

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: NOVEMBER 16, 2020

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, HAMILTON,
KAPLAN, LYONS, MILLER (via zoom), AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, AND HEIDI GRINDLE.**

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.

Councilor Blanchette explained there was an emergency agenda item that needed to be added to the agenda this evening. This item would address the heating issue at the Hancock County Technical Center (HCTC).

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

RESOLVED to approve adding an agenda item tonight to address the heating issue at HCTC.

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

Call to Order.

Pledge of Allegiance.

Approved - Adding an agenda item tonight to address the heating issue at HCTC.

Rules of Order.

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Speak not more than two (2) minutes in rebuttal.

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

- October 19, 2020 Regular Council Meeting. (Request to table)
- October 29, 2020 Special Council Meeting. (Request to table)

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

RESOLVED to approve tabling the adoption of minutes from the October 19, 2020 Regular Council Meeting and October 29, 2020 Special Council meeting as requested.

City Manager's Report.

Interim City Manager Glenn Moshier announced the tree lighting event at the SK Whiting Park will be held on November 28 at 4:30 PM. It will not be the standard tree lighting event with a significant crowd; however, it is still important to hold it even with just a few people in attendance. This will be an event with an acceptable number of people while practicing social distancing. The Heart of Ellsworth is working on placing the lights on the poles down Main Street so that the two events can take place together on November 28, 2020. Moshier stated the plans for the December 5, 2020 Christmas Parade are also moving forward. A COVID friendly parade has been well thought out by the Recreation Commission members as well as Moshier to ensure safety is maintained. The route has been extended for the parade; it will come down High Street from the Maine Coast Mall, down Main Street, and up State Street. The parade can be viewed from vehicles or small family units. There will be a heavy police presence on Main Street during the onset of the parade to ensure there are not larger social gatherings forming. Citizens coming out in person to watch the parade will be asked to spread out. The parade is an important part of the community in kicking off the holiday season. The Commission and Moshier feel this can be done safely and unless the situation requires changes this is the plan for the parade as of now. Wreaths Across America will be coming to Ellsworth on December 13, 2020 at 9:00 AM. There will not be a gathering at the Maine Coast Mall as has been done in the past; however, will be a "slow roll" down High Street. Citizens are encouraged to watch this procession from their vehicles as it goes by. Moshier stated the City government is keeping a very close eye on the COVID situation. They are watching for outbreaks within the Community; those are being responded to

Approved - Tabling the adoption of minutes from the October 19, 2020 Regular Council Meeting and October 29, 2020 Special Council meeting as requested.

City Manager's Report.

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accordingly. Complaints received throughout the City in regards to people not wearing masks are also dealt with by holding meetings with the businesses, encouraging them, educating them, and providing them with the necessary materials if needed to keep their employees safe. At City Hall, the mandatory mask wearing has been increased for all employees especially when they are forward facing with customers. All employees working in the community are required to wear a mask while outside of their vehicles or their independent workspaces. Chair Hamilton acknowledged the steps being taken by City employees to provide education while responding to reported concerns is consistent with how the State is also responding to similar situations. Hamilton felt this consistency in terms of the State and Local entities working together and approaching it from the same perspective is very important.

Committee Reports.

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

Chair Hamilton distributed the complete list of Committee, Commission, and Board assignments for the upcoming year to the Council this evening, see attachment #1. The Finance Committee was appointed during the Organizational meeting as: Councilors Blanchette and Grindle, Chair Hamilton, and Alt. Councilor Miller. Human Services Committee will be Councilors Kaplan, Lyons, and Phillips. Human Resources Committee will be Councilors Blanchette, Grindle, and Chair Hamilton. Street Lights Committee will be Councilors Blanchette, Kaplan, and Miller. Library Special Collections will be Councilor Blanchette. The Capital Planning Committee will be Councilors Blanchette and Phillips, and Chair Hamilton. The HCTC Committee is no longer operating. This Committee will only be brought back together if needed in the future. The Solar Committee has wrapped up their role; this committee will be disbanded. The Recreation Commission will be represented by Chair Hamilton and Councilor Miller. The Harbor Commission will consist of Councilors Lyons and Phillips. Historic Preservation Commission will be Councilor Miller. Solid Waste Committee will be Councilors Blanchette and Kaplan. Local Roads Committee will be Councilors Blanchette, Lyons, and Phillips. The Public Safety Planning Committee is no longer meeting; therefore has been disbanded. The Emergency Medical Services Committee will be Councilors Blanchette, Kaplan, and Phillips. EBDC (Business Development Corp) is represented by Councilor Phillips and Interim City Manager Glenn Moshier. The PDCTC/Cable TV is represented by Councilor Grindle. The Support Funding for

Committee Reports.

**Appointments of
Councilors to various
Committees.**

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the Library Committee will be Councilors Grindle and Kaplan. The Council will make a future appointment for representation with the Frenchman Bay Partners.

Crosswalk Committee: Chair Hamilton noted this Ad-Hoc Committee had one meeting which was focused on grounding the Committee in terms of the goals. This has been approached as a unified group to look at some of the issues and concerns that were raised during the discussion and request. The first part of the meeting was spent identifying the concerns as well as tasks to move this concept forward. The different regulations and ordinances were reviewed.

**Crosswalk
Committee.**

Citizens' Comments.

Citizens' Comments.

