's runoff water entering his property. Two years ago, Workman did contact the Code Enforcement Office; however, no action was taken at that time. In the meantime, more piping has been added with additional diversion and now this area floods. The neighbor keeps adding elements rather than taking care of the problem; Workman has indicated to the Code Enforcement office that something has to be done. He wanted to go on public record as stating he is taking all actions possible to divert the water in a different direction. This action is necessary because it is devaluing his property which will result in the Assessing Department lowering the evaluation on his property resulting in loss of profit if he decides to sell the property. Workman will have to take any action he can to stop the diversion of water; he has also contacted the person in charge of the subdivision. Workman's property is not located within the subdivision; however, he believes there should be rules within the subdivision that address this issue. Councilor Fortier noted he is the president of the Westwood Hill Homeowner's Association, due to his recent injury Fortier has not been able to contact Workman yet concerning this issue. Fortier will be reviewing the policies next week and will schedule a meeting with Workman following the review.

Julia Ventresco, Ellsworth resident and member of the Ellsworth Green Action Team congratulated the newly elected members of the City Council. The Green Action Team is a subcommittee of the Ellsworth Green Plan Steering Committee with a focus on renewable energy and waste reduction. The Green Action Team has drafted and proposed a Single Use Carryout Plastic Bag Ordinance also known as a bag ban for Ellsworth. Ventresco stated in an effort to inform and educate the public of the steps taken to reduce plastic pollution in the City of Ellsworth several events including films, panel discussions, and roadside cleanups have been held.

EMS Committee.

Citizens' Comments.

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She invited and encouraged attendance at the upcoming event to be held on December 12, 2018 at 6:30 PM in the City Hall Auditorium. Madelyn Woods of the Shaw Institute previously known as the Marine Environmental Research Institute in Blue Hill will be offering a presentation on Microplastics in the Gulf of Maine at this event. Following the approximately 20 minute presentation there will be a panel discussion. The panel will be made up of Woods, Ventresco, a local business owner, and others to be determined.

Gene Lyons, resident of Ellsworth congratulated Heather Grindle and John Phillips on their election to the City Council. He also extended a congratulation to Nicole Grohoski for winning a seat in the Maine State House during the recent Election. Lyons stated he has not given up on becoming a member of the City Council.

Christine Cotton, resident of Ellsworth addressed a concern she has with the very bad water problem located at the bottom of Tinker Hill. She called City Hall last Wednesday and a grader was sent down to work on the concern. Cotton explained the water runs into the centerline and then freezes overnight causing black ice. She has been reporting this situation for years. Cotton also voiced a concern with the streetlight that was never replaced when the electrical work was completed in that area. The ice buildup is the same problem every year and causes the potential for a serious accident. City Manager, David Cole stated he would look into this concern.

Michaeleen Ward, resident of Ellsworth spoke on concerns she has with the intersection that was created with the construction of rerouting 179. There was a discussion concerning the situation with cars making a right turn being cut off by cars making left turns within this intersection. It was believed cars making a right hand turn had the right of way; however, it appears the cars taking a left are turning dangerously in front of the those cars attempting to make a right hand turn. Ward noted she has reported this while in City Hall a few times and has been told others have voiced the same concern. The question of whether a light is necessary at this intersection was discussed. Councilor Hudson noted the State of Maine Department of Transportation would be in charge of determining whether a light is required at this location. City Manager David Cole explained there is a center turning lane at this location. Ward stated some of the vehicles use the center lane; however, many do not use that lane as it may not be clearly marked for the type of

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turning they are making. Cole will visit the site; however, the State DOT would have to review the site and determine if it would be justified to go through the funding process. There have been some initial analysis completed at this intersection along with Route 179. The State DOT has the information on accidents at this location or lack of; along with that information the State DOT would determine the safety and mobility of this area. Cole will look into this concern and reach back out to Ward.

Gene Lyons, resident of Ellsworth and particularly Route 179, explained vehicles have very little time to make a decision on whether to pull off from Route 179 or not. He explained how dangerous that intersection can be for larger work trucks.

Presentation of Awards.

Ed Pollack, for 30 years with the Ellsworth Fire Department.

Ed Pollack was presented with an award from Fire Chief Richard Tupper in honor of his 30 years with the Ellsworth Fire Department and also recognized for his upcoming retirement from the Department.

Brian Moon, for 5 years with the Ellsworth Public Works Department.

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

Kevin Sawyer, for 15 years with the Ellsworth Public Works Department.

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

Small Business Day Proclamation – November 24, 2018.

Chairman Blanchette read the first paragraph of the Small Business Day Proclamation (attachment #2) into the record. Blanchette explained how meaningful it is to a small business when the local consumer purchases from them.

**Presentation of
Awards.
Ed Pollack – 30 years
Ellsworth Fire
Department.**

**Brian Moon – 5 years
with Ellsworth
Public Works
Department.**

**Kevin Sawyer – 15
years with Ellsworth
Public Works
Department.**

**Recognition - Small
Business Day,
November 24, 2018.**

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This keeps a local spending pattern going. An original signed copy of the Proclamation was presented to Cara Romano, Heart of Ellsworth and Gretchen Wilson, Ellsworth Chamber of Commerce.

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 #111803, 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 #111804, Discussion and action on the request of the Branch Lake Water Steward to set the Branch Lake boat and aeroplane sticker fee at \$0 for the calendar year 2019. **

The Branch Lake boat and aero plane sticker fee was approved at \$0 for the calendar year 2019.

*Council Order #111805, Request of the Finance Director for transfer of the Defendants in Rem (criminal forfeiture Doc. No. CR-17-1328) 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. **

Unfinished Business.

Consent Agenda.

Approved - Consent agenda items as presented this evening.

Approved – CO #111803, payments on tax acquired time share units, issue quit-claim deeds.

Approved – CO #111804, Set Branch Lake sticker fee at \$0 for calendar year 2019.

Approved - Council Order #111805, transfer of the Defendants in Rem

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See attachment #4 for the required Transfer of Forfeited Assets approval form.

*Council Order #111806, Request of the Ellsworth Board of Appeals to appoint Stephen Shea to the City of Ellsworth Board of Appeals as an alternate member, term to expire 06/30/2019. **

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

RESOLVED to approve the consent agenda items 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.

Public hearing was closed.

On a motion by Phillips, seconded by Fortier, 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.

Council Order #111807, Request of the Public Works Director to award the bid for a one ton work truck.

(criminal forfeiture Doc. No. CR-17-1328).....

Approved - Council Order #111806, appoint Stephen Shea to Board of Appeals as an alternate, term to expire 6/30/2019.

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.

