

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
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In accordance with An Act To implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, as enacted to read: Sec G-1 1 MRSA §403-A Public proceedings through remote access during declaration of State of Emergency due to COVID-19, the meeting will be held live at 1 City Hall Plaza in the City Hall Council Chambers with only the allowable number of participants according to the Governor’s executive orders. Citizens may email questions and public comments on the public hearing agenda items as well as other items this evening to Chair Dale Hamilton at dhamilton@ellsworthmaine.gov prior to and throughout the duration of the meeting. The meeting will be broadcast live on the City of Ellsworth, Maine Facebook page and YouTube Page; as well as recorded and made available live on Spectrum Channel 1303.

Facebook: <https://www.facebook.com/ellsworthme>

YouTube: <https://www.youtube.com/c/CityofEllsworthMaine>

Call to Order.

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

Pledge of Allegiance.

All stood for the pledge of allegiance.

Rules of Order.

The meeting was conducted under Robert’s Rules of Order and other rules adopted at the November 9, 2020 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:

- *September 21, 2020 Regular Council Meeting.*
- *October 19, 2020 Regular Council Meeting.*
- *October 29, 2020 Special Council Meeting.*

Call to Order.

Pledge of Allegiance.

Rules of Order.

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

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- *November 6, 2020 Special Council Meeting.*
- *November 9, 2020 Organizational Meeting.*
- *November 19, 2020 Special Council Meeting.*
- *December 2, 2020 Special Council Meeting.*

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

RESOLVED to approve adoption of minutes from the following meeting (s) of the Ellsworth City Council: November 6, 2020 Special Council meeting, November 9, 2020 Organizational meeting, November 19, 2020 Special Council meeting, and December 2, 2020 Special Council meeting as presented this evening.

City Manager's Report.

Glenn Moshier, Interim City Manager announced City Hall will be closed on December 25 and January 1 in observation of the Holidays. City Hall will be closed at noon on December 24 so that employees can enjoy a small COVID compliant holiday gathering at City Hall. Moshier thanked all the businesses and local citizens who supported the No Shave November campaign that the Ellsworth Police Department held last month. Through those efforts, \$14,780 was raised and then donated to Captain Bobby Dorr of the Ellsworth Fire Department. Dorr is currently battling cancer. A special thank you was extended to Amie Torrey (Ellsworth Police Officer) and Jennifer Robidoux (local resident) who combined their efforts to expand the fundraiser and thus make it a huge success. Moshier executed the two solar agreements with Sunrays today. He thanked the Committee members for their diligence on this project.

Committee Reports.

- *Historic Preservation Commission* – Councilor Miller stated during this meeting the Commission inquired if there were any preliminary drawings for the pedestrian and bike path at this time.
- *Recreation Commission:* Councilor Miller noted the ice skating rink should have been installed today. The concern with the trees touching the flag at Whiting

6, 2020 Special Council meeting, November 9, 2020 Organizational meeting, November 19, 2020 Special Council meeting, and December 2, 2020 Special Council meeting as presented this evening.

City Manager's Report.

Committee Reports.

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Park was discussed; a motion was approved to contact a tree service to provide recommendations concerning this project.

➤ *Harbor Commission:* Councilor Lyons attended the Commissioner’s meeting. This was his first time attending as a Council representative. There is an agenda item later this evening that addresses the discussions held during the Commission meeting.

➤ *EMS Services Committee:* Councilor Kaplan stated the Emergency Medical Services Committee met during this past month. The meeting covered establishing an agreement with Northern Light Emergency Medical Services. The goal is to design a document that is better for the City of Ellsworth; as well as the possibility of moving toward the City owning its own ambulance. Nothing concrete has been approved or decided upon at this time.

Citizens’ Comments.

Citizens’ Comments.

Chair Hamilton extended appreciation to Thelma Beal and Kelly Cochran. Thelma has been coordinating the Christmas Parade for many years. Given the uncertain conditions relating to COVID guidelines this year it was exciting that the parade was a huge success. Even with the down pouring rain there was a non-stop line of vehicles viewing the floats the entire time the parade was setup. A New York Times photographer was present at the parade and submitted their photos to the paper; Ellsworth parade was pictured in the New York Times.

Kelly Cochran sent an email to Chair Hamilton, this was read into the record. “I would like to give a round of heartfelt applause to those who participated in the 40th annual Christmas parade. To say the conditions were less than ideal is an understatement. Thank you for showing up and making spirits bright on a soaking wet gray day. Your smiles, waves, and wishes for a Merry Christmas embody the spirit of the season. Thank you for sharing with the Community.”

Elizabeth Arntzen sent an email to Chair Hamilton addressing the search for the future City Manager. The email was written on November 20, 2020 and emailed to Hamilton with a request to be read into the record at the December 21, 2020 Council meeting. “Dear Councilor Hamilton and future City Manager this week’s Ellsworth American reports there are a number of applicants for the positions of

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City Planner and City Manager so this letter comes at an opportune moment in the process. On the front page of the Ellsworth American (EA) on October 29, 2020 Interim City Manager Moshier is quoted as saying at this time of year there is not a lot coming in front of the City Planning Board, so we have time to find the right person. In that EA and the EA weeks prior there have been multiple news articles about more than one solar farm, note that solar farms fall under city planning. Who would be the right person to be city planner? Someone who is highly trained in planning issues and procedures, has written and worked with multiple comprehensive plans, someone who communicates with city residents, who communicates with groups that are bettering the community, someone approachable, and someone with great ideas based on best practices experience. Someone like Theresa Oleksiw; the EA reported that she chose to resign. I have reason to believe she was fired in part for talking in the community about the Comprehensive Plan and the City's best choice would have been to rule in the favor of the good of the City instead of letting her go. One choice could have been to move the responsibility for the City Planning position out from under Economic Development to directly report to the City Manager. Moving the City Planner's position into its own department needs to be a priority before the position is filled because economic development is only one part of city planning. City planning is more overarching, covering more topics, and issues than just the sector of economic development. The City Council needs to fully investigate why and how the City Planner was dismissed. Many residents and business owners are recorded as wanting to see the City progress and be successful. Advised by a comprehensive land and more open city government. Once it is determined how it happened that a highly qualified experienced planner with enthusiasm and vision was let go, we need to create an environment in city government and City Hall that welcomes new ideas resulting in hiring a City Manager for Ellsworth's future as well as a professional City Planner in a stand-alone department directly reporting to the City Manager." Arntzen asked for a comment/response. Hamilton did respond to the email earlier stating as far as personnel matters are concerned the City Council is not responsible for those. The City Manager handles those types of issues. In regards to the Comprehensive Plan, that has been a subject of discussion. Janna Richards, Economic Development Services Director has brought that concept to the City Council's attention and it is being discussed in terms of updating that Plan. COVID has caused a delay in moving forward with that effort; this will be a very involved process that needs the input of the Community. Under the current restriction this would be very difficult to achieve. The Comprehensive Plan has

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been discussed many times and is not a topic being purposely avoided. The concept of updating this plan is very much supported.

Presentation of Awards.

Shawn Merchant, for 5 years with the Ellsworth Police Department.

Shawn Merchant was present to accept his service award from Chair Hamilton on behalf of the Ellsworth citizens.

Richard Fortier, for 45 years with the Ellsworth Fire Department.

Richard Fortier was present to accept his service award from Chair Hamilton on behalf of the Ellsworth citizens.