David Burks, Ellsworth resident voiced a concern with the way the United States Flag in Whiting Park is currently flying. Burks' grandson Brayden provided a brief history of the heroes from Hancock County and within our Community. Burks noted current regulations state the Flag should fall freely; however, the landscaping at Whiting Park does not allow enough space for the drip lines which are now encroaching on the flag's ability to fall and fly freely. Burks suggested the trees be cut down in the near future so the project does not become more costly as the drip lines grow larger over time

Marc Blanchette, as an Ellsworth citizen noted eight years ago his brothers along with Blanchette purchased the flagpole and the base for the City. Blanchette owned a business across the street from the Park and at that time it bothered him that the Park did not have a flagpole. The day it was installed it looked perfect; however, over time the trees have grown in height. The flag can no longer fly freely, it scrapes along the top of one of the trees adjacent to it. Blanchette was in favor of that tree being removed. He thanked Burks and his two grandchildren for their presentation this evening to bring this concern to the Council's attention.

Chair Hamilton read the comments from Jon Stein, Ellsworth citizen concerning the search for the new City Manager. He wondered if the recent loss of the City Planner and the need to fill that position would hinder the efforts to find a new City Manager. Stein inquired if the Council could describe what they are looking for in a new City Planner. Stein believed it was the Planner's responsibility to focus on the City's comprehensive and strategic plans which include such aspects as walkability, riverfront development, and bolstering downtown residences. Councilor Grindle announced there would be interviews with candidates for the City Manager position this week on Tuesday and Thursday. This search is

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continuing as planned. The City Planner search will be handled by the Interim City Manager; currently the position has been advertised for. Interim City Manager Glenn Moshier noted as of this meeting, nine applications have been received.

Chair Hamilton read a comment from an anonymous citizen who had concerns with the recent COVID spikes and the City still having a parade. Even though the parade is stretched out it will not eliminate community spread. Hamilton appreciated the concern about the safety and health. He echoed what Interim City Manager Glenn Moshier mentioned earlier, the committee is still meeting and reviewing all of the facts and will make a final decision on whether there is a safety risk with the parade at a later date. They are committed to making sure the parade complies with all of the Executive Orders and safety protocols that are identified by the CDC and the State. If this cannot happen, the parade will not take place. As this would take place outside there are limits on gathering sizes, this would be spread out over a large area and the Police will be in place to make sure distancing does take place. Councilor Miller noted there will not be anyone walking as part of the parade. In advance of the parade, the masking and distancing requirements for spectators will be advertised; therefore community members will be aware of what to expect before arriving.

Chair Hamilton read a comment from Representative Grohoski, respectfully asking the Council to consider moving the flagpole rather than removing the tree.

Chair Hamilton commented on concerns he is hearing within the Community regarding the tone and tenor. After reviewing all the different aspects of the past eight months that have brought out both the good and bad in people, he put a simple request before the Community. Instead of putting something on social media that attacks, defames, and hurts another person why not seek out conversations with people to gain a better understanding of their perspective. Let's use this time of year to commit to making our community one that focuses on everything that is good, works to make things better, and does so without destroying other people.

Presentation of Awards.

Lisa Sekulich, Public Works Director took a moment to recognize Guy "Bernie" Hussey III with the deepest appreciation for his 36 years of service to the City of Ellsworth through his work in the Public Works Department. Congratulations was extended on his retirement from the City on November 30, 2020.

**Presentation of
Awards.
Bernie Hussey – 36
years of service
Public Works Depart
and retirement on
November 30, 2020.**

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- *Small Business Day Proclamation – November 28, 2020.*

Chair Hamilton read the Small Business Day Proclamation into the record. A copy of the Proclamation was then presented to the Ellsworth Business Community. See attachment #2 for the complete proclamation. Hamilton encouraged the Community to visit small businesses as the current pandemic has hit that industry very hard. The City would like to see the small businesses continue, thrive, and survive what is the most difficult part of their year being the winter months. Hamilton thanked the Ellsworth Chamber of Commerce, the Heart of Ellsworth, and Healthy Acadia for their work in promoting the small businesses within the community.

- *World Aids Day Proclamation – December 1, 2020.*

Chair Hamilton read the World Aids Day Proclamation into the record. See attachment #3 for the complete proclamation. Hamilton noted last week there was some progress in terms of a medicine that advances treatment.

UNFINISHED BUSINESS

Council Order #102000, Presentation by Ellsworth Historic Preservation Commission on a Museum in the Streets project and approval to authorize the expenditure of \$2,000 for this project. (Sponsored by the Planning Department) – Tabled at the October 19, 2020 Council meeting.

Glenn Moshier, Interim City Manager reminded the Council during the previous Council meeting there was some questions as to where the funds would come from to fund this request. The presentation last month was outstanding; however, the project has a shortfall in necessary funds to complete it. The Commission is currently requesting \$2,000 in additional funds from the City. Following last month's meeting Moshier met with Lisa Sekulich (Public Works Director) concerning the project. Sekulich explained the Public Works Department has agreed to install all of the plaques and posts that will create the Museum in the Streets. It will be a significant undertaking for the Department to install all 19 plaques; this portion of the project is estimated to take a couple of employees at least two weeks to complete. The City believed this additional support was a significant contribution to the project and should have absolved the City of the need or desire to contribute additional funds. Moshier's recommendation is that the City

**Small Business Day
Proclamation.**

**World Aids Day
Proclamation.**

Unfinished Business.

**Approved - Council
Order #102000,
authorize the
expenditure of \$2,000
from the encumbered
funds within the City
Planning
Department's
professional services
account for the
Museum in the
Streets project.**

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move forward with the offering of the installation in lieu of any additional monetary funds. Moshier met with Jenn Merchant (Finance Director) to identify a potential source for funding this request in the event the Council approves it tonight. The recommendation would be to withdraw \$2,000 from the Planning Department's professional services encumbered funds.