Approved - Council Order #111807, the

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Lisa Sekulich, Public Works Director stated on October 2, 2018 a bid opening was held for a one ton work truck. There was only one bid received and that one was significantly over the budgeted cost for this equipment. At the last Council meeting the Council voted to reject that bid. The specifications for the truck were then adjusted and on November 6, 2018 another bid opening was held. See attachment #5 for the bid details and complete results. The new specifications required the truck to be delivered within 45 days of the bid acceptance. Bids were received for trucks already on the dealership lot or provided options on waiting 16 weeks for a different truck that meets the exact specifications. The low bid was received from Darling's Auto Mall (2019 GMC 3500 HD) which met the majority of the requested specifications with the exception of the truck being black rather than the requested red. A quote was requested for a sander and plow for the truck. Sekulich stated she would like those items accepted as part of the motion tonight. The sander and plow were included within the bid as options. The prices received as part of the bid process were lower or equal to what Sekulich could purchase them for at a different location. Sekulich would like authorization tonight to purchase the truck, plow and sander. Councilor Phillips inquired if this truck would be a replacement truck for the existing one ton truck. Sekulich stated it is not a replacement truck; the plan for the existing one ton truck is to use it as a parks and or mowing truck. Currently, the one ton truck has been used for this purpose in the summertime. This truck would be an additional truck so that the Highway employees would have access to a one ton truck while the existing truck is being used for mowing. The new truck will be a diesel truck which will have more horsepower and tork compared to the existing gas one ton truck. The existing truck does not have the same amount of power; therefore, is not as valuable while plowing. The new truck will be primarily for plowing and then used for additional uses during the summer months. Bernie Hussey, Public Works Foreman noted the summer uses would include hauling the little excavator on a smaller trailer. The truck that was used for this purpose during the past summer was weak when it came to towing this piece of equipment as well as used a lot more fuel to complete the task. The existing truck is getting older and has approximately 75,000 miles on it. Both one ton trucks will be used to plow snow.

request of the Public Works Director to award the purchase of a new 2019 GMC Sierra 3500HD 4 WD One Ton Truck, Fisher XLS Plow and Fisher Poly Caster Sander to the bidder, Darling's Automall, at a cost of \$61,645 to be paid for through the Highway Department Capital Improvement Account.

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

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RESOLVED to approve Council Order #111807, the request of the Public Works Director to award the purchase of a new 2019 GMC Sierra 3500HD 4 WD One Ton Truck, Fisher XLS Plow and Fisher Poly Caster Sander to the bidder, Darling's Automall, at a cost of \$61,645 to be paid for through the Highway Department Capital Improvement Account.

Before a vote was taken, Phillips inquired if the truck was still available in stock. Sekulich confirmed it was still available.

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

Council Order #111808, Request of the Public Works Director to approve a 5 month lease for a loader and authorize the City Manager to sign all documents.

Lisa Sekulich, Public Works Director explained the Public Works Department would like to rent for the duration of approximately five months a loader equivalent in size to a CAT 924 including a 12' pusher. See attachment #6 for the complete request and reservation contract. Public Works Foreman Bernie Hussey researched renting this equipment; the best price on the only available loader was from Rent It in Auburn, Maine. The price was \$4,500 a month. There is a total fee of \$700 to drop off and pick up the equipment. The equipment is scheduled to be in the City on December 1, 2018. There has already been a 3 month contract for this piece of equipment; however, Council approval was needed for the additional two months because the contract will exceed the allowable \$15,000 under the Procurement Policy. If the lease is approved for an additional two months, this mandatory piece of equipment will be used to clean the parking lots and the Downtown areas throughout the winter. Councilor Phillips inquired if the City currently owns a loader that is not in service. Sekulich noted the City only has one loader at this time; the City used to have two loaders. One loader is used for loading sand and the other was used for work in the Downtown Area. The loader assigned to loading sand died and was later sold at auction. The one remaining loader is showing age and getting tired; that one will stay at the garage and load the salt and sand. The newer loader with the pusher would be used for cleaning up the Downtown areas.

Approved - Council Order #111808, the request of the Public Works Director to extend a rental agreement with Rent It of Auburn for a Cat 924 loader with 12 ft. pusher at a cost of \$4,500 a month, for a duration of approximately 5 months to be paid for through the Highway General Fund Account.

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Phillips inquired if this monthly lease is also based on unit hours for the machine; more particularly if a certain number of hours is exceeded are there additional fees. Sekulich noted there are additional fees if you exceed 176 hours a month. This proved to be an adequate number of hours last winter when the same type of lease was approved; with the exception it was based on 100 hours a month instead of the allowable 176 hours this year.

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

RESOLVED to approve Council Order #111808, the request of the Public Works Director to extend a rental agreement with Rent It of Auburn for a Cat 924 loader with 12 ft. pusher at a cost of \$4,500 a month, for a duration of approximately 5 months to be paid for through the Highway General Fund Account.

Council Order #111809, Request of the Public Works Director to award the contract for the transfer station compactor replacement project.

Lisa Sekulich, Public Works Director noted on November 13, 2018 a bid opening was held for the replacement of the compactors, hoppers and associated equipment at the Transfer Station. Multiple bids were solicited but only one bid was received, see attachment #7 for the complete request, Notice of Award, and recommendation letter from Woodard and Curran. The single low bid was from Atlantic Recycling Equipment, LLC in the amount of \$123,430. This project will replace the compactors at the Transfer Station which are the original compactors from approximately 1990. The existing hoppers are starting to get holes in them allowing the trash to fall through and end up under the equipment making it very difficult to clean up. This project has been in the process for a few years, now that the shellfish waste is no longer accepted at the Transfer Station it seems to be the right time to complete the project. Councilor Fortier confirmed this project has been a necessity for the past five years. Part of the driving force to fix this situation is the tonnage in the compactors has gone from 17 to 17.5 tons approximately 10 years ago to down to 14 tons or less currently. This is caused from not having the hydraulics compression to load the containers so it is costing the City incrementally more every time a pull is taken without a full load. Based on this concept money will be saved as well as the City will have a cleaner facility. This is a good time to

Approved - Council Order #111809, the request of the Public Works Director to award the bid for the replacement of compactors, hopper and associated equipment to Atlantic Recycling Equipment LLC for a Contract Price of \$123,430.00 and to fund this project with funding from the Transfer Station Capital Improvement fund (9090900-59023) in the amount of \$110,718.00 with the

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DATE: NOVEMBER 19, 2018

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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HAMILTON, HUDSON, MOORE, AND PHILLIPS.**

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replace the equipment as the shellfish waste will not be deteriorating the material. Fortier cautioned Sekulich to check the license because within the documents the bidder was required to pressure wash and bleach; he stated the City license is for a dry cleanup. Fortier wanted to be sure the DEP license is not violated during the cleanup process. Sekulich felt Atlantic Recycling Equipment realizes the facility needs to be cleaned up before the replacement pieces are installed.

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

RESOLVED to approve Council Order #111809, the request of the Public Works Director to award the bid for the replacement of compactors, hopper and associated equipment to Atlantic Recycling Equipment LLC for a Contract Price of \$123,430.00 and to fund this project with funding from the Transfer Station Capital Improvement fund (9090900-59023) in the amount of \$110,718.00 with the additional required funding coming from Bond Proceeds.

Council Order #111810, Consideration of the City's options in conjunction with the Ticonic Property.