Special presentation by Chair Hamilton.

Richard Tupper, Fire Chief was presented a plaque for his 35 years of distinguished and devoted service to the Ellsworth Fire Department, upon his upcoming retirement from the City of Ellsworth.

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 #122000, Request of the Harbor Commission to appoint Patrick Downey as a member to the City of Ellsworth Harbor Commission, term to expire on June 30, 2023. **

**Presentation of Awards.
Shawn Merchant – 5 years with the Ellsworth Police Department.**

Richard Fortier – 45 years with the Ellsworth Fire Department.

Richard Tupper – Retirement after 35 years of service.

Unfinished Business.

Consent Agenda.

Approved - Consent agenda as presented this evening.

Approved – Patrick Downey as member of Planning Board. Term to expire

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

6/30/2023.

RESOLVED to approve the consent agenda as presented this evening.

NEW BUSINESS

New Business.

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

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

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

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

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

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

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

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

Public hearing was opened.

There were no comments.

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Public hearing was closed.

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

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

Presentation on Covid Vaccine Education. (Sponsored by Councilor Miller)

Councilor Miller and members of the Northern Light Medical team provided some education to the community. The goal is to extract this information from the recording of the meeting this evening and post it on the website so that the public can access it after tonight's meeting. See attachment #0 for the power point presentation. Miller introduced himself and provided his credentials as they related to this topic. Miller's presentation educated the public on how the vaccine works, where they could seek answers to their questions, or make informed decisions on this topic. He was trying to remove some of the fear and misinformation surrounding the vaccine. The research associated with this method of delivering vaccines (mRNA) is not new in terms of research; this method of delivery was discussed at a Boston conference in 2016. Miller was aware of research on this topic as far back as 2010. This vaccine cannot cause an infection or make someone sick with COVID 19; there are no contraindications to receiving the vaccine. There is very little chance of being allergic to the vaccine; there have been a few reactions so far out of thousands that have been given. Although the chances are low for an allergic reaction, there is a warning advising anyone who has had anaphylaxis in the past should receive the vaccine and wait 30 minutes with a health care professional before leaving. Typical vaccines for viruses are made from a weakened or inactivated virus; however, neither of these vaccines are made from the COVID virus; they are made from messenger RNA or ribonucleic acid. This is the genetic code that tells cells how to make a protein after the spike protein is made; it will help the body's immune system make antibodies to fight the virus. Both vaccines are approximately 95% effective. COVID 19 vaccines went through the same rigorous safety assessment as all vaccines do before the food and drug administration authorizes them for use in the United States. The safety assessment included large clinical trials and data review by a safety monitoring board. In his opinion, this method is likely the way vaccines will be created in the future. A

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technical explanation was provided on the COVID virus and how it works within the human body. The spike proteins have been duplicated and turned into a vaccine. This vaccine cannot give a person the coronavirus; this is a small piece of messenger RNA encased in a lipid nano layer or fat cell; it then tells the cells to make the spike protein only. The messenger RNA does not last long in the human body; it is very fragile and cleared very rapidly. Encasing the messenger RNA in a lipid nano layer allows it to enter the human body and complete the job before it is destroyed. The vaccine enters the cells and tells them to produce the spike protein; the messenger RNA never enters the nucleus and does not impact your DNA. The cells produce the coronavirus spike protein which produces antibodies and triggers the T-cells to destroy the coronavirus spike protein. The vaccine is cleared so fast from the human body that it does not require two vaccinations to raise the level of immunity high enough to protect the patient. The vaccine becomes fully effective 7-14 days after the second vaccination. Miller explained if a person is exposed to the coronavirus after vaccination, the person's antibodies and T-cells will fight the virus and prevent the patient from becoming severely ill. Miller listed the most common side effects or immune response reactions. Most people experience the side effects after the second dose rather than the first dose; therefore, it is important for vaccination providers and recipients to expect some side effects after either dose but even more so after the second dose. All of the side effects are the body's normal immune responses to the vaccine and these reactions generally last 24 to 48 hours. Miller provided a list of the Pfizer Biotech emergency use authorization ingredients. The ingredients for the Moderna vaccine was listed within the presentation as well. Neither vaccine contains preservatives or eggs; the vial stoppers are not made with natural rubber latex. Both vaccines are very similar; however, they built their lipid nano layers slightly different. This explains why the storage conditions are slightly different; however, they are basically the same thing. Miller explained the studies being conducted by both vaccination companies to ensure the safety of the products. Links were provided to the CDC presentation, the CDC website for frequently asked questions, slides for the New England Journal article describing the COVID 19 vaccine from Pfizer and Biotech, and the COVE study. A link for the recommendations for pregnant and lactating women was also included in the presentation for reference; in short they are recommending pregnant and lactating women are offered the vaccine.

John Ronan, President of Northern Light Maine Coast Memorial Hospital introduced Dr. Jim Jarvis from EMMC and Dr. Michael Murnik from Blue Hill

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Memorial Hospital. Jarvis is the Medical Director for clinical education and handles most of the media work. Murnik is a Senior Physician Executive and covers some of the service lines at Maine Coast Hospital. Kelly Columbur, Director of Communications was also joining Ronan, Jarvis, and Murnik on zoom tonight. Chair Hamilton asked if Jarvis could explain when the vaccine will start to be distributed and the tiers of the different groups that will receive it. Jarvis agreed with Miller that amazing technology created the first two vaccines as well as they are safe. It is a marvel how the vaccine works using the human biology to assist in fighting this particular virus. It was his opinion, this type of technology will be used in fighting other viruses in the future. All of the vaccine that is currently available in the United States was purchased by the Federal Government, allowing them to control the distribution of it. Three hospitals in the Northern Light system and six total hospitals in the State of Maine received the Pfizer vaccine last week. The Pfizer vaccine requires the ultra-cold temperature and is extremely fragile. Due to the requirement to be kept in that climate, the State of Maine determined it would be limited initially to the hospitals that had freezers on site. Some hospitals may have received the Moderna vaccine, which is the same technology but does not require the ultra-cold temperatures. None of the Northern Light facilities received that vaccine today; however, it is believed they will receive some tomorrow. Once that is received vaccine clinics will be established. Initial decisions at the Federal level was that vaccine distribution would occur in three phases. The first phase would be divided into three classes (a, b, and c). Phase 1 (a) would be healthcare workers, people living in long-term and skilled facilities and the staff that assists them within those facilities. Phase 1 (b) has changed within the last 24 hours, initially it was designed to be essential workers outside of healthcare. This would have been first responders, teachers, people who work in the food supply chain, prisons, and a few other categories. Individuals over the age of 75 were added to this phase yesterday. Phase 1 (c) is for individuals with pre-existing conditions that would make them more vulnerable to the COVID 19 virus and individuals over the age of 65. Phase 2 and Phase 3 (final one) is designated just for the general population. Healthcare workers are currently being vaccinated. The four largest health systems, the Maine Hospital Association, and the Maine CDC agreed that the initial focus needed to be on acute care facilities that take care of patients that are currently positive with COVID 19. Within those facilities to further prioritize based on the likelihood that individuals would come in contact with individuals who are positive for COVID 19. In the case of Northern Light Medical that would be the emergency department, intensive care units, and then COVID protected units