On a motion by Kaplan seconded by Blanchette, it was

RESOLVED to approve Council Order #102000, authorize the expenditure of \$2,000 from the encumbered funds within the City Planning Department's professional services account for the Museum in the Streets project.

Before a vote was taken Councilor Miller inquired if it would cost the City less than \$2,000 if the Public Works Department completed the work. Lisa Sekulich, Public Works Director stated she estimates the work for two employees over a week long period would cost the City approximately \$1,800. This would include payroll; however, does not cover health insurances or other overhead expenses. The posts cannot be post driven but rather hand driven or auger all of the holes. There will be administrative hours involved in verifying dig safe regulations on all 19 locations. Sekulich estimated the City would be paying approximately \$3,000 to \$3,500 for the installation of all 19 plaques. The installation is likely more expensive than the \$2,000 request this evening. Moshier clarified, the \$2,000 requested this evening is not for funding the installation; the \$2,000 requested this evening would be additional funds needed to finish the project. The installation agreement was finalized between the Commission and the Public Works Department prior to this request for an additional \$2,000. If the \$2,000 is authorized this evening that will not absolve the need for installation of the plaques; that is not the portion of the project this money is for.

Chair Hamilton noted he received an anonymous comment asking for speakers to continue to wear masks while speaking. The citizen reported they can hear okay through the masks.

Councilor Blanchette clarified this project was in a financial deficit of approximately \$6,000 rather than by \$2,000. Moshier confirmed that was his understanding. The installation costs were not calculated into this need because they had already received a verbal agreement from Sekulich that the Public Works Department would install the plaques. This \$2,000 request is strictly for getting the project to the phase of installation.

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

*Discussion on the use of Spring Street as an extension to the biking/walking path.
(Sponsored by Councilor Blanchette)*

Councilor Blanchette stated this item is a continuation of a discussion that started last month concerning Spring Street. Most of the street is unused and in very poor condition. It could be converted to an extension of the bike pedestrian path. The extension would go from Birch Avenue to High Street, connecting with the existing Sunrise Trail. It is possible the Council will eventually be asked by the State to abandon the part of Spring Street from Park Street to the railroad crossing. The crossing would stay for Allen's Blueberry factory to use. Lisa Sekulich, Public Works Director explained there is a partnership of players teaming up with DOT to perform a planning partnership initiative to look at all potential options for a trail to connect from where it currently dead ends at Birch to the Sunrise Trail. To shutdown Spring Street is just one of the potential options. The designers would like to figure out how the Council would feel about that option before investing a lot of time into a plan that utilizes Spring Street. This option is not the definitive plan at this point; it is just one of the possibilities. The process will still involve many meetings with the planning committee as well as with the public before any final decisions are made. Councilor Phillips stated the portion from Birch Avenue to Park Street would likely need to remain based on access to properties and therefor the trail would stay on the upper portion of that road. The remaining portion is rough shape. The options include leaving the road as it is and turn it into a shared bike, car, and pedestrian path with some striping. There is an option that includes shutting this portion off to cars and creating just a bike and pedestrian path. There is a section of the road where there are currently no driveways located and at that point the designers would like to gauge the Council's comfort level with shutting this portion of the road off to vehicle traffic. The best option is to switch the sides of the railroad according to different factors; however, that could be the most costly option as well. Tonight is an opportunity to take the temperature of the Council on how they feel regarding abandoning portions of Spring Street as well as providing an update on the project. Phillips stated there are two to three sections of Spring Street he could agree to discontinue the use of for this purpose. Councilor Miller agreed with Phillips concerning being open to a plan that involves either discontinuance of portions of Spring Street or a shared use if that is designed

Discussion only; no formal action was taken or required this evening.

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correctly. Councilor Lyons was also in agreement with Phillips and Miller. At the point there is a more definitive plan it will return to the Council for final approval.

Discussion only; no formal action was taken or required this evening.

Chair Hamilton addressed a comment he received via email. This email was requested that it remain anonymous, he will read this last one anonymously; however, he only shared the first comment without a name because someone was disclosing their private health information and it was appropriate to read it that way. Hamilton stated this is a public meeting and if this meeting were held only in a live venue everyone would know who was speaking and so Hamilton reminded the public if they want to make a comment that is intended to be read out loud it must include your name and where you reside. Hamilton will not be reading anymore comments during this meeting that do not contain the person's name and residence. The Council is open to receiving emails outside of this meeting; comments will not be read into the record without a name and address. Hamilton read this final comment into the record, why are masks being taken off when members are speaking. Out of respect for the community, please keep your masks on. Hamilton encouraged everyone to wear a mask in public especially because there is an executive order in place that requires that. He felt this is an area where everyone is trying to do their best and at times people are not wearing a mask. We do as a community want to be as safe as possible. As there is greater community spread, he encouraged individuals to look out for each other and themselves. There are higher risk groups than others. Having reminders is great and appropriate; however, it is also how reminders are put forth that are important as well. We can do a much better job on this issue and working together on promoting safety without creating an environment of divisiveness. These thoughts are not necessary related to this comment; however, it relates to his earlier comments this evening.

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.

Consent Agenda.

Approved - Consent agenda as presented this evening.

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*Council Order #112001, 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 2021. **

The Branch Lake boat and aero plane sticker fee was approved at \$0 for the calendar year 2021. See attachment #4 for the complete explanation. Councilor Phillips stated this has been approved since the inception of the sticker program.

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

RESOLVED to approve consent agenda as presented this evening.

NEW BUSINESS

Public hearing and action on the following business licenses: (Not needed this month)

Presentation/update by Jo Cooper from Friends in Action on the Senior Center.