Chairman Blanchette recognized there may be several people in the audience wishing to speak on this topic; based on that conclusion Blanchette asked the audience to not duplicate comments already made by someone else this evening. Everyone will be given the opportunity to speak on this topic; however, time may have to be limited if there are a lot of people wishing to speak this evening. David Cole, City Manager noted that John Hamer who represents the City on HR matters and Union negotiations from Rudman and Winchell was present this evening, as Ed Bearor was unable to attend. See attachment #8 for the legal opinion from Ed Bearor from Rudman and Winchell, who would normally handle this type of matter for the City. Cole explained the letter from Bearor does cover three options for consideration this evening. Councilor Fortier gave a brief history on this topic by stating the City put out an RFP after the City Council at the time decided to get rid of the excess property. Fortier got involved in the project because the RFP also included two buildings next to his homestead on Bridge Hill. The first RFPs that were sent out netted proposals the City could not afford, the RFP was a wish list. Webber was the sole bidder, they had been trying to purchase it for years at one

additional required funding coming from Bond Proceeds.

Approved - Delaying action on Council Order #111810, Consideration of the City's options in conjunction with the Ticonic Property to give City staff enough time to retain the services of an independent legal counsel to advise the City Council on this matter in an appropriate way. Further, the City Council will seek cooperation from Webber to continue

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time in history offered more than the \$5,000 that was ultimately accepted. They spent money on the building, gave the City some land, moved the building back and put a foundation under the building. Fortier noted this all benefited Webber and improved the sightline for their convenience store. After the one bid was received the City management and some Councilors negotiated with Webber what the end result would be. It was understood that Webber would not be giving the City \$5,000 for the building, fixing it up to a Taj Mahal, and keep it that way forever. It was not logical to even think that would be the case; the City negotiated the best that could be to make sure the Congregational Church of Ellsworth Falls was able to utilize the building as they were at the time, as a thrift shop. Fortier recalled Webber agreed to a five year lease with a five year extension; at the end of the ten years the building would be Webber's. The City would wash their hands of the building at that point; a ten year lease was agreed to for the Church. Fortier felt Webber met every requirement, they fixed the building up to the safety code in place at that time, it was believed the building was inspected at that time, the Church was allowed to remain there and help a lot of families. After a while the thrift store closed and moved out. As Fortier recalled Webber did not have a short term plan for the building; however, Webber knew long term that was an important piece of property to add to the property they already owned abutting it. Fortier stated as a member of the City Council involved in this project when it happened, the deed and the two five year lease agreements met everything that the City Council and City management negotiated with Webber at that time. They met every requirement of that agreement; Fortier noted he has a Ticonic Hose Badge from his firefighting days and this building means a lot to him. He was not willing to spend taxpayer dollars to buy it, improve the quality of it, or move it somewhere else. Fortier would fully support private sector making an agreement to purchase it from Webber and moving it to another site; if they have the finances behind them, interest, and drive to accomplish this. Fortier was not convinced in 2005 to spend more taxpayer money on the building and remains unconvinced in 2018 to spend any more taxpayer funds on this building. He noted it is part of the history and that the Historical Society would like the building; however, they cannot financially care for the two buildings they currently own. Fortier could not justify giving them a third building. The City Council in 2005 followed through on a process with the blessing of the Historical Preservation Commission who deals with the listed buildings. It is Fortier's personal opinion that at this time Webber has every right

**to delay the
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the City Council's
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to demolish the building as they have met every obligation within their agreement with the City as signed in 2005. Judy Blood, resident of Ellsworth Falls respectfully disagreed with Fortier. She was present tonight to represent many residents of Ellsworth and Ellsworth Falls this evening. Blood noted she has petitions with over 500 signatures from people who are interested in the preservation of this building. Some are residents, others are summer residents, while others are taxpayers but not residents; however, they are all expressing an interest in this building. Blood explained the property the Ticonic Firehouse sits on was transferred to the City on November 8, 1888. Over the past 130 years it has served as home to the Ticonic #4 Pumper and the Hose Team of Ellsworth Falls, a community building, polling place, cafeteria for the Ellsworth Falls School House, and most recently as a thrift store operated by the Ellsworth Falls Union Congregational Church. In 2005, the 2.5 story building and the footprint on which it sits was sold by the City of Ellsworth to Webber Gas and Energy. Blood gave a brief history of the relationship between the City of Ellsworth City Council and Webber Energy and Gas (now Webber Energy Development Corporation) dating back to 1980 before the City sold the property to Webber. As far back as 1986 Webber Energy and Gas was looking to demolish the building. The City Council meeting minutes from 1986 indicate an offer of \$20,000 was received from the Webber Oil Company to purchase the Ellsworth Falls Community House; they would demolish the building and update their Exxon station on the adjoining lot. At that time, the offer was approximately 50% of the true market value and for that reason as well as for community sentiment the City Manager at the time recommended the City Council reject the offer. According to the minutes of 1986 it was unanimously approved to reject the offer from Exxon Corporation to purchase and demolish the Ellsworth Falls Community House. Three years later, Webber was still trying to deal with the building, according to the minutes from September 1989, Exxon had made a proposal to the City of Ellsworth stating they were willing to provide the funding to move the Community House back approximately 15 feet and place it on a foundation. This would provide better sight distance for their mini mart. Those minutes further describe the building as a historical building and state Lawrence King, Chairman of the Historical Preservation Commission (at the time), was contacted by Exxon Officials with regard to moving the building. Those minutes further state King will handle the bidding process. At that time, the City Manager was authorized to negotiate an

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agreement with Exxon or Webber regarding the Ellsworth Falls Community House. Blood stated the text of that agreement has not been uncovered. In 2005, the City placed this building out to bid through an RFP, Blood read into the record the beginning language of the RFP where the building is referred to a historic property. In the description it is noted that this structure is not designated as a local historic landmark, but is considered to have significant local historic interest by the Ellsworth Historic Preservation Commission. Within the selection criteria the City wrote the City will accept a proposal that is considered to be in the best interest of the City. The proposal requirements state, the purchaser must expressly indicate that they will meet or exceed all controls, conditions, and objectives expressed in the RFP, Blood was reading directly from the RFP language. Further the RFP language states any future change in use at any future time will require the approval of the City Council. In the successful proposal, Webber offered the City \$5,000 for the building and land. This amount was written in over the original typed proposal and \$15,000 less than the offer made in 1986. Webber's proposal assured the City the applicant is ready to fund the requirements outlined in the 2004 City Loss Consultants Report. This report outlined the building's immediate and long-term needs. It was noted that the financial strength of Webber Oil Company is well known and the applicant has sufficient land to move the building on to an alternate site if so needed. Blood noted further within the agreement it was noted by Webber that they were not purchasing this property for any grand development scheme. Blood stated by requiring approval from the Council for any change in use at any time the City Council assured the citizens that the sanctity of this building would be protected. On September 10, 2018 an application for a permit to demolish the Ellsworth Falls Community building was filed by a representative from Webber and approved by Dwight Tilton, City of Ellsworth Code Enforcement Officer. Blood stated that permit never should have been approved. The approval should have been denied because the paperwork had errors, but the issuance of this permit is contingent on the agreement of the City Council not the Code Enforcement Office. The issuance of this permit is in direct conflict with that agreement between Webber and the City of Ellsworth. Blood stated Webber has not lived up to their agreement and further felt they were not prepared to address the correction of items both long and short term. She went on to state Webber has left this building uncared for and questioned the validity of the statement that there was not a long term development scheme involved with the purchase of the property.