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within all of the institutions. This is not only limited to providers and nursing staff; this also includes the housekeeping staff, food services, as well as others who come in and out of those areas regularly. The laboratory employees are also high on the priority list. The challenges with this vaccine include more intense symptoms after vaccination than is seen with other vaccines. Based on this observation, they are not vaccinating an entire workforce due to the possibility of displaying severe symptoms that keep them from doing their jobs effectively or at all in some cases. A staggered roll out is being conducted, for example many of the departments are not vaccinating more than 25% of the staff at any given time to ensure they maintain an appropriate workforce. Some people have been vaccinated in other departments not listed as an immediate priority because the hospitals have the vaccine and it needs to be used in a timely fashion. The timetable moving forward is very sketchy, the supply chain is known between now and the end of December; however, the supply chain is unknown for January. The distribution centers and manufacturers of the vaccine determine the availability schedule. In the State of Maine they have not seen the same delays in production or lack of the basic elements needed to create those vaccines as have been identified in other parts of the United States. Some of the hospitals have received more of the vaccine than initially expected. Maine's number one industry is healthcare and the second industry is the elderly. Jarvis did not anticipate vaccinating the general public until at the earliest February but it could be as late as early summer, it will depend on the supply chain. Councilor Kaplan inquired where the messenger RNA was obtained. Jarvis explained it was actually recombinant material. He further explained the process or reverse engineering that took place to create the messenger as well as the collaborative effort that was used to make progress in as little as two days. The studies have not been completed yet; both vaccinations were released under emergency use authorization. This basically means they have not gone through the usual rigorous data collection and analyzation and then the analyzing of that data. That process will take months to occur; Pfizer is not expected to have full approval from the FDA until April at the earliest. They received the emergency use authorization because 1) the vaccines appear incredibly effective and safe: 2) there were very few severe adverse reactions in either study population: 3) due to the fact the world is in a pandemic and something was needed to change the course of events. Two additional vaccines are expected to be released very shortly; this may take as long as four months to receive approval. Kaplan inquired about the rumors online that this vaccine is composed of fetal tissue. Jarvis could not comment on how the vaccines are actually made or where they come from. He believed that

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information has been misconstrued from one of the other therapies that is available for COVID 19; specifically one of the monoclonal antibodies study. That therapy initially came from some fetal tissue; this vaccine does not contain anything from fetal tissue or even from research with fetal tissue. This is a manufacturing process that all of the cells within the human body does on a regular basis. Hamilton inquired if the large healthcare systems are in the position of coordinating everything so that the public will hear from those entities concerning which group is next, how this process will roll out, and how the public will know when it is their turn. Jarvis stated at this time it is not defined; it has not even been defined within healthcare. There are still groups such as dentists that have not been discussed and there are also private practices not affiliated with the healthcare system that still need to be included; however, due to the supply chain still being so limited the distribution schedules for these groups still need to be finalized. Within the large health care systems they have shared vaccine with areas they feel it is needed most. Sharing within the larger States is not happening at this point; Maine is lucky to have the network and collaboration systems they do. Vaccines are being shifted to ensure they are doing the greatest good in the shortest amount of time. Kaplan inquired if the length of immunity can be determined. Dr. Murnik stated it is unknown at this point; it is a rapidly developing science. There are still a lot of unanswered questions and recommendations because the studies have not been completed yet to give the vaccines the full release. It is known that great antibodies are generated early on from these vaccines and the hope is they will carry through for a long period of time. It is not known what the long term effects of the disease are and the vaccines are new and the studies are only about a year old. Scientists are working on combination COVID and flu vaccines and so this may be something that has to be administered annually. According to Murnik, these vaccines are particularly good at not being knocked out by single mutations. Human beings are infected by coronaviruses all the time and no single action has stopped that prior to now. It is also know that coronaviruses like influenza are prone to mutations. It is likely this will become an annual vaccine given in the fall of each year. Hamilton wondered if there could be a system put in place to allow the City to be updated on a regular basis concerning what the procedures are, and what advances have been made, so that the City can participate in helping to educate the community.

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Council Order #122001, Request of the Harbor Commission to amend the Harbor

Approved - Council

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SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

Fee Schedule.

Adam Wilson, Harbormaster explained on December 9, 2020 the Harbor Commission voted to recommend the City Council consider approving a ten percent increase to the following Harbor fees: 30' slips, 25' slips, float dock, and the walk-on dock. These are all City-owned structures. This will help the Harbor move closer to being self-sustaining. The increase would equal approximately \$2,267.20 per season in additional revenue. See attachment #1 for the complete request and proposed fee schedule amendments. Councilor Phillips noted even with this increase, the fees are within reasonability compared to other similar facilities. Wilson noted the last increase was four years ago.

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

RESOLVED to approve Council Order #122001, amended Harbor Fee Schedule as presented this evening in attachment #1.

Council Order #122002, Request of the Public Works Director to authorize repair work to the 2016 International wheeler plow truck #44.

Lisa Sekulich, Public Works Director explained repair work is needed on plow truck #44 by Colwell Diesel. This is a 2016 wheeler International truck; it is one of the bigger trucks used for plowing, ditching, and hauling. The truck has been delivered to Colwell Diesel for diagnostics, parts, and repairs to begin. Sekulich gave a very technical explanation on what the original diagnostics showed as being wrong with the truck. See attachment #2 for the complete request. The final cost diagnostics are happening as the repair work progresses. Sekulich is requesting the Council accept a not to exceed amount of \$25,000 for the repairs. There is reason to believe that by reusing some of the pieces, the final cost will come in significantly less than the \$25,000 estimate. The dealer will be discussing the possibility of a good will credit from Navistar International because the truck is literally just out of warranty. This avenue is not guaranteed; however, if any credit is extended it will help reduce the overall cost to repair the truck. A meeting has been scheduled for tomorrow to discuss the good will credit progress as well as a plan of action to repair the truck with Colwell Diesel. Councilor Lyons inquired if the warranty that was in place is a standard warranty for International. Sekulich did research the warranties offered by International and the City had a 9-star warranty

**Order #122001,
amended Harbor Fee
Schedule as
presented this
evening in
attachment #1.**

**Approved - Council
Order #122002,
payment for repair
services for Highway
truck #44 in an
amount not to exceed
\$25,000 to be funded
from Highway
Department General
Fund, Vehicle
Equipment &
Maintenance
(1030300-52032).**

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

on the truck. It is generally a five year warranty because the truck is considered an emergency vehicle; this is not a standard warranty for every truck sold. This is essentially an extended warranty compared to what a contractor might be offered. The unfortunate part is the 2016 truck was purchased in late 2015, so the City's warranty just literally expired. Lyons noted because this truck is used so often these repairs are a necessity. Sekulich is fairly confident the final invoice will be significantly less than the not to exceed \$25,000 figure requested; however, this dollar amount will ensure the truck will be completely repaired.

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

RESOLVED to approve Council Order #122002, payment for repair services for Highway truck #44 in an amount not to exceed \$25,000 to be funded from Highway Department General Fund, Vehicle Equipment & Maintenance (1030300-52032).

Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 34, Personnel Ordinance.