Jo Cooper provided an update to the Council on the changes and challenges that faced the Senior Center over the past year. Friends in Action have two different sides to their mission. One is the volunteer services/programs and the other is the senior center. Their overall mission is to empower older adults and people with disabilities to thrive and to live independently with dignity and a strong quality of life. She listed the different services associated with the volunteer services of their mission statement. Although COVID has caused a significant impact to the one-on-one practical tasks offered through this service; however, they are still offering all of these services except the in home visits. All of the services have been greatly reduced due to the drop in demand by the clients, volunteers were limiting their interactions, or some were just uncomfortable being in a vehicle with another person during the COVID pandemic. The demand has been reduced due to clients staying home, appointments being cancelled, or family members helping more with the errands to avoid the client's exposure risks. Friends in Action have seen an expansion of their food deliveries, grocery shopping requests, and they are now partnering with 211 Maine to give direct referral access to people needing food deliveries. There was a dramatic increase in volunteers joining them in March and April to help with the food deliveries and most of them have continued to volunteer even as the shutdown has eased. The Senior Center was originally started as a small social coffee gathering and expanded when they moved into the renovated

New Business.

No business licenses this month.

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Moore Center. Friends in Action helped in the planning stages and throughout the renovation project. They moved into the renovated space in the fall of 2013. The organization was founded in 2003; they are completely locally funded, raise their own funds nonprofit organization. When the space was renovated the YMCA was set up as the organization managing the facility; originally this arrangement was at Friends in Actions' request. After some adjustments by both parties this arrangement has worked out even with some ups and downs; however, both organizations have been very committed to this arrangement. According to Cooper the City wanted the facility to be as available as possible to the community and wanted there to be a seniors/older adults use included. The City stipulated Friends in Action could not charge a general membership fee for using the Senior Center. They have adhered to that requirement while offering enrichment classes, coffee mornings, resource workshops, and more all at no charge. The only fees charged were to meet their expenses associated with meals and fitness programs. In February the fitness programs had grown to 35 weekly classes with over 100 regular participants every week. Two lunches were offered a week and they were right on the cusp of having the Downeast Transportation bus have a bus stop at this location during one of the lunch days. This was planned to begin the week before the shutdown; this has not happened yet. The coffee mornings were being offered 4 mornings a week in Ellsworth and were also available in Stonington and Blue Hill as well. When COVID forced a shutdown, Friends in Action was forced to close all of the Senior Center programs. They were able to continue with the transportation and volunteer services. Eventually, they reopened carefully and in agreement with the YMCA. They offered 4 classes opposed to the 35 and with a separate entrance. This was working well from mid-June through August; it was an expensive undertaking. On August 10, the YMCA informed Friends in Action they would need to take over the rooms for remote learning child care. Friends in Action were given three weeks to close the center and move any programs. The YMCA did offer to house the fitness programs. This arrangement came as a surprise to Friends in Action, there had not been any prior discussions about this plan. The fitness staff for Friends in Action ultimately ended up leaving, to start up their own programs. Since that period they are operating only their office at the Moore Center and the fitness room is being used for storage. The sudden forced closure made Friends in Action realize they needed to have a clearer agreement in the future to protect their programs and they needed to strengthen their communications with the City. Volunteerism is alive and thriving at Friends in Action and throughout the community. The closure of the Senior Center will likely remain throughout the entire school year. During this closure, they are reassessing the programs, and making their involvement at the Moore Center more financially

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sustainable. They were stretched to fulfill what they understood as an agreement and they were starting to experience financial difficulties. Friends in Action have formed a task force of community members, volunteers and Board members to help them with the reassessment; Chair Hamilton is a member of this committee. The outdoor adult exercise area which Friends in Action has worked on for the past 4 years will be built in the spring at the Knowlton Park provided the Council approves the bids this evening. This project was made possible with an original challenge grant from the AARP, community members raising money through raffles, Rotary Club of Ellsworth, individual donors, and other fundraising efforts; they are officially contributing \$38,200 to this project. This project has been planned with the leadership from volunteers, especially Tom Dunn an Ellsworth resident. Dunn was present at the meeting this evening via zoom technology. Councilor Kaplan inquired if anyone would be cleaning the equipment, in regards to concerns with COVID. Cooper acknowledged that was a great point and not something they had discussed. Kaplan also wondered if there would be warning labels for liability purposes that state please make sure you have consulted with a doctor before engaging in any exercise program. Cooper did not believe there are any labels; she believed the company that makes the equipment does provide signage. It was believed the City would need to develop the signage to place at this location. Councilor Grindle inquired after looking through the two bids that were received why the recommendation was made to use Greenfield. That question will be addressed within the next two agenda items. Councilor Miller inquired how Friends in Action were allowed to be removed from the Moore Center by the YMCA, if it were the Council's desire for the program to be there. Originally when this came about the Council had not been informed of this arrangement; it may have been an oversight because the agreement is between the City and the YMCA. Friends in Action are a Sub lessee with the YMCA and the YMCA is named as the Lessee on the agreement with the City. The agreement states there needs to be senior usage. Friends in Action believed there were more protections than it obviously had. Chair Hamilton will address this concern as Gordon Workman also emailed in a concern in regards to why the YMCA was able to remove Friends in Action as well as why didn't the City intervene. Hamilton clarified the City Council was informed very late in the process. The Council immediately upon notification convened a phone call between Hamilton, Interim City Manager Glenn Moshier, Jo Cooper, and the YMCA to discuss the situation, work through the issues, and ultimately it was agreed upon to move in that direction. It was not a matter of being kicked out, there was a process used although late in the game. Cooper stated to be fair, COVID has put everyone in difficult situations including the YMCA. Although difficult, this is a great opportunity for Friends in Action. In

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KAPLAN, LYONS, MILLER (via zoom), AND PHILLIPS.**

CITY COUNCIL ABSENT:

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the future, they are hopeful there will be steps to take if changes need to be made during an emergency situation. Everyone has been faced with situations we never expected and everyone is doing the best they can. The reason the whole situation emerged and it was late in the process in all fairness with the YMCA; the YMCA had space and staffing to expand their child care program to meet an emergent need related to the schools going to a remote learning model and there would be a number of children on each day that could not attend school. Families were faced with employment issues versus child care and the YMCA was trying to create that opportunity to support children and families.