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Webber over time has purchased all of the adjoining property. Blood listed all the properties that were purchased as well as the years when they were acquired. She went on to state she was informed by a Webber representative in February of 2018 that they intended to demolish the building. Blood immediately took the RFP paperwork to the Ellsworth Code Enforcement Office, Planning Office, and City Council as well as met with members of the Historic Commission who did not have knowledge of the RFP or proposal. All groups were given copies of the RFP, letters from the Historic Commission that indicated historic significance although not on the registry, and told by a City Official that the only recourse would be to wait for Webber to obtain a demolish permit and then to file an appeal. Blood did wait; however, in the meantime public sentiment increased and at this time over 450 residents and taxpayers have signed an online petition to block the demolish while many more signed paper petitions. Blood waited from February until September when the application was issued and then filed an appeal. The appeals hearing was scheduled and held on October 22, 2018. The information provided to her was misinformation, the Board of Appeals was not the proper venue. She was misled and as a result she simply waited from February until September for the permit to be issued. A formal request for determination of eligibility for the National Historic Registry was filed previously with the Maine Historic Commission and the Commission has not yet replied. If the Ticonic is declared eligible, rehab of the building would qualify for Maine State and Federal Historic rehab tax credits which together account for 45% of the cost of rehab. This would be a significant financial incentive, if the building is used for an income producing use. Once rehabilitated the Ticonic could generate economic benefits and would enhance the value of the property while improving the atmosphere and appearance of the Ellsworth Falls village. If the building is demolished the City will forfeit all of these benefits. Blood went on to say if the applicant is not successful she has begun the process of becoming a 501 (c) (3) non-profit to undertake the process of rehabbing this building. Blood explained the village of Ellsworth Falls, a historic part of the development of Ellsworth is facing extinction. A once bustling village with shingle mills, blacksmith shops, general store, post office and its own zip code risks being forgotten. Blood charged the City Council to do the right but difficult thing, rescind the permit. She stated it was never the call of the Code Office to allow it. This violates the City Unified Development Ordinance Chapter 56, Article 2, Section 208.1 and Chapter 39, Article 1, 11, and 13. Blood also noted Webber's

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action to request the demolition is in breach of the implied contract with the City and the citizens. The City as a trustee of the public health and welfare is obligated to revoke the demolition permit in order to maintain public trust. She would like to see Webber held accountable for their agreement or put the building in the hands of a group prepared to take care it. She encouraged the City Council to step up to their responsibility, deny the demolition permit, the future of this historic building lays in the City Council's hands. Blood challenged the Council to investigate the error riddled demolition application process. Rebecca Maddocks-Wilbur, lifetime resident of Ellsworth Falls, Maine 04633 provided a history of the Ticonic Firehouse and her link to that history. She noted there were not substantial repairs completed at this building as promised or described. Maddocks-Wilbur stated there is a written agreement that was not negotiated down to nothing and she is aware of this because she was present at every public meeting when it was discussed. Although she may have been distracted by small children during those meetings she did not miss the important details that were discussed about the preservation of the building. The agreement was to restore and if necessary relocate the building should they have any need to in the future. Maddocks-Wilbur noted neither of these options have been utilized, obviously. The third item that was not in their agreement; however, Maddocks-Wilbur asked the Council to contemplate was whether Webber was relinquishing the building because they have in fact breached their own agreement. Maddocks-Wilbur noted just because the language is not in the deed does not mean there is not a legally arguable agreement; it is a written agreement to complete items they have not completed. Webber has requested a Demolition Permit which is obviously an absolute contrast to their promise. They have received the Demolition Permit; Maddocks-Wilbur understands this is an uncomfortable topic for some people. She informed the City Council they have a responsibility for this matter because a group of member representing the citizens of Ellsworth negotiated and agreed to this with Webber and they are not holding up their end of the deal. Maddocks-Wilbur noted it is to Webber's advantage that for some reason the covenants were not put in the deed language, she speculated whether that was done out of trust or for some other reason. She reminded the Council there is a written, signed, and dated agreement that has been circulated to many people. This document is all the City of Ellsworth needs to protect that property and the agreement that was made. Maddocks-Wilbur asked the City Council to very seriously consider this not as a sentimental foolish meandering of

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historical lovers of yesteryear because this is not what the group stands for; the reality is \$5,000 for a historical property on Route 1A is a farce. Maddocks-Wilbur asked the City Council to overcome all urges to believe this was an honest endeavor; that Webber simply cannot hold up at this point because that is not the case. It is also important to note, Webber has been reached out to numerous times by phone and email without communication being returned. Maddocks-Wilbur stated the 500 + citizens along with herself are asking the City Councilors to think carefully about their duties from this point forward because the agreements were made by the Ellsworth City Council members for all of time. She reiterated that at any time there was to be a change in use it was supposed to be brought before the City Council. The members sitting tonight on the Council are now the City Council whether they are comfortable or uncomfortable, feeling informed or uninformed it is a legal agreement that exists and Maddocks-Wilbur asked the Council to look not just into what has been said about this topic or what has not been said but to look into your hearts about what community is and what the Council is entrusted to do. This lesson has taught her unless she is sitting in the midst of it and a part of it she cannot rely on it. The situation needs to be confronted with Webber, there is no way to passively hold them accountable. Action needs to be taken, Maddocks-Wilbur acknowledged they could take legal action but the fact of the matter is the legal agreement was between the City of Ellsworth and Webber and they are asking the City of Ellsworth to take that action. Councilor Hamilton recognized Blood and Maddocks-Wilbur have represented this process very well in regards to their tenacity, leadership, and bringing the community together around this issue. This venue is the appropriate place to discuss the issue and try to sort through it. Hamilton felt it is always best to try and arrive at a win-win solution for everyone involved. It will be challenging in this case as there are still some questions. He is looking at the legal aspects of this topic and how those impact his authority as a City Councilor. Hamilton felt there was an issue concerning the cost of taking over the building and the impacts that would have on the taxpayers. He agreed there were legitimate points being made concerning the intents and where they have gone. Blood and Maddocks-Wilbur have done a great job providing the historic perspective and now Hamilton needs to hear tonight about the legalities of the situation in order to make an informed decision. Hamilton felt the opportunity to look for a win-win solution might be within forming a non-profit 501 (c) (3) organization so that the building can be privately purchased and if the City can