Toni Dyer, Human Resource Manager explained the revisions requested this evening are based on the State's new law that become effective on January 1st regarding earned paid leave. See attachment #3 for the complete request and copy of the City of Ellsworth Code of Ordinances, Chapter 34, Personnel Ordinance containing the proposed amendments this evening. This new law requires every employer with more than 10 employees to provide at least 40 hours of earned paid leave; one hour is earned for every 40 hours worked. Attorney Hamer assisted Dyer with adding these amendments to Chapter 34. Dyer explained the current requirement to use one credit to purchase 5 days of paid leave has been removed. A new employee will receive 5 days paid leave as part of the hiring package. Councilor Blanchette noted since this requirement is becoming law shortly; the City does not have a choice but to approve new language within the Ordinance. Glenn Moshier, Interim City Manager noted the City does have to allow the 5 days to be carried over; however, is not required to pay it out at the end. For example, if an employee were to separate from service with the City; the City would not owe the remaining paid leave time to the employee. The City would allow the employee to carry those days over year to year as long as they remain employed.

Approved - Chapter 34, Personnel Ordinance Chapter 5 as described this evening to accommodate State of Maine legal requirements of earned paid leave, accruals, and usage as requested by the City HR department and with advisement from the City Attorney. See attachment #3A for the clean copy containing the approved amendments.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

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PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

Public hearing opened.

There were no comments.

Public hearing closed.

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

RESOLVED to approve Chapter 34, Personnel Ordinance Chapter 5 as described this evening to accommodate State of Maine legal requirements of earned paid leave, accruals, and usage as requested by the City HR department and with advisement from the City Attorney. See attachment #3A for the clean copy containing the approved amendments.

Councilor Miller inquired if the situation he was discussing earlier with Dyer had been included within the amendments presented or was an adjustment needed to cover that concern as well. Dyer indicated she confirmed with Hamer earlier that the language as presented is correct and complete as written.

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

Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 14, Licenses and Permits Ordinance.

Dwight Tilton, Code Enforcement Officer reminded the Council these amendments were designed to address the concerns voiced with vendors that were in Ellsworth last summer selling lobsters and other products. A few local vendors had concerns that those people were able to conduct business very inexpensively while competing with them for sales. Staff discussions led to realizing there was already language within Section 422 of Chapter 14, Licenses and Permits Ordinance dealing with transient seller licenses. If this section were to be utilized it would basically cover all of the circumstances stemming from the vendors coming to Ellsworth from outlying towns and selling lobster, blueberries, or any other product while set up on private property for a short period of time. This will increase the fee from \$10 to \$110; however, this would still be very reasonable compared to renting a location and paying personal property taxes. This license will be good for 30 days whether that is 30 consecutive days or 30 days scattered throughout the

**Approved - Tabling
action on
amendments to the
City of Ellsworth
Code of Ordinances,
Chapter 14, Licenses
and Permits
Ordinance as
presented this
evening.**

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

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PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

year. The Code Enforcement Department will track those days; for an additional \$110 this license can be extended for 30 days. See attachment #4 for the complete request and sections of the Ordinance being considered for amendments this evening.

Public hearing opened.

There were no public comments.

Councilor Kaplan inquired if there was a designation beyond how the ordinance reads in regards to any merchandise, cooked food, raw food, or service, provided in a location other than their own place of business. Kaplan was concerned how this language would apply to the Girl Scout cookie sales, mobile vendors selling meat packages, and other similar vendors. Tilton stated the only part of that section that was actually added was the language concerning food cooked or raw. The sale of any merchandise has always been in the Ordinance. Tilton suggested an amendment could be included to exempt non-profits, if the Council so wished. Chair Hamilton inquired if this amendment would have any impact on the farmer's markets. Tilton stated they would be exempt. Tilton clarified this language would apply to someone producing a product from outside the community, bringing it to Ellsworth, and selling it from the street corner or private lots; not on public property. Farmer's markets are licensed through the State of Maine which has a whole different process for licensing.

Public hearing closed.

Councilor Miller was not comfortable with the amended language as it related to charging a vendor from outside of Ellsworth \$110 to sell blueberries or potatoes. Miller felt this language would be discouraging business from coming to Ellsworth and he did not like that at all. Glenn Moshier, Interim City Manager clarified the goal of the language was not to discourage business. It was to protect the businesses located in Ellsworth, pay taxes to Ellsworth, and protect them from vendors located in other towns coming to Ellsworth and selling products out of their vehicles. This takes revenue away from businesses established in Ellsworth, have storefronts, pay a significant amount of taxes to support their business. The vendors impacted by the new fee are coming from outlying communities, setup in a parking lot, sell several hundred dollars of product, and then leave Ellsworth. The

**RECORD OF REGULAR MEETING
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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

goal is not to deter business from coming to Ellsworth but more to protect existing businesses and make the fee to vend a product a little more equal. Miller saw vendors coming into Ellsworth to sell their products out of a vehicle initially as a way to build their business; he felt this language would be kicking the little guy. Kaplan stated she would feel more comfortable if the language addressing how non-profits would be handled was in writing. Tilton explained if a person is selling garden products (potatoes, vegetables, apples, etc.) from their own property they are not required to get a City license. If a person sells those same products out of a vehicle in a parking lot, this new language requires a \$110 fee. Tilton encouraged the Council to offer suggestions regarding amended language. The organized farmer's markets are licensed through the state and a list of the different vendors within the market are provided to the state licensing board as part of that licensing process. Chair Hamilton inquired if this fee distinguishes between vendors selling for only one Saturday opposed to selling for 30 Saturdays throughout the summer. The \$110 fee is regardless of whether they are going to sell for one day or 30 days throughout the year. Hamilton was wondering if language could be included for situations where a person would like to sell for one day only which causes less of an impact than someone who will be selling a product every single weekend. Hamilton would be more likely to support language that requires them to pay a little more because they are establishing a business for a longer period of time versus someone who is selling for a couple of days surrounding a particular harvesting season. Miller seemed more receptive to language that Hamilton was suggesting. Moshier stated part of the difficulty associated with that type of language is the policing of that practice. In most cases when a vendor just shows up it is on a weekend and the Police would meet with them and collect the \$10 fee for the Code Enforcement Department. It became difficult to track these vendors down to get the contact information because they are very transient in nature. Often the same vendor will be at a different location within the City on different days throughout the week. Moshier stated it is difficult to enforce when they are operating on a day to day basis with no clear plan; although it is still possible to consider language that would address that situation. Kaplan inquired how this wording would apply to door to door salespeople, Schwann's sales, the ice cream vendors because they are transient and do not have an established business within Ellsworth; however, they are well established outside of Ellsworth. Tilton recognized that was a good question and he did not have an answer prepared this evening. The request to provide amended language came about because some of the local businesses felt threatened by these vendors being allowed to setup in the City and not pay rent.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
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SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

Most businesses are happy to accommodate them because it draws business into their parking lots and possibly their business. The City has operated this way for 14 years with no issues; however, with COVID came about this concern. The request was to suggest a fee that would be fair but would also protect the established Ellsworth business taxpayers. Tilton is willing to make any suggested amendments to this ordinance or his office is willing to leave it as it currently reads, depending on the wishes of the Council. It was explained that the current ordinance already has language that exempts businesses that sell by catalog for future delivery. Ice cream trucks that vend ice cream through a mobile truck are licensed under the current ordinance. Miller explained a lot of fisherman were selling their products online and then meeting customers in the parking lot for delivery. This type of arrangement should be handled under Section 422 (D) of the current Ordinance. Hamilton recognized there was more work to be done if it were the desire of the Council to move forward. It was suggested the item be tabled and revisited at a future date.

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

RESOLVED to table action on amendments to the City of Ellsworth Code of Ordinances, Chapter 14, Licenses and Permits Ordinance as presented this evening.

Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 23, Noise Ordinance.

Dwight Tilton, Code Enforcement Officer explained this request came about last year when there were several complaints concerning live music and noise from other objects at different businesses throughout the City. The only way Tilton found to address the situations with the two parties involved was to use a sound meter. The property owner was upset with that solution because the Ordinance does not allow for the use of a sound meter. After discussing this situation with Glenn Moshier, Police Chief it became clear the existing Ordinance leaves the discretion up to the Officer responding to determine with their own hearing whether a noise is too loud or not. See attachment #5 for the complete request and sections of the Ordinance being considered for amendments this evening. Tilton purchased a sound meter which worked out very well in demonstrating to the neighbor that the mixture of different sounds did not exceed the allowable noise level. Tilton

**Approved -
Amendments to the
City of Ellsworth
Code of Ordinances,
Chapter 23, Noise
Ordinance to allow
the use of a meter as
presented this
evening within
attachment #5.**

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
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SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

recommended this amendment because it provides a definitive way to measure the offending noise and would remain consistent no matter who was responding to the complaint.

Public hearing opened.

Councilor Lyons was concerned about how these amendments would apply to construction vehicles as well as logging trucks, and cement trucks trying to complete projects in between the seasons while the roads are posted. Lyons was not in support of a change that would stop businesses from being able to work during various hours to complete projects. Tilton explained the requested amendment would not address the section of the current Ordinance that Lyons was referring to. The proposed amendment would only apply if a Police Officer felt they needed to use it. The sound meter would not be used to monitor a particular vehicle noise; the Ordinance already addresses construction work can take place between 6 AM and 10 PM. There have been very few complaints followed up with concerning logging trucks and running chippers at midnight. This amendment applies to noises being created by a neighbor or a neighboring business and not really industrial commercial equipment. Lyons suggested rewriting that section to include language explaining the meter applies to music rather than trucks driving through Ellsworth or construction vehicles working on a project. Kaplan noted the Ordinance states the noise cannot be at a level above 90 decibels for more than 30 minutes. Councilor Phillips clarified this amendment will allow the Police Officers and Code Enforcement Officers to carry a meter to measure the noise levels and have a tool to make the situation very objective rather than arriving at the site and trying to use their personal judgement to make a decision. This will make the decisions consistent among all offending noises. Moshier confirmed the Police Department frequently deals with similar noises as Lyons was describing; however, when residential zones are combined with industrial zones often random noises are the most bothersome. The noise meter will enable the Police Department to have more consistency when responding to the same noise complaint. This is generally the case when a different officer gets called to the same noise complaint. This will take away the individual's decision making opportunity and provide them a concrete way to determine the noise falls within the allowable noise level or not. The Officer would still have discretion as to what action is taken. In most cases the Officer will meet with the source of the noise and together they will come to an acceptable decision on how to address the noise. The sound meters will be

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
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particularly helpful in dealing with nuisance type noises, sounds that are ongoing issues, or noises the Police Department receives constant complaints about; the meter would just be a tool to determine if the Ordinance needs to be enforced or not.

Hamilton read into the record two comments from Jon Stein, owner/manager from Fogtown Brewing Company. First, would Downtown businesses be given information to help them navigate the new Ordinances? 2) Could Downtown businesses request testing be performed at their businesses to be sure they are in compliance? Tilton confirmed this request could be accomplished by providing them a copy of the Ordinance and testing their place of business upon request. The second comment was in light of Ellsworth's strategic goal to move toward with more downtown walkability, increasing the downtown community, and tourism based on how popular outdoor dining and shopping have become during the pandemic; he wondered if the City had considered an Ordinance against large vehicle engine brakes on Main Street. Large log trucks, and construction vehicles can be very disruptive. Stein recognized these trucks are not the main concern of the Ordinance being discussed this evening; however, maybe it could be revisited later.

Public hearing closed.

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

RESOLVED to approve the amendments to the City of Ellsworth Code of Ordinances, Chapter 23, Noise Ordinance to allow the use of a meter as presented this evening within attachment #5.

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

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

Richard Tupper, Fire Chief explained the coding within attachment #6 (complete request and copy of City of Ellsworth Code of Ordinances, Chapter 4, Fire

**Approved - Chapter
4, Fire Protection
and Prevention
Ordinance as
presented this**

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: DECEMBER 21, 2020

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

Protection and Prevention Ordinance containing the proposed amendments this evening) as well as that one entire section was out of order and has been relocated to the correct location. A couple of pages were included within attachment #6 with explanations for the requested amendments. Many of the changes were due to Code reference changes, some of the amendments were caused by language that was structured around Inspector Hangge's expertise. Some of the language is being amended as the previous language was a bit confusing. Chair Hamilton stated the amendments are required to update the current Ordinance so that the wording is more accurate and keeps the Ordinance consistent with the goals of the City.

Public hearing opened.

There were no public comments. Councilor Kaplan clarified most of the amendments apply to commercial buildings. Tupper stated the majority of the amendments impact commercial buildings; however, there are a few sections that the language is being changed for ease of reading. For example, the language describing sprinkler systems and similar equipment as it impacts commercial properties.

Public hearing closed.

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

RESOLVED to approve Chapter 4, Fire Protection and Prevention Ordinance as presented this evening. See attachment #6A for the clean copy containing the approved amendments.

Council Order #122003, Request of the City Manager to renew the Franklin Street Parking Lot Lease Agreement.

Glenn Moshier, Interim City Manager stated this is a long standing arrangement with the Church for the use of the Franklin Street parking lot. At one point, the agreement was for a 25 year term; this expired in 2017. Due to some concerns relating to needed repairs in the parking lot the agreement was amended to a year to year term. The repairs have not been completed yet; currently there are no long term plans to complete those. Out of simplicity it was decided to make the contract

evening. See attachment #6A for the clean copy containing the approved amendments.

Approved - Council Order #122003, authorize the City Manager to execute a lease renewal agreement for the Franklin Street Parking Lot with the United Methodist

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

a five year agreement. The Church was agreeable to this arrangement. See attachment #7 for the complete request and copy of the proposed Lease Renewal agreement. The fee for the lease will remain at \$1 per year for each of the five years.

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

RESOLVED to approve Council Order #122003, authorize the City Manager to execute a lease renewal agreement for the Franklin Street Parking Lot with the United Methodist Church of Ellsworth for a period of five years, extending from December 21, 2020 to December 31, 2025 as presented this evening within attachment #7.

Council Order #122004, Request of the Facilities Manager to award a contract for purchase and complete installation of a 60KW propane Generator at the Union River Center of Innovation.

Steve Joyal, Facilities Manager was unable to present via zoom this evening due to technological issues. In lieu of Joyal presenting, Councilor Phillips explained in his experience within this field he has reviewed the bids and is now wondering if the requested 60 KW generator is too large for the building according to the code rules. There is a 200 amp entrance and a 60 KW generator will produce 250 amps. According to his knowledge that would be more than the capacity of the service. This would not be allowed by code; in order to have the larger generator the breaker would have to be downsized to make it work. Phillips felt the generator was over the size of the entrance and the facility does not need a generator that large. The 48 KW generator that was bid on provides 200 amps, costs less money, and it has a different setup. Phillips forgot to check with Joyal on the reason such a large generator was chosen. He apologized for missing this important information earlier on the paperwork that was submitted with the packet. See attachment #8 for the complete request and quotes from Colwell Diesel and CMD Power Systems Inc. Glenn Moshier, Interim City Manager explained a new 200 amp service was just installed at the Union River Center of Innovation (URCI). This one is in addition to the one that was currently at that location. According to the way Phillips understands the specifications submitted this evening it would not comply even with two 200 amp services at that site. There is only one transfer switch included within the project; if there are two 200 amp services the code would require two

Church of Ellsworth for a period of five years, extending from December 21, 2020 to December 31, 2025.