Presentation only; no formal action was taken or required this evening.

Council Order #112002, Request to accept bids for the equipment at the Dr. Charles C. Knowlton Park Senior Fitness Center.

Lisa Sekulich, Public Works Director explained this project has been in the works for a few years. Through that time a majority of it has been handled by the Planning Department; however, since it is now at the construction phase Sekulich is presenting the request this evening. The first portion of this request involved a bid opening on September 9, 2020 for the exercise equipment to be placed at the senior exercise area at Knowlton Park. Multiple bids were requested with two bids being received. After the bids were thoroughly reviewed, the bid found to be complete was from Greenfield Outdoor Fitness. See attachment #5 for the complete request as well as the bid from Greenfield Outdoor Fitness and to AA State of Play. Sekulich explained by complete that means bid bonds, requirements for clear space which details how the pieces of equipment must be placed in the ground so they do not hit each other, and a multitude of different things that the bids addressed beyond just a price. After a complete review, Greenfield was the only one that supplied everything that was requested. This was also the vendor that Friends in Action preferred throughout the research required for this project. The other vendor substituted some of the pieces of equipment as they do not carry the exact piece requested within the bid documents. The substituted equipment may not have been of equal quality, offered the same performance requirements, or performed the desired exercise element. There was also a separate bid opening for the game tables and a swing set because Greenfield did not have these pieces. The need for a second smaller bid to obtain those specific items was discussed with Doug Beck, the grantor. The second bid opening was on October 20, 2020 due to funding and some other considerations the swing set has been removed from the project. The game tables will still be included in the project. This request is ultimately funded

Approved - Council Order #112002, Request of the Public Works Director in conjunction with Friends in Action to award the bid for the Knowlton Park Senior Fitness area equipment to Greenfield Outdoor Fitness for \$23,091.00 and to AAA State of Play for the gaming tables for \$2,605.00 with funds for this project coming from Friends in Action and grant reimbursement from the Maine Land & Water Conservation Fund.

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through grant funds and other monies Friends in Action has raised through different avenues. The City will not be funding any portion of this request. Councilor Grindle questioned whether Greenfield provided any references because the other bid contained a variety of references. Sekulich explained Greenfield provided a binder of information and the other bidder had a much smaller packet of information. Greenfield provided the clear spaces, a design, references as well as elements that went above and beyond what was requested.

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

RESOLVED to approve Council Order #112002, Request of the Public Works Director in conjunction with Friends in Action to award the bid for the Knowlton Park Senior Fitness area equipment to Greenfield Outdoor Fitness for \$23,091.00 and to AAA State of Play for the gaming tables for \$2,605.00 with funds for this project coming from Friends in Action and grant reimbursement from the Maine Land & Water Conservation Fund.

Council Order #112003, Request to award the contract for installation of the fitness equipment.

Lisa Sekulich, Public Works Director explained this request is for the second part of the project. On October 29, 2020 there was a bid opening for the installation of the equipment. Multiple bids were solicited but only one bid was received. The only bid received was from R.F. Jordan and Sons in the amount of \$46,498.96. See attachment #6 for the complete request as well as the quote from R.F. Jordan and Sons Construction, Inc. Due to the budget restraints and other factors the swing set installation will be removed from this project. As this was a late change, the request tonight would be for the Council to authorize a not to exceed amount of \$46,498 to allow time to negotiate with RF Jordan and Sons a reduction of costs for the removal of the swing set. This project is being funded from Friends in Action and reimbursement from the Maine Land and Conservation Fund. Chair Hamilton confirmed the bid includes the site preparation that might be required for the pieces of equipment. Sekulich explained the site preparation, drainage that needs to be changed, grades that need adjustments, concrete foundations are needed for all the different pieces of equipment below ground, and the ultimate end surface is similar to crusher dust which meets ADA accessible requirements. This bid includes fairly significant earth work to finalize the project. Councilor Grindle inquired if there is one concrete pad or individual pads. Sekulich explained each individual piece of equipment will be buried in the ground with concrete foundations and then in

Approved - Council Order #112003, Request of the Public Works Director in conjunction with Friends in Action to award the bid for Knowlton Park Senior Fitness Center area equipment installation to R.F. Jordan with a not to exceed amount of \$46,498.96, to allow negotiations for the reduction in cost due to swing set removal, and with funds for this project coming from Friends in Action and grant reimbursement from

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between the pieces will be the crusher dust. This will create a similar look as the paths that are already in this area. Councilor Blanchette inquired if any of the equipment would impact the placement of the ice rink. Sekulich stated it would not; the location of the equipment is basically to the left between the pergola and the amphitheater. Chair Hamilton read a comment from Gordon Workman into the record. Workman stated it is a great idea to have an outside exercise area for the seniors; however, how are we going to protect those areas from the issues that happen at Knowlton Park, especially from the night activities. Sekulich noted it should not cause any additional issues besides those already encountered with the existing playground equipment. Interim City Manager/Police Chief Glenn Moshier stated Knowlton Park is monitored with cameras in addition there will be increased patrols of that area, this already happens with the existing playground. If officers see people in this area during the night they ask them to move along; the same level of enforcement will be used on that particular area of the park as well.