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assist with that process it might offer the best outcome. Blood explained the process for forming a 501 (c) (3) non-profit organization has begun because in the event the application for consideration on the National Historic Registry status is denied, they want to be ready to take on the rehabilitation of the building through a different avenue. This process would be implemented similar to what is happening currently in Surry with the Surry School House. The Surry School House is owned by the Town of Surry; however, the rehab portion is taken on entirely by the non-profit organization. Councilor Moore asked Blood if she had a since of a willingness by the citizens in that area to financially assist with the rehab of the building. Blood noted many of the 500 members are summer residents that have the means to make a donation as well as the desire to make those once the time is right. At this point, neither Blood or the City of Ellsworth owns the building, it is very difficult to accept financial donations at this time on something you do not own. There are a number of individuals and groups that are willing to contribute to a non-profit. Although, this situation and the concerns of whether there will be adequate money to sustain the building is similar to what happened in Surry; it is very different as Webber owns the building and has remained mute on the topic. In Surry, the owner of the building was the Town of Surry and therefore could work with the citizens that came forward to rehab the building under a non-profit organization. As of last Wednesday, the for lease sign on the Ticonic property changed to a for sale sign. Blood has contacted the real estate broker and has a message to call them back; therefore she does not know how much they are asking for the property or if they would consider chipping off the piece that the Ticonic is located on. Blood has been busy researching this and setting up the non-profit organization. John Hamer from Rudman and Winchell stated his office does work with Webber in other areas so if there is any interest in bringing suit against Webber they would need to call in an outside firm to assist the City. That avenue would constitute a conflict of interest; however, if there are questions about the Board of Appeals process or any interest in negotiating a purchase of the building Hamer can help with that. Hamer recognized he has a limited ability to advise the City Council at this time. Blood noted she felt that was a conflict of interest. Maddocks-Wilbur stated she was told that was true and that there was an inherit conflict of interest but it had not been confirmed. Hamer stated he would be happy to make the referral to a firm that could assist if the City Council would like to pursue a suit against Webber. Hamilton inquired about the legal standing of an

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RFP. Hamer stated in general terms it depends on the topic in question. In terms of real estate if there is an RFP for property and the terms of the RFP are not included as a condition to the deed, then generally it is not going to carry through. Those criteria are generally conditions before the property is transferred if they are satisfied the property is transferred and if they are not satisfied they would have to be a condition of the transfer, such as a covenant in the deed. Hamer further stated if there is not a covenant in the deed, then generally it will be difficult to enforce the RFP after the fact. That does not mean there may not be some other document that exists separate from the RFP that may have a legal impact. Blood stated she was informed through counsel that something could be done with that because it constitutes an agreement and there could be a suit filed to renegotiate the agreement between the City of Ellsworth and Webber. Blood felt there was a conflict of interest; therefore, objected to Blanchette referencing the information provided as part of attachment #8 in regards to Ed Bearor's opinion. Blanchette read the opinion into the record starting on page 3, Under File a Lawsuit Against Webber for Breach of Contract, second paragraph starting with "The absence of any such restrictive language...." through to the end of that section. Blood felt the discussion this evening with the City's Legal Counsel should stop and legal assistance needs to be gained from an impartial party. Hamilton inquired where the Board of Appeals process stands currently; his understanding was that there is a 6 month hold on the demolition. Cole stated there is a hold placed on it, he believed the period is 6 months. Fortier stated from the information before the City Council this evening they are not sure the Board of Appeals has any right to be in this conversation. Fortier felt that was the first item to resolve this evening; is that the proper Board to hear this. Fortier was amazed that they have gotten this far with a blatant conflict of interest and it hasn't been cut off six months ago. Dwight Tilton, Code Enforcement Officer was not aware of there being a time frame. He is aware that Webber agreed to wait until it was resolved, it is unclear if they were waiting for tonight or to see if the City Council remands it back to the Board of Appeals and then wait until that date. Webber has cooperated to this point and Tilton does not anticipate they would have an issue if it dragged on a couple more months. Hamilton clarified that at this point the decision to not move forward with the demolition permit is Webber's decision. There has not been an imposed stay on that. Tilton stated he does not have anything in writing; Bearor had negotiated with Webber on it being held off and therefore has no idea what the timeframe would be.

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Blood was concerned it sounded like a conflict of interest in regards to Bearor negotiating with Webber to hold off on the demolition permit which is under discussion at the Appeals hearing. Blood suspected there was a conflict of interest from the beginning and now it has been confirmed. Fortier noted the actions of the Board of Appeals that evening were horrible. They did not take into account the information provided from the City's attorney and they got off track into areas they never should have. Fortier apologized to Blood for the way she was treated that evening. Blood noted the only reason she was not unnerved was because she had watched another video and was prepared for what she might encounter. Moore inquired if the Council had the authority to create a period of time to reach an agreement with Webber as there may not be a formal agreement to wait 6 months before demolishing the building. Hamilton was ready to place a motion on the table. Hamilton motioned to stay the permit request of the demolition of the Ticonic property pending the opportunity for this City Council to have consultation with an attorney so they can discuss the matter in terms of legal options and they are properly vetted and until such time that stay would exist. For discussion Fortier seconded that motion. Fortier felt the most important thing to keep in mind is, he does not want taxpayer money spent on this building. If Blood can create a grassroots organization, Fortier will be in line to support that initiative. He cannot commit taxpayer money when the City is not able to pave roads, take care of sidewalks or giving employees the raises they deserve. Fortier would love to see the City Council get an outside attorney and review this topic with a fine tooth comb and find out what is happening. He did state conflict or not it appears the relationship has benefited the demolition stay; they have been able to talk Webber into slowing down a little bit and at least not tearing the building down. Fortier felt it was time to break away from this relationship and retain independent legal counsel. Fortier approved the stay and not sending it back to the Appeals Board at this time. Blood noted so that it would be part of the public record, she was advised at the appeals hearing that it was not the proper venue and that she better get legal counsel. She had to go as far as Camden to find legal counsel that would take the case because of the City of Ellsworth and Webber Oil and not having an association with either. Blanchette questioned whether the Board of Appeals had the authority to remand this topic back to the City Council. He wondered if they were creating policy by taking that action or were they following the Ordinance. Fortier noted the Board of Appeals never provided a finding of fact that it was a topic they had the

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CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
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authority to deal with. The question of who has authority on this topic has never been answered as was apparent from Chairman Toothaker's opening statement at the Appeals hearing. Blood wanted to go on record as stating she was advised that her only avenue starting in February was to wait for the permit to be issued and then to file an appeal. She feels she did what she was told to do. Maddocks-Wilbur asked to go on record regarding the City's legal counsel statement to her which is on the video and contrary to what Blanchette read into the record from attachment #8. Maddocks-Wilbur stated his opinion after he went back and consulted with someone to determine there was no legal way to fight this; he originally told her that "I am not saying that you can't, I am simply saying it is a tough row to hoe". Maddocks-Wilbur did not want the public to think attachment #8 was the only opinion put forth by the City's legal counsel on this topic. She questioned what the public should trust when they are working for the same company and sited a conflict of interest. Moore stated one of the reasons the City Council is considering having the time period set aside, is to erase any question of conflict of interest. Hamer explained in terms of Rudman and Winchell representing the City before the Board of Appeals or in representing the Board of Appeals that would not be a conflict of interest at this point. That is a review of a permit that is issued and there is no direct conflict there. Hamer noted certainly, if the City has any interest in taking action against Webber that is definitely a conflict of interest and separate counsel would need to be retained. Hamer did not feel there was any conflict of interest going through the Board of Appeals procedure. He agrees with the prior assessment that if a permit is being issued the proper method to challenge that would be to take it to the Board of Appeals. The Board of Appeals is supposed to review that permit for whatever criteria exists under the Ordinance. Hamer further explained the Board of Appeals does not have the authority to remand something to the City Council; that was not something they had within their authority to do. One avenue the City Council could take is to send it back to the Board of Appeals and have them continue with their review and make a decision that can then be appealed to Superior Court. That is separate from the issue of whether there is a claim against Webber. Blanchette inquired if the duty of the Board of Appeals is to make sure the Ordinance was applied properly and that is their only duty. Hamer stated that is correct. Hamilton stated as a point of order there is a motion and a second on the floor and the Council needs to carry forward. Engaging in discussion back and forth is not moving the item forward. Fortier believed public comment had