Approved - Tabling action on Council Order #122004, Request of the Facilities Manager to award a contract for purchase and complete installation of a 60KW propane Generator at the Union River Center of Innovation.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
SEKULICH, ADAM WILSON, AND HEIDI GRINDLE.**

200 amp transfer switches. According to electrical code the understanding was that 250 amps cannot be connected into a service that is not rated for it. In reality a 200 amp entrance is only allowed to have 160 amps load on it. Phillips felt the size of the set is larger than it needs to be. Phillips suggested tabling this item tonight and discussing it further with Joyal. Councilor Lyons inquired how a power outage is currently handled at URCI. Phillips stated currently they do not have a generator or any form of backup electrical supply. The reason for this project is some of the businesses that are now located at this site have freezers that must be kept cold as well as some other essential operations new at URCI that require backup electricity. The addition of a backup electricity source would add value to the center. This project would be funded through a grant. Lyons agreed the proposed generator appears to be much larger than needed. Phillips did not think purchasing a generator was a bad idea; however, just thought there needed to be more thought given to the current setup. Hamilton noted if this item is time sensitive and tabling the request tonight interferes with that timing a special council meeting could be held to approve a generator of the correct size. There was a short discussion on different types of approval that could be granted this evening or whether to just table the request until it is ready to come back. Phillips stated there is no rush to approve this request because even if it is approved this evening, none of the components of the project are available for 4 to 6 months. The manufactures of switches and sets are currently facing delays and do not have any extra product sitting in warehouses.

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

RESOLVED to approve tabling action on Council Order #122004, Request of the Facilities Manager to award a contract for purchase and complete installation of a 60KW propane Generator at the Union River Center of Innovation.

Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth.

Glenn Moshier, Interim City Manager explained the EMS Committee has reconvened; met twice in an effort to try to move forward with a resolution involving Northern Light Medical Transport (NLMT). Currently, there is a desire on their part to move out of the current location and into a place of their own.

**Approved - Tabling
action on Council
Order #122005,
Discussion and action
on EMS Services
within the City of
Ellsworth and the**

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CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, RICHARD TUPPER, MARK REMICK, MICHAEL
HANGGE, GARY SAUNDERS, TONI DYER, DARYL CLARK, LISA
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Discussions have included the need voiced by NLMT to enter into a long-term service agreement with the City of Ellsworth so that they can financially make this move. Under the current arrangement, NLMT pays the City \$10,000 for being housed in the Fire Department; the City does not currently pay NLMT a service agreement fee for providing EMS services to the Ellsworth Community. See attachment #9 for proposed Emergency Medical Services Agreement being discussed this evening. Initially, in September the information was brought to Moshier and at the time outgoing City Manager David Cole by NLMT; due to COVID, the election, and Cole preparing to leave the City Manager position there was a delay in reconvening the EMS Committee to discuss the future as it pertains to EMS services. Initially, there was some interest in considering negotiating a better rate with NLMT; however, now based on the City being in the middle of a fiscal year budget and not financially in a spot to pay for an unexpected, unbudgeted ambulance service fee there is some hesitation. Moshier contacted Edmund Moreshead, Director of Northern Light Medical Transport and they had a very productive meeting concerning this topic as they relate to both parties involved and the many issues and/or concerns driving this decision. Following that meeting, Moreshead provided an updated service agreement with some reduced per capita costs for a three year service agreement. At this time, the City should be in the middle of the first year of the agreement, in effect the agreement would be for 2.5 years. This information was provided to the Committee, who made it clear the City needs to provide adequate ambulance service to the Ellsworth residents. Moving forward all feelings of being deceived, or thoughts of undisclosed issues going on, or beliefs that not all of the facts are being provided were put aside in an attempt to ensure the residents of Ellsworth are provided adequate ambulance service. During the Committee meeting there was a lengthy discussion concerning expanding the City's own EMS capacity and the long term goal of eventually providing this service themselves out of the City of Ellsworth. Discussions also included what the future with NLMT would look like or the possibility of exploring other options which include contacting other providers of ambulances to see if there is any interest in joining the Ellsworth market. One of the other concerns that was discussed related to the outlying communities, NLMT not only provides EMS emergency 9-1-1 service to Ellsworth but also provides it to many of the smaller towns that surround Ellsworth. The concern associated with this arrangement is if NLMT no longer had Ellsworth's call volume because the City provided this service themselves for the Ellsworth citizens; it might negatively impact their ability to provide services for the surrounding communities. The Committee

**Emergency Medical
Services Agreement
(attachment #9).**

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TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
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recognizes this concern as being important and will keep it in mind as future discussions and plans are made; although, the main focus will remain on the citizens of Ellsworth. The updated agreement (attachment #9) and some additional financial information as requested by Councilor Grindle was provided for consideration this evening; however, not necessarily for action this evening. Councilor Phillips recognized currently there appears to be a monopoly as it relates to this particular service and health care in this region of the State. At this point it appears there is only service provider that has the ability to meet the current need. Phillips noted it is very likely one way or another the City will be required to subsidize this service in order to protect the Ellsworth citizens while providing safe transport when a medical emergency arises. It appears there are only three options available to the City: 1) subsidize NLMT for this service; 2) try to locate a different ambulance service if there is an interested one; or 3) the City of Ellsworth could establish one of their own. The biggest unknown factors are to what extent and how much the different options will cost the taxpayers. The proposed agreement does allow the City some reduction in cost to get started, allows some time to make a decision on how to move forward from this point, and yet still provide emergency services for the Ellsworth citizens as best as they can at this time.

Moshier noted Edmund Moreshead, Director of Northern Light Medical Transport was present this evening. The Fire Department command staff was also present this evening to answer any questions or address concerns. Councilor Kaplan noted currently, the Ellsworth Firefighters are attending ambulance calls. She stated last month the Fire Department attended 86 calls. Kaplan estimated at this number of calls, calculated at the basic level training fee based on the average payment received for service over the full calendar year it would have nearly paid for operating the ems service. The City would need to be qualified to bill for this service through private insurance companies or Medicare or Medicaid. Moshier cautioned the Council that out of those 86 calls there is a high chance not all or even many were actually transported. Revenue is only generated for the ambulance service when a patient is actually transported. Many of the calls involve lift assists, people just needing help for a short period of time, residents that are sick but deny transport to the hospital, car accidents where once on scene the victim's refuse medical treatment; those calls would not generate revenues for an ambulance service. Along with the percentage of people that called for an ambulance; however, never got in the ambulance there is also the percentage of people who receive treatment but lack insurance to pay for the service. Moshier stated all of