**the Maine Land &
Water Conservation
Fund.**

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

RESOLVED to approve Council Order #112003, Request of the Public Works Director in conjunction with Friends in Action to award the bid for Knowlton Park Senior Fitness Center area equipment installation to R.F. Jordan with a not to exceed amount of \$46,498.96, to allow negotiations for the reduction in cost due to swing set removal, and with funds for this project coming from Friends in Action and grant reimbursement from the Maine Land & Water Conservation Fund.

Presentation by the Code Enforcement Officer on potential amendments to the Noise, Licenses and Permits, and Property Maintenance Ordinances.

**Presentation and
discussion only; no
formal action taken
or required this
evening.**

Dwight Tilton, Code Enforcement Officer explained a workshop type of meeting was held a couple of months ago at that time there were some concerns brought up about the Noise Ordinance, Permits and Licensing Ordinance, and the Property Maintenance Ordinance. Tilton reviewed the Ordinances and without completely rewriting the Ordinances added language that addresses the concerns raised during that meeting. A section was added to the Noise Ordinance that allows a noise meter to be used. Last year, the use of a noise meter was questioned during the investigation of a complaint. Tilton presented a chart from the National Audiological Society and a chart from Osha. The threshold for 30 minutes of exposure is 90 decibels. See attachment #7 for the complete copies of the Ordinances including the recommended amendments to the following Ordinances:

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Chapter 14 Licenses and Permits (attachment #7A), Chapter 23 Noise (attachment #7B), and Chapter 60 Property Maintenance (attachment #7C). This agenda item was not advertised as a public hearing; a public hearing could be scheduled for a future meeting, if the Council would like to pursue the proposed amendments.

The amendments for Chapter 14 Licenses and Permits Ordinance came about due to a property owner voicing concerns with lobster vendors. This situation was a reflection of the Chinese decreasing their imports in the lobster market which caused the price of lobster to fall. The City never charged a lobster harvester before to setup in a parking lot because there was not a volume of vendors coming into Ellsworth. They generally setup on private property in Ellsworth, sell their products, and leave once they sell out of product. This past summer, the vendors stayed several weeks at a time because the market was very poor. The Code Enforcement Department started to identify who the vendors were and started charging a \$10 Business License fee; this is the same price charged to a business who opens in Ellsworth. The only reason for charging a fee is to obtain emergency contact information, the owner's names, and permits for signs. This process was used for the lobster harvesters and other vendors that setup for business in Ellsworth last summer. This was a one-time permit fee. As there was already language within the Ordinance that addressed transient seller's licenses; Tilton proposed using that language going forward in these situations. This license would be good for 30 days (consecutive or over time). If the Council approves of this language the Code Enforcement Office will track the number of days each vendor conducts business within Ellsworth. This license can be renewed every 30 days if needed. The transient seller's license would apply to the vendors of berries, lobsters, clams, potatoes, apples, and similar items. This would ensure anyone that is selling a product would be licensed under one of the sections included in Chapter 14. The businesses that are not currently licensed under this Ordinance have been grandfathered because they were already conducting business prior to the 9/1/2007 amendment dated when the Business Licensing section was added. The new license would cost approximately \$3 per day for the ability to sell your product. The City would be collecting \$100.00 more per vendor if this amendment is approved compared to the \$10 fee that was collected this past summer. Councilor Kaplan inquired how this new fee would impact the craft fairs and farmer's markets. Farmer's markets already pay a fee as part of a state organization. They will remain exempt from this new requirement. A farm stand that is setup on a resident's own property would be exempt as well. Anyone who is bringing a product into Ellsworth to sell would need to purchase a transient seller's license. Tilton stated a craft fair would be handled differently; this only applies to roadside

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businesses that setup in Ellsworth. The concept behind this request is the roadside vendors are competing with established Ellsworth businesses. This permit applies mostly to food vendors.

Due to the number of vacant buildings in Ellsworth, there was a desire mentioned in a previous meeting to address it. The current ordinance is based on the International Code Council's version and then additional language was adapted to meet the needs of Ellsworth. If the City declares a property to have a dangerous building on it, is a hazard, or categorizes it as anything else listed in Title 17 it will become a very serious matter. The amended language provided this evening in attachment #7C has been taken directly out of the State Statutes Title 17. At the point, where all the proper letters have been sent; however, prior to the City starting legal action under Title 17, the owners will be contacted to assure they understand how the Ordinance will be applied to their situation. During Tilton's term as Code Enforcement Officer, the City has taken 3 cases to court. The City has not lost a case; however, at the end of the case the City does not always recover all of their money spent throughout the process. A judge will determine whether the City receives their legal fees or not. The legal fees were not recovered on the first case involving a junkyard because the judge ruled the City would recover those once the property was sold; however, in that case the house was not even for sale at that point. The house ended up in foreclosure and the City lost out on collecting the \$4,000 in legal fees encountered. On the second case, the City won in court; however, the judge authorized the City to enter the property in an effort to clean it up. This process was put out to bid and at the end of the project \$12,000 was tied up in it. Approximately two years later the property was put back on the tax rolls. In most cases if a financial burden like this is placed on a resident they will surrender the property to outstanding taxes or allow the property to be foreclosed on by the City. At this time, Tilton sees this Ordinance applying to approximately 8 different buildings within the City; two of which are currently owned by the City. Tilton recommended the Council set aside money within next year's budget to cover the upfront costs associated with the work until the funds can be recouped through some measure. Currently, the Code Enforcement budget does not contain the funds necessary to cover this type of expense. The City government is in a unique situation compared to a town form of government because City's do not need to hold a town meeting for authorization to enforce this type of violation. In a town meeting form of government a property could be saved from the requirements if the land owner has enough support to have it voted down by the residents. This process can be completed; however, does not happen quickly. There is an appeal process that can be requested, there are different organizations that will help the

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offending party, and there are attorneys willing to take the cases pro bono which can increase the costs to the City associated with going to court over this type of matter. Some cases can be settled out of court while agreements cannot be reached prior to legal action in other situations.