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also been closed and there was a request for the City Council to act. Blanchette noted he agreed with Maddocks-Wilbur that the City Council members are stewards within the Community; however, they must work within the law. There was a discussion concerning the legal opinion in regards to the RFP language and a purchase and sales agreement found within attachment #8. The discussion extended to other comments made during the Board of Appeals meeting concerning a potential lawsuit and City Ordinances being silent on this topic other than the building permit was not filled out in completion and Webber was charged far less than what they should have been. Councilor Phillips noted the City Council is using documents provided by the City's law firm that has a cloud over it because of a potential conflict of interest. Phillips felt the information in attachment #8 is virtually useless based on the potential conflict of interest. He felt any further debate and discussion would be useless as nothing is being gained. In the public's opinion this information has been spoiled, based on a conflict of interest. Phillips felt Hamilton's motion to move on and try to get a different opinion is the best way to go and that the City Council should end the debate that is going on. Hudson questioned whether the City Council has the authority to stay the permit, right now it is only an agreement based on Webber stating they would wait 6 months. That agreement does not appear to be in writing. Hudson questioned whether the City Council could stay the permit as it has been issued and it appears to be out of courtesy that Webber is not demolishing the building. Phillips felt Webber would likely allow the stay at least until the City Council can seek a second opinion. Hamilton agreed, whether the City Council can or cannot stay the permit at least taking the action will require Webber to challenge it which will buy some time for the City Council to get another legal opinion. Hamilton hoped it could be done amicably but either way it will buy the City time to move this item forward. Webber has been open to at least letting the process play out and will hopefully give the City Council time to figure this out. Fortier inquired if Hamer could confirm the language of Hamilton's motion meets the requirements of creating finding of facts and then a decision. Fortier wondered if the motion meets the requirements to protect the City if this goes to the next step in court. Hamer noted in this case, the City Council is not making a decision on a permit. The City Council is not required to make findings and decisions; it is appropriate for the City Council to make a motion to get new legal counsel in and reevaluate the situation. Fortier heard the wording stay of the permit within the proposed motion, therefore

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the reason for his question. Hamer was not sure the City Council had the authority to stay anything. Hudson offered a friendly amendment to the proposed motion by stating the City Council plans to table this agenda item until new legal counsel is found. The friendly amendment was not allowed as it was changing the wording of the original motion; the original motion stated to stay the permit. Hudson felt as it was not legal for the City Council to stay the permit she was recommending the motion be changed to allow time to retain different legal counsel. Hamilton was happy with the amendment if the stay has no basis. Blanchette asked Hamilton if he was willing to withdraw his motion. Blanchette would be more comfortable if Hamilton withdrew his motion rather than accepting the friendly amendment so that Hudson could provide the complete motion. Hamilton agreed to withdraw his motion. Hudson moved to readdress this in a time that gives us time to seek additional legal counsel and come back to this in a more prepared and informed way. Blanchette clarified Hudson would like to table item number 17. Hudson stated yes; however, for those reasons. Fortier noted technically the wording should be delay action on, compared to table which is meant for when an item is placed on the table for the evening and then brought off the table or acted on in the same meeting. Fortier offered the friendly amendment of, to delay action on this to give City staff enough time to retain the services of an independent legal counsel to advise the City Council on this matter in an appropriate way. Cole clarified it is the position of legal counsel tonight that their participation up to this point has not constituted a conflict of interest. If this topic moves to litigation they could not be involved with the two clients. It would be appropriate at this point to bring in outside legal counsel.

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

***RESOLVED to approve delaying action on Council Order #111810,
Consideration of the City's options in conjunction with the Ticonic Property to
give City staff enough time to retain the services of an independent legal counsel
to advise the City Council on this matter in an appropriate way. Further, the City
Council will seek cooperation from Webber to continue to delay the demolition
pending the City Council's ability to consult with legal counsel.***

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Before a vote was taken on the above motion, it was clarified the motion is to approve delaying action compared to tabling the item; therefore, Hamilton added a friendly amendment. He asked for language to be added that states the City Council will seek cooperation from Webber to continue to delay the demolition pending the City Council's ability to consult with legal counsel. Hamilton would like to see that commitment obtained from Webber; that is the missing piece for him. Hudson accepted the friendly amendment from Hamilton and it was seconded by Moore.

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

Council Order #111811, Discussion on Budget and Planning. (Sponsored by Councilor Hamilton)

Councilor Hamilton brought this item before the Council in preparation for the upcoming budget process. He recognized the City of Ellsworth is growing, which causes many competing demands, as the City Council tries to set priorities. Some larger considerations are the pieces of equipment that are aging and starting to fail. The EMS issue will be a topic of discussion soon and that will not come without a cost. The concern for additional firefighters has also been raised. Hamilton noted there is a lot happening in the City of Ellsworth including new development; however, with development comes the expectation for the City to carry out the services and meet the needs of the citizens. See attachment #9 for the complete presentation. Hamilton noted there are competing demands and pressures for the dollars that are available. The end result is the City ends up trying to solve acute issues because something comes up and then financial resources are diverted. It was noted the City has been looking at items in isolation or silos; requests come forward to the Council in silos and then a competing request will come forward then a disconnect happens. Disconnects are happening with the Council in terms of where the Council should go with those requests. There are competing demands in terms of the community and residents wondering what is happening, where the City is going, as well as being able to weigh in on all of those aspects. Hamilton believes one of the ways to get out in front of these concerns that would be very beneficial is to approach this process a little bit differently. To build it from the