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those variables need to be factored into the cost of operating an ambulance. Chair Hamilton added in terms of the City establishing its own ambulance service that is very complex and extends beyond just the service itself. This would not just involve the existing firefighter crew it would also include additional employees. There will need to be more employees to staff those positions, recruiting for those positions, as well as an understanding of the retention rate for those types of positions which also includes how easy or difficult it is to recruit for those additional positions. Other concerns are how difficult is it to maintain the service and what happens when the City is unable to recruit or maintain the necessary staffing levels. Beyond these pieces is the billing component and that can be very complicated once the City starts billing Medicare, Maine Care, or private insurance carriers. Billing the different avenues requires a special skill set that doesn't currently exist within the City; therefore, one or two additional administrative positions will be added to the current City budget just to manage this process. Hamilton is not opposed to investigating this avenue; however, he was just cautioning the Committee that option is much bigger in terms of understanding the infrastructure that would be required for the City to own their own ambulance service. It is also critically important to understand what the City is purchasing in partnership with NLMT; what will that relationship look like, what can the City expect, and what services would the City be paying for within the agreement. Phillis agreed it is a complex process and will require more time than 3 or 4 months to completely understand and implement. The Council is at a junction where a decision must be made on the concept of EMS services within the City because NLMT needs to know where the City is positioned on the topic so that they can finalize plans for their future. The City must start planning for the future of this service which could take approximately two or three years to finalize. Moshier agreed and stated that is why the Committee discussed the service agreement and the ability it offers to take the necessary time to explore the different options. If the decision is made to move in the direction of expanding the City's own EMS capacity then that can be achieved while being fiscally responsible and in a timely manner; not overnight but in a slow growth pattern. Councilor Lyons inquired how many ambulances a City the size of Ellsworth would need to be effective. Edmund Moreshead, Director of Northern Medical Light Transport stated they calculated for all of Hancock County about 1.5 ambulances based on past call volumes. That number was rounded to two ambulances and as was stated when this relationship was formed some days 5 ambulances would be needed. There are other days when an ambulance is not needed at all. Moreshead stated on average two ambulances

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seem to serve the purpose; ambulances are moved back and forth from Bangor to Ellsworth everyday throughout the day. In the summer numbers were provided that supported NLMT answering 97% of the calls in Hancock County without calling for mutual aid. Lyons inquired about the average response time; Moreshead replied from tone to on scene is approximately 6.2 minutes. Moreshead did not believe there were cases where an individual would be told the wait is 2 hours and 15 minutes for an ambulance; however, there will be days when outliers will wait 25 to 30 minutes for a responding unit. Those would be outliers and make up a very small percentage of the time and by that time Peninsula ambulance is 15 miles away. 97% of the time two ambulances seem to be an appropriate number and that number is based on times when there are simultaneous events taking place. Moreshead stated the problem with just staging one ambulance in Ellsworth is they average 950 calls a year which would be obtainable for one ambulance alone; however, the problem is the company would not capture all 950 calls with just one ambulance because some of those calls are toned out with two or three incidents at a time. The problem becomes there is not an available ambulance to respond to the second or third call that comes in at the same time as the first one. Kaplan inquired what percentage of calls are inter-facility transports. Moreshead stated there were 960 emergency calls in Hancock County according to the fiscal year 2020 report. NLMT fiscal year runs from October through September. The non-emergency numbers were fewer than the emergencies; most of those come out of Maine Coast while others are from MDI or Blue Hill. The vast majority of the non-emergency calls are done by trucks out of Bangor, opposed to the trucks located in Ellsworth. These calls are mostly for patients going to a higher level care facility or in cases where a piece of equipment may have failed at one of the hospitals. A few weeks ago the CAT scan machine broke at Maine Coast Hospital and therefore NLMT trucked patients to Blue Hill during that week; impacting 30-35 people. Councilor Miller noted under the new contract NLMT would still have two ambulances staged in Ellsworth and one holding in between Bangor and Ellsworth. Moreshead indicated that would be correct. This concept is known as dynamic staging where if one of the ambulances in Ellsworth is called to an event outside of the City limits, NLMT will send a truck from Bangor to Lucrene to wait even though the second truck is still at the Ellsworth station. Once the remaining truck in Ellsworth responds to a call the truck from Lucrene will continue down to Ellsworth at that point. Hamilton noted in earlier conversations Moreshead stated one of the reasons for the desire to move on NLMT's part is related to COVID. Hamilton described the City as being in the midst of COVID, the impacts that is causing to the

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community, which ultimately will be seen in terms of decisions that need to be made during the budgeting process. Hamilton stated it is very difficult to be asked within a budgeting cycle to pay an unfunded per capita rate from now to the end of the fiscal year especially because the City has not had an opportunity to discuss this topic and associated expenses. He would prefer a fair approach such as discussing the proposed agreement with a July 1 start date in alignment with the new fiscal year; this would allow the Council to responsibly add the expense into the budget for the taxpayers. It is important that the Council have time to discuss this expense, investigate the different components of this decision, and not incur an unbudgeted expense within the current fiscal year. Hamilton recognized NLMT requires a commitment in regards to the agreement so that they can make plans; however in regards to the fee that is a separate discussion and issue. He was hopeful there could be an additional discussion on that topic because the current request is not fair to the taxpayers in the way that it appears to have come out of the blue. Hamilton appreciated the fact the City has been in a state of change recently; however, he was part of the original discussion and this is the first time he recalls this type of proposal being submitted. Moreshead clarified this request did not come out of the blue; the original request was submitted three months ago. Moreshead presented this request to City Manager Cole on his last day with the City, at that time made it clear to him NLMT was very concerned, and the need for a change was a high priority for them. He explained NLMT's concern with the current housing arrangements utilized throughout the State and how those are jeopardizing service based on the current COVID situation throughout the State. Moreshead also explained that two years ago when they moved to Ellsworth there was conversations taking place in regards to a potential public safety building. This building would have been bigger than the existing Fire Department; he realizes that discussion at the time may have been a long term dream. Since that point, it has been determined to be a very expensive project and based on current events will likely not happen in the near future. Moreshead did renegotiate with Moshier to provide a lower per capita rate as well as postponed the agreement until April. This would only be two to three months before the current fiscal year ends. The per capita rate was reduced by \$4. Hamilton noted NLMT does not currently have a facility to relocate to at this moment. They are requesting this agreement start in April so they can have the financial resources to move forward with securing a facility, have it built to meet their needs, and then move in to it when the current contract with the City expires. Moreshead believed it would take 3 or 4 months to move into a new facility because there is some building that needs to take place and

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code requirements to be met. Likely the move would take place in April at this point; however, in September when the City was first notified of this desire to relocate the idea was to spark a discussion about it and then move into the new facility before winter arrived. Moreshead acknowledged he could understand why the process was slow as COVID has not made things easy, with the City Manager position being vacated, and then add in an Interim Manager as well as having an election. Kaplan inquired if NLMT was charging the surrounding towns a per capita rate as well. Moreshead stated that per capita rate is higher than the amount originally charged to Ellsworth. The per capita rate is used to subsidize the amount of money the ambulance company receives to stay in business; they do not get paid enough money by the patient to keep the service going alone. The ambulance company is scheduled to lose approximately \$450,000 this year. The financial reports for the first two months of NLMT budget year confirms that will be right on target. The deficit is based on NLMT as a whole not just Hancock County. Northern Light Health will lose a lot more money than that. COVID did impact the numbers slightly; however, they did receive some funding from the government to offset some of the hardships contributed to COVID. The hardship came about because people were afraid to go to the hospital in general and especially to be transported by an ambulance; therefore, stopped calling 9-1-1. When the elective procedures were stopped at the hospitals during the spring there was a dramatic decrease in volume of ambulance calls. Moreshead reiterated it was not his intent to blindside anybody or to be deceiving in anyway. They want to be a partner with the City of Ellsworth for years to come as well as Hancock County through EMS. NLMT is owned by the same company that owns Maine Coast Hospital. The ultimate goal is for NLMT to stay in business and provide a quality product. Hamilton read a comment from Gary Fortier in regards to whether there are any real guarantees on whether enough ambulances will ever be provided within the City of Ellsworth. Somedays two will be enough while other days five will not be adequate. He stated Fire Chief Tupper suggested training one employee per year, while Fortier suggested training two employees. It is easier to work as a team and study together. Fortier felt a City based EMS would never pay for itself without transfers. This proposal is a good start. Councilor Blanchette had a question in regards to the proposed rate within the agreement. On April 1, 2021 Ellsworth will pay NLMT \$4 per Ellsworth citizen, or approximately \$32,000. Three months later on July 1, 2021 the fee would increase to \$7 per capita. Moreshead stated the \$4 would be prorated for the remaining months of April, May, and June. If the wording does not indicate that; it can be adjusted as that was the intent. During the