Chair Hamilton inquired if it would make sense to break the three ordinances up into three different public hearings and try to space them onto separate agendas. Tilton felt having them on separate agendas based on the Council's priority list would be the best course of action. Councilor Blanchette inquired how Tilton would recommend addressing the funding issue associated with this process. Tilton estimated most buildings cost between \$7,000 and \$8,000 in demolition fees. His recommendation for addressing the two city properties would be to put the properties out to bid and have them return to the tax rolls. Once the title is cleared on one of the properties there is a good possibility the abutting landowners will purchase that property from the City. Once the property is placed out to bid, allow the new owners to clean up the property, and include a stipulation within the deed that the property must be cleaned up within 6 months of the closing for example. Blanchette and Tilton discussed the concept of creating an account within the City to place any monies exceeding past due tax obligations to later be used to fund this process on future properties. This arrangement would limit the tax burden to the taxpayers and actually fund this process through profits from the sale of properties instead. Blanchette was in favor of starting the process of setting aside funds in some manner and creating a process for taking care of this concern. The Council will schedule the amendments for future agendas.

Presentation and discussion only; no formal action taken or required this evening.

Council Order #112004, Request to authorize the Interim City Manager to enter into a twenty-year Bill Credit Agreement under the Maine Commercial and Institutional Customer Net Energy Billing - Tariff Rate Credit Program which will enable the City to purchase Bill Credits associated with the generation of solar power from a distributed generation solar project located in the City of Ellsworth for purposes of offsetting and lowering the cost of electricity for the City of Ellsworth and its component units.

Interim City Manager Glenn Moshier explained there are two agreements before the Council. Last month, the Council authorized Moshier to execute the agreement for the project on the Industrial Road. The second agreement covering the project on

Approved - Council Order #112004, Request to authorize the Interim City Manager to enter into a twenty-year Bill Credit Agreement under the Maine Commercial and Institutional Customer Net Energy Billing - Tariff Rate Credit Program which will

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the Mariaville Road was postponed until tonight. See attachment #8 for the complete version of the Bill Credit Agreement as recommended for approval this evening. The reason approval was postponed until this evening was it required some fine tuning and distributing of the actual accounts; all of these amendments have been completed. Both agreements are now in a form that are ready to be executed. The Industrial Road project has been double checked as it relates to the accounts assigned to that project to ensure the cascading method was accurately distributing the credits. At the time there was some concerns relating to the enterprise accounts receiving an excessive amount of the credits due to fact they are large consumers and by doing this it would somehow diminish the effectiveness on potentially lowering the tax rate for the taxpayers. The accounts were reviewed and then some of the non-enterprise accounts were prioritized within the cascading method; through this effort those accounts will then receive the largest amount of the power credits. This will ensure the enterprise accounts which are the largest consumers maintain a high level of reduction as well. Once the smaller school accounts or those that have been identified as school accounts were applied to the Industrial Road project that only left the two major school accounts for the Mariaville Road project. The High School (EHS) and the Ellsworth Elementary Middle School (EEMS) are the only two accounts that will be on the Mariaville Road project agreement. 32.26% will be EEMS and 22.93% will be EHS. The distribution for this program is a specific percentage assignment as opposed to the cascading method. This is because the City/School will only be consuming approximately 55.19% of the credits generated from the second location. Sunrays will be going out to bid to sell the remainder of those credits to other consumers; therefore, the cascading method would not be realistic to use under those circumstances. The Mariaville Road project agreement is before the Council tonight for approval (attachment #8) on authorizing the City Manager to execute said document. Sarah and Woody were both available via Zoom technology to answer questions; they extended a thank you to the Committee members. The Committee members have done a tremendous amount of work on both projects along with Sarah and Woody. Councilor Blanchette asked Woody about the projected monthly energy numbers for June, July, and August when school is not in session why it would triple the number of usage. Woody explained although he has not conducted an energy audit on those facilities his thought pertaining to summer increases is an air conditioner; however, it was unclear if that might explain the increase. Often the air conditioning units are only in the administrative areas. Sarah explained the numbers Blanchette is referring to is a reflection of the expected monthly energy that would be generated by the project. It would be normal for a solar facility to generate more energy in the hot summer months than in the colder darker shorter

enable the City to purchase Bill Credits associated with the generation of solar power from a distributed generation solar project located in the City of Ellsworth for purposes of offsetting and lowering the cost of electricity for the City of Ellsworth and its component units as presented in attachment #8.