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ground up, understanding what we have in the City, what are the positions we have in each area (department/service), what are the needs that have been identified currently for each service or department in terms of capital items, and where do we need to make investments. Once this is all determined, that information can be taken in and used to start prioritizing, planning and budgeting. Otherwise, one of these years the City will face extreme costs and the way Cities address increased costs is to increase taxes. Hamilton proposed forming an ad-hoc committee that would include a citizen representative. A process will be used starting now leading up to the budgeting cycle. The Committee will look at those items, develop a capital plan, and then by the time a budget is actually created there will be a discussion on priorities. Those discussions will include identifying the resources and items that are needed as a City moving forward. This will be looked at beyond just next year, out as far as year four. Through this process it will start to include items the Community is invested in and understands. Some of these goals may be reached quicker, such as where are we going to house our public service structure and what is the future of EMS. There will not be answers until there is an overall plan around that. Hamilton brought this proposal tonight to see if there was some way this type of process could be developed. Councilor Hudson felt this was a fabulous idea. This topic has been discussed for a few weeks; she would also like to look at a 5 or 10 year plan as well. Particularly, the capital plan needs to extend out further as those items such as the equipment needs are more expensive. Hudson recognized accidents will happen, wear and tear will always have to be considered; however, based on the experience the City has it can be identified with a lot of accuracy when these repairs and purchases will need to happen. The goal is to work on having the funds available for the items you cannot avoid taking care of, such as emergency situations. Hudson feels in the past because there has been a fairly fixed budget, when an emergency has happened, money has been lost for roads, new trucks, and other items. Since emergency situations must be dealt with at the time they happen, a contingency plan needs to be created so that the funding will be available when those situations happen. This will help prevent the funding being taken away from the capital improvement plan. Councilor Moore noted what Hamilton has proposed is long overdue. Moore noted there is another ingredient missing which Councilor Beathem used to discuss and that is commitment. It is great to design a plan but then you need to be committed to it. Moore reiterated this is long overdue and the citizens of Ellsworth deserve having a Council that is

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willing to take this step forward. Councilor Fortier applauded Hamilton for bringing this proposal forward and suggested this is not a new concept. Every Department Head has a capital plan and long term plans which are submitted to the Management Team (Finance Director, Deputy City Manager, and City Manager) who then review those plans to create a very robust capital improvement plan. This keeps getting expanded on as the City moves forward. Over the years the fund balance has been increased up to 15% and 20% to take care of the issues that are sudden and severe. Fortier noted the process used in the past has not been called the same thing as what Hamilton is referring to it as. In the past, there has not been much Council and Public input included: much of the financial planning and budgeting has been on the staff level. Fortier did not see a problem with bringing more parties on board with the planning. He just wanted to note a matter of the staff not doing this already; however, it has been staff creating this information in preparation for the budget that the City Manager at the end presents to the City Council. What the City Council receives is the City Manager's recommendation based on the bigger picture after deciding on what to present to the City Council, as their best positive budget. Within the recommendations are the items that have been cut out. Chairman Blanchette noted an unknown will be developing technology; it is hard to predict what will be available in the future. New advancements could not be included within a long range plan. Blanchette applauded the initiative demonstrated by Hamilton; however, it will still need to be realized that there will be items that come up that just are not around today. Hudson noted new items to the market can become a planned purchase through the budgeting process. There are some purchases such as trucks that can be planned for, long term. Moore stated this process will take time to organize and recognized the staff does a tremendous job putting the budget together; however, everything needs to be put together and reviewed over time to ensure it is working successfully. Blanchette agreed with setting up an ad-hoc committee with a citizen representative. David Cole, City Manager stated from a staff level this conversation is very welcomed and helpful. Cole noted this will only work if there is predictable funding (as was already mentioned this evening) to back the plan up. As was also mentioned this evening, competing needs throughout the year are often due to items breaking which require immediate financial action. The only way to handle those concerns is a predictable long term plan that deals with items orderly, systematically, and properly funded. Cole noted the only way for this plan to be

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successful is a commitment on all sides. Hamilton recognized the commitment on the staff level in creating successful budgets; his main point is the prioritization, the community seeing what the City is looking at, and how we are going to get there. Some of the items that are being discussed include looking at more than just one of accomplishing something. Outside of the context of looking at it from a financial impact, the City is going down a road in terms of trying to accomplish something, and may make a decision not to complete something because the way that has been identified is too expensive; however, it has been identified as a need. He felt this is an opportunity to complete the prioritization as a community. This is not about what has already been happening, this concept is about enhancing that process and adding involvement beyond what is currently happening. Fortier recommended starting this process by giving Cole goals; for example the items the City Council would like to see happen in Ellsworth over the next five years. He noted there have been general discussions; however, does not remember setting specific goals and priorities. It is very difficult to evaluate Cole against nothing. Setting goals that the Council would like to see achieved would also be helpful to the process. The financial picture would be one of the goals. This would be helpful during the evaluation process for determining if he met the goals in the future.

Discussion only, no action was taken or required this evening.

Council Order #111812, Request of the Information Technology Systems Administrator to sell surplus property (servers).

See attachment #10 for the complete request. There was no discussion prior to a motion being made and seconded.

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

RESOLVED to approve Council Order #111812, the request of the Information Technology Systems Administrator to sell surplus property of servers by sealed bid.

Approved - Council Order #111812, the request of the Information Technology Systems Administrator to sell surplus property of servers by sealed bid.

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Before a vote was taken on the above motion, Councilor Fortier stated he felt the information provided in attachment #10 was very complete and easily understood by the general public. Fortier noted this is surplus property and should be sold.

A vote was taken with all members voting unanimously in favor.

Council Order #111813, Request of the Finance Director to withdraw \$2,400 from the Police Forfeiture Account to go towards the purchase of the Power DMS Software System, 20 tourniquets, and holders.

Glenn Moshier, Police Chief explained this funding comes from assets seized through drug forfeitures and the funds are earmarked specifically for equipment purchases for the Police Department. The funds are designated by State Law for equipment purchases only. Moshier stated he is requesting the funds be placed in an account; one account is being coupled with funds received through a \$2,000 Walmart grant for the purchase of Power DMS. Power DMS is a computer program that will help the Department better manage their policies, procedures, training records, as well as other tasks. This program will also aid the Department in reaching their goal of gaining accreditation with the Maine Chief of Police's Association in the next year or two. The total cost of the software is \$3,200. The other funding which is approximately \$1,200, will be deposited into a separate account for the purchase of tourniquets and hard holders for the officer's to carry on their gun belts. The Department currently has tourniquets available to the officer's in much larger packages that contain other first aid equipment as well. That equipment is generally in their patrol bags or applied to the tactical vests. This will be a tourniquet that can be carried on their person in the event they need to use it for their own self- preservation or to save someone else's life. Councilor Fortier applauded Moshier for looking at this program; he provided an overview of the Nation-wide program of 12 to 1 To Stop The Bleed. As the public reviews this program everyone should be safer. Chairman Blanchette stated he is fully behind this program; he originally thought it was only to help the public in an emergency but now realizes it could be for self-preservation of the officers.

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

Approved - Council Order #111813, Request of the Finance Director to withdraw \$2,400 from the Police Forfeiture Account to go towards the purchase of the Power DMS Software System, 20 tourniquets, and holders.