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remainder of fiscal year 2020 the per capita fee is \$4 (April, May, and June), fiscal year 2021 the fee is \$7 per capita (July – June), and fiscal year 2022 the fee would be \$9.50 per capita (July – June). Moreshead stated it would equate to \$1 per capita starting on April 1 because the \$4 per capita is intended to be prorated during those three months. Blanchette inquired under Special Services (2.6.4) it states from time to time NLMT may provide municipal employees with educational services. He asked Moreshead to define the term time to time and what is meant by may provide. Blanchette wondered if those decisions would be left up to NLMT to decide or the City. Moreshead asked the Fire Department command staff that was present at the meeting if they have ever been denied educational opportunities when requested. This section refers to classes such as CPR, CVH, or similar learning opportunities. COVID has made it challenging to offer these educational opportunities in a classroom setting. Blanchette understood the current state of affairs; however, was just concerned with the way that section of the agreement is worded. Moreshead stated that is the wording drafted by the attorney and that same language appears in all of their municipal contracts. Prior to COVID, there were specific days when training were offered for outlying departments not just here in Ellsworth. The learning opportunities were scheduled for a particular night in a community; however, when COVID hit it was discouraged to gather together in the same room. They have tried to offer online classes during this time; however, those have not been as successful. Richard Tupper, Fire Chief reiterated that COVID has made it very difficult to take part in classroom style trainings. The Fire and Ambulance crews do continue to work together as best they can under the circumstances. They work together on EMS protocols. Prior to COVID, a couple of the paramedics offered specific classes to the group that was available on those days. Hamilton clarified the fees being requested are subsidized funding to help operate a service for the community. Hamilton recognized the City needs to have that resource available. He stated this contract reads more like a service agreement between the City and NLMT versus a subsidy of a service. This agreement contains language about liability, indemnity, what they will do, and what the City will do; Hamilton was wondering if there is a way to look at the structure of this agreement. NLMT will be agreeing to offer certain things and the City is agreeing to provide subsidy; however, the City is not in any way contracting with NLMT. The City should not have any involvement with the relationship between NLMT and any call they respond to (transport or treat). Moreshead confirmed that was a correct understanding. Hamilton stated this contract reads more like the City is somehow a party to that process of treatment or transport. Moreshead stated NLMT is

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promising the City they will make every effort to answer all emergency medical service calls through 9-1-1. This agreement allows the City to go back to the citizens and assure them arrangements have been so they can expect an ambulance to respond to their 9-1-1 call. Hamilton felt the language within the proposed agreement extends beyond Moreshead's interpretation as he simply stated it. Hamilton stated he would feel more comfortable if the City attorney reviewed the contract first. Moreshead stated the wording is identical to that found in the signed contracts with approximately 90 other towns. This wording has been in place for years and only tweaked slightly by both parties over time. Other towns within Hancock County signed agreements with the exact same language 2.5 years ago. Kaplan asked if the City is paying for this service, is there a vicarious liability, or potential malpractice claim, for example to the City. Moreshead did not believe that would be the case; although, he is not an attorney. NLMT does have a very large malpractice insurance program at Northern Light Health. The contract requires a \$5 million dollar policy. Hamilton inquired if the Committee was recommending a certain action this evening. Kaplan explained since currently the City does not own an ambulance the recommendation would be to discuss this agreement, review the agreement, and at this point there is very little the City can do about it. The City cannot leave the citizens unprotected. Lyons inquired what would happen if the City did not approve the agreement; would that result in a citizen not being taken to the hospital upon calling an ambulance. Moreshead stated they are not leaving, they do not operate that way. Hamilton supports a good partnership, they must work in partnership for the Ellsworth citizens, and he has no problem doing that. He is focused on this being a responsible decision in terms of vetting the contract, being sure the contract represents the community, and at this point Hamilton still has some questions. Hamilton is comfortable endorsing the process, approving the Manager to work with the City attorney in vetting some of these questions. Once those are answered, move the process forward in good faith, while working as quickly as possible to bring forward a final contract. Hamilton is not 100% comfortable with the contract provided to the Council this evening. The proposed new facility is in Ellsworth on East Main Street, where the home care and hospice building is located. Councilor Miller was in agreement with Hamilton. The consensus of the Council was in agreement that the City should move forward with reviewing this contract. Miller was uncomfortable receiving the contract today and then voting on it tonight. He was in favor of postponing action until the City attorney reviews the document. Moreshead reiterated that every day the ambulance remains in the Fire Department quarters is another day they could

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potentially put 8 people out of work for 14 days. Lyons questioned whether NLMT was going to be staying until April 1 or not. Moreshead stated yes, that is why he started this process in September. Lyons did not feel it would impact their projected date for relocation that dramatically if the Council took a little time to examine the proposed contract prior to approving it. Moreshead understood that reasoning; he would like to know the Council's timeline for approval. He is very concerned about his employees; however, understood the Council must do their due diligence in regards to the contract. Lyons confirmed the Council understood his concerns as well. There was a heated conversation that took place regarding COVID, the role that plays with the desired timeline for relocating, and the agreement that was first presented in September.

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

RESOLVED to approve tabling action on Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth and the Emergency Medical Services Agreement (attachment #9).

Executive session to discuss personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A.

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

RESOLVED to approve entering executive session for the purpose of discussing personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 9:13 PM.

Chair Hamilton noted the Council will be returning after the executive session to take action on the remaining items.

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

RESOLVED to approve adjourning from executive session in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 9:45 PM.

Council Order #122006, Action from the executive session concerning personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A.

Approved - Entering executive session for the purpose of discussing personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 9:13 PM.

Approved - Adjourning from executive session at 9:45 PM.

No formal motion or second was made on

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Chair Hamilton stated the City Council has after discussions and review based on their search for a new City Manager had some additional discussions with Interim City Manager Glenn Moshier. The City Council has made a decision that the Personnel Committee will start a process to negotiate with Chief Moshier to step into this role on a permanent basis. That is the direction the Council is heading at this moment and the negotiations will start as soon as possible.

No formal motion or second was made on this item.

Adjournment.

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

RESOLVED to approve adjournment at 9:47 PM.

A TRUE COPY

**ATTEST: _____
HEIDI-NOËL GRINDLE**

this item.

**Approved -
Adjournment at 9:47
PM.**