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days of January. Blanchette clarified the numbers he was looking at has nothing to do with the power that is used, it is power generated. Sarah explained the reason that information is available is because in the contract it states if the generation facility in actuality does not generate either 50% or 70% on a continued basis there could be a rite of termination because it is basically underperforming. It could be a case where the school is not generating a lot of electric usage during the summer when the credits are being generated and under the program that is set up by the State under the energy billing program; if that is the case those accounts are lower in the summer and the credits cannot be used than they can be banked. Once banked the credits can be used over the next 12 months; it is not a use it or lose it situation within that one month period, a consumer does have a full year to use them. Councilor Kaplan inquired if any more work had been completed on the social costs associated with the sourcing of the materials. Moshier stated Sunrays went back to their contacts after the last Council meeting and discovered they are not using the Longi solar panels. They will be using Trina Solar; although, they were very concerned by the issues that were raised they had already made the decision to change panels prior to the Council meeting. They were not made aware of any specific reasons for the change or that they related to the concerns raised; it appears the decision was made based on price and availability. Moshier indicated Sunrays did some research into the new Trina Solar and have not found similar types of concerns that Kaplan raised in the previous meeting. The official public hearing was held last month; however, Hamilton did provide an opportunity for members of the public to email him questions or concerns this evening. Hamilton did not receive any emails/comments from the public.

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

RESOLVED to approve Council Order #112004, Request to authorize the Interim City Manager to enter into a twenty-year Bill Credit Agreement under the Maine Commercial and Institutional Customer Net Energy Billing - Tariff Rate Credit Program which will enable the City to purchase Bill Credits associated with the generation of solar power from a distributed generation solar project located in the City of Ellsworth for purposes of offsetting and lowering the cost of electricity for the City of Ellsworth and its component units as presented in attachment #8.

Council Order #112005, Request of the Superintendent of Schools to purchase a new boiler system at Hancock County Technical Center to replace the failed boiler.

**Approved - Council
Order #112005,
Request of the**

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CITY COUNCIL ABSENT:

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Daniel Higgins, School Superintendent attended the meeting via zoom technology. See attachment #9 for the complete request from Dan Higgins, Superintendent of Schools. Higgins explained he is requesting a transfer and expenditure of funds to replace the failed HCTC boiler. This is the priority boiler. The Ellsworth School Committee voted at their Tuesday meeting to approve the low bid from Honeywell in the amount of \$89,800. The School Board recommended the funding sources to be used for this purchase. Funds would be withdrawn from the following sources: HCTC Capital Reserve Account, HCTC Fund Balance, and the ESD Capital Reserve Account. The history and account balances on each of the funding sources was explained within the backup document (attachment #9) as well as this evening for the public's knowledge. Higgins stated the Hancock County Superintendents (by consensus) and the Hancock County Technical Center Advisory Committee (by vote) supported the use of these funds for this purpose. If approved tonight Honeywell is prepared to start the work as soon as the boiler arrives. The backup boiler which was of the same vintage as the boiler that just failed and is no longer repairable also broke down Sunday afternoon; this caused HCTC to hold classes remotely on Monday. Honeywell was able to repair the backup boiler on Monday allowing operations at HCTC to resume on Tuesday. Chair Hamilton inquired if the HCTC Fund Balance account was made up from the tuition payments of the sending schools. Higgins stated the funding for HCTC comes from the subsidy from the State which used to flow to all the sending districts and then they paid it in the form of tuition for the students that attend HCTC. However, starting a few years ago all of the subsidy flows to the Ellsworth School Department because the City owns and operates the facility. This year the fund balance was used to offset those costs, they have assessed a per pupil amount to each district for the students that they send. All the districts have contributed directly or indirectly to the fund balance. There was a detailed explanation provided in response to Councilor Kaplan's question concerning how much of the cost would come from the Ellsworth taxpayer. Councilor Lyons clarified this boiler has to be replaced. Higgins confirmed it is beyond repair. Honeywell has serviced the boilers for a number of years. There was a possibility the backup boiler would also be beyond repair; however, it luckily was able to be repaired this time. These are the original boilers from the late 1970's when the school was built.

Superintendent of Schools for authorization of transfer and expenditure of funds to replace the HCTC boiler in the amount of \$89,800. The funding sources are detailed in attachment #9 as presented this evening.

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

RESOLVED to approve Council Order #112005, Request of the Superintendent of Schools for authorization of transfer and expenditure of funds to replace the HCTC boiler in the amount of \$89,800. The funding sources are detailed in

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attachment #9 as presented this evening.

Executive session to discuss consultations between a body or agency and its attorney concerning legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E.

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

RESOLVED to approve entering executive session for the purpose of discussing consultations between a body or agency and its attorney concerning legal rights and duties of the body or agency in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:48 PM. (The complete wording of the executive session is listed above).

Chair Hamilton noted the Council will be returning after the executive session and we be taking action.

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

RESOLVED to approve adjourning from executive session in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 9:03 PM.

Council Order #112006, Action from the above executive session as stated in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E.

See attachment #10 for the complete settlement agreement as discussed during the executive session. There was no discussion prior to a motion being made.

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

RESOLVED to approve Council Order #112006, the settlement agreement with

Approved - entering executive session for the purpose of discussing consultations between a body or agency and its attorney concerning legal rights and duties of the body or agency in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:48 PM. (The complete wording of the executive session is listed above).

Approved - adjourning from executive session per MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 9:03 PM.

Approved - Council Order #112006, the settlement agreement with Maine Coast Medical Realty Incorporated as presented in the executive session (attachment #10).

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: NOVEMBER 16, 2020

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, HAMILTON,
KAPLAN, LYONS, MILLER (via zoom), AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: INTERIM CITY MANAGER GLENN MOSHIER,
JENNIFER MERCHANT, AND HEIDI GRINDLE.**

*Maine Coast Medical Realty Incorporated as presented in the executive session
(attachment #10).*

Adjournment.

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

RESOLVED to approve adjournment at 9:04 PM.

A TRUE COPY

**ATTEST: _____
HEIDI-NOËL GRINDLE**

**Approved -
Adjournment at 9:04
PM.**