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**RESOLVED to approve Council Order #111813, Request of the Finance
Director to withdraw \$2,400 from the Police Forfeiture Account to go towards the
purchase of the Power DMS Software System, 20 tourniquets, and holders.**

*Council Order #111814, Request of the Solid Waste Committee to modify the City's
recycling program to better align with current market conditions.*

Tammy Mote, Deputy City Manager explained there have been some significant changes in the recycling market. The City's recycling program needs to be adjusted to reflect the changes within the market. See attachment #11 for the complete explanation and details. The recycling revenues have always been volatile and cyclical. However, recently there have been some significant changes in the market as a result of the Chinese import issues and their government initiating major pollution control initiatives. These are impacting global recycling markets and causing declining revenues from the sale of recyclables. Many municipalities are now eliminating their recycling programs altogether because they are unable to sell the recyclable materials and paying tipping fees to dispose of the materials. Based on these changes, the Solid Waste Committee has met several times and is recommending modifying the recycling program by eliminating glass #3 - #7, plastics, and possibly boxboard. Mote provided a brief history concerning the City receiving glass from the residents and then shipping it to other municipalities to use as fill. They are no longer accepting that material, resulting in the City disposing of that material with the other municipal solid waste (MSW) in the compactors. The City currently mixes the boxboard with the cardboard loads to be sold to the mills; now they are accepting clean loads of US corrugated cardboard only. The City could increase the bale load by \$2.00 a ton if they remove the boxboard. The City currently contracts with Acadia Disposal District (ADD) which is a quasi-municipal, non-profit corporation made up of five island towns. ADD coordinates solid waste disposal and recycling within those towns. The City receives \$26,000 from ADD as well as 20% from the sale of their recyclable materials. This revenue helps to offset the costs associated with employing a recycling center attendant. Attachment #11 includes two years of recycling tonnage and revenue figures. The average over the past two years was 178 tons of cardboard, 115 tons of newspaper, 15 tons of all plastics, and 6 tons of tin. If the changes within attachment #11 are approved tonight, City staff will notify residents of the changes to the program by

**Approved - Council
Order #111814,
Request of the Solid
Waste Committee to
modify the City's
recycling program to
better align with
current market
conditions. This
includes eliminating
all glass, boxboard,
and #3 - #7 plastics,
as of February 1,
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using multiple communication channels including the City's website, TV station, Ellsworth American, Facebook, posting at City Hall, Transfer Station, Recycling Center, and a mass mailing to the residents. Councilor Hudson recognized it will be upsetting to residents to learn some recyclable materials will no longer be accepted; however, it is important to understand that if the City accepts those materials they will not be recycled. Those materials will end up in the landfill as a result of not having a recycling market for those materials. Fortier noted it would be too expensive to take the material to Eco-Maine. Mote added there have been discussions with ADD concerning these changes; they are comfortable with making these changes, and notifying their residents. Chairman Blanchette noted the system used currently at the Transfer Station is based on the honor system; he asked how the City plans to enforce and educate the public about what materials can be recycled. Fortier noted that piece of the situation is his concern with setting January 1 as the start date. He does not feel that is an adequate time to educate the public and ADD communities. Fortier will be asking for staff to extend the date if it doesn't appear we will be ready. Lisa Sekulich, Public Works Director noted many residents do not understand that even if the material is recyclable it may be discarded due to contamination. In order for the product to be recycled it must be clean of any residue. The education process will include the importance of it being a clean container as well as which materials can be recycled. There have been discussions concerning having a volunteer or paid employee working at the Transfer Station for the first few weeks educating the public on the new process. Another component will be updating all the signage and labels above the disposal areas at the Transfer Station. Blanchette noted a key component to the education piece will need to include alerting the public that items such as a child safety seats, which are not recyclable materials cannot be left at the Transfer Station because it ends up in the trash compactor. He wondered how the City could stop items such as that being left by well-intentioned residents. Sekulich felt the staff at the Transfer Station may be able to deal with those types of items being left. Last year there were a lot of staff changes at that location. Hudson noted the City could stop spreading the message that it is a place for exchange of items. There is currently a wall of books located at the Transfer Station that encourages residents to trade and swap items at this location. Hudson mentioned there are places designed for that activity in the City; however, this is likely not the appropriate place for that. Unless that is the type of activity the Council would like to encourage at that location; it

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: NOVEMBER 19, 2018

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BLANCHETTE, FORTIER, GRINDLE,
HAMILTON, HUDSON, MOORE, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
LISA SEKULICH, KELLY HERRICK, JENNIFER MERCHANT, MICKI
SUMPTER, GRETCHEN WILSON, DWIGHT TILTON, GLENN MOSHIER,
BERNIE HUSSEY, RICHARD TUPPER, GARY SAUNDERS, DARYL CLARK,
JOHN WEDIN, MANY PAID ON CALL FIREFIGHTERS, JOHN HAMER
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will bleed over to items that cannot be exchanged. Hudson felt if the Transfer Station is set up for a recycling center only and the only business conducted at that site is recycling then residents will be less likely to leave unaccepted items. Fortier noted walk in traffic is very good compared to the materials being delivered on the packers from the Island. The packer of plastics from the Island (ADD) may have a swimming pool, plastic container full of product, or other plastics that are not approved recycling materials, the education piece must go further than just Ellsworth. If material is rejected from the packers, the material is weighed and placed in the compactors, a bill is then sent to ADD to cover the expense. However, if that material is left at the Recycling Center, then the additional expense is absorbed by the users of the facility. Fortier stated education will be key. Possibly an intern from the College of the Atlantic would be interested in assisting the City for a few weeks as part of a project involving monitoring and educating the public. Hudson wondered if they may have ideas on how to improve the program as well. There may be sources out there that the City has not considered before. Nicole Grohoski, State House Representative (Elect) and resident of Ellsworth thanked the Council for entertaining this topic and especially the Solid Waste Committee for researching what is really difficult for the entire Country right now. She suggested not doing a mass mailing as that will cost the City money for postage and there will not be a place to recycle that material. Grohoski recommended more signage or to hang a banner, as well as considering other large ways to educate the public. She also mentioned the High School has a Green Action Team or Club which may be a good resource if the City is looking for volunteers. Grohoski considered the long term cost associated with the heavy glass being added to the compactors and then shipped to the PERC Plant where she did not believe glass burns, it is likely crushed and used to cover the landfill. She wondered in light of that additional cost to ship the glass would it make sense for the City to crush the glass locally and use it for fill.

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

RESOLVED to approve Council Order #111814, Request of the Solid Waste Committee to modify the City's recycling program to better align with current market conditions. This includes eliminating all glass, boxboard, and #3 - #7 plastics as of February 1, 2019.

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HAMILTON, HUDSON, MOORE, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, TAMMY MOTE,
LISA SEKULICH, KELLY HERRICK, JENNIFER MERCHANT, MICKI
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Councilor Fortier offered a friendly amendment to include an as of date. If the motion is passed as stated it starts today. Fortier offered February 1, 2019 as the date to allow time for education. Phillips approved the friendly amendment of February 1, 2019 and Moore seconded it.

A vote was taken with all members voting unanimously in favor.

Executive Session to discuss labor contracts in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6D.

**Removed –
Executive Session.**

David Cole, City Manager stated this item and the next one were placeholders just in case action was needed. After consulting with legal counsel prior to the meeting this evening, this item and the next one are not needed. Fortier removed his motion to enter executive session.

Council Order #111815, Discussion and action on the item from the executive session.

**Removed – Council
Order #111815.**

Not needed this evening; removed from the agenda this evening.

Adjournment.

**Approved –
Adjournment at 9:35
PM.**

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

RESOLVED to approve adjournment at 9:35 PM.

A TRUE COPY

ATTEST: _____
HEIDI-NOËL GRINDLE