

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: March 15, 2021

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: CITY MANAGER GLENN MOSHIER, LISA
SEKULICH, JANNA RICHARDS, MICHAEL HARRIS, JASON INGALLS, 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.

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.

Councilor Blanchette requested an item be added this evening; that item was approval of The Above the Horizon Solutions contract proposal.

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

RESOLVED to approve adding an item to the agenda.

Call to Order.

Pledge of Allegiance.

Rules of Order.

**Approved - Adding
an item to the
agenda.**

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HEIDI GRINDLE.**

Chair Hamilton noted this item will be added to the agenda under New Business as number 15 and all subsequent items will be moved down accordingly.

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

- *02/08/2021 Regular meeting.*

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

RESOLVED to approve the adoption of minutes from the February 08, 2021 Regular meeting as presented.

City Manager's Report.

Glenn Moshier, City Manager reminded the public that on Thursday, March 18, 2021 at 6:30 PM there will be an Ellsworth Open House. This will be a virtual event this year; more information can be located at www.ellsworthlibrary.net and to sign up to attend. Moshier noted Northern Light Maine Coast Hospital would be presenting an update on the progress they have made in conjunction with the City for a vaccine clinic. This vaccine clinic will be located in Ellsworth in addition to the ones that currently exist.

Committee Reports.

HCTC Steering Committee/Feasibility Study Committee. Councilor Grindle attended the zoom meeting where an update was provided on the progress made by Oak Point on this project. Information should be available soon for review.

Budget Committee. Chair Hamilton announced the budget workshop meetings will begin on April 12, 2021 instead of on April 5, 2021. The remaining meetings will be held on April 26, May 3, and May 10. This will be the preliminary process of hearing from each department and what expenses are included within those budgets. This will allow time for the Council to explore the more challenging issues as they move forward with the budget process. The schedule will be published shortly along with the departments assigned to each date. The budget meetings will begin at 6 PM.

Approved - Adoption of minutes from the February 08, 2021 Regular meeting as presented.

City Manager's Report.

Committee Reports.

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Citizens' Comments.

John Ronan, President of Northern Light Maine Coast Memorial Hospital and Blue Hill Hospital and Joe Gaetano, Vice President of operations were present via zoom technology to provide an update on opening a vaccine clinic in Ellsworth. A couple hundred patients can be vaccinated at the Maine Coast Hospital campus. It was clear this number would need to be increased which led to a combined effort with the City of Ellsworth to identify if there were sites within Ellsworth that a max vaccination clinic could be launched. This site would be designed similar to other sites within Maine and particularly like the operation being held at the Cross Center in Bangor. The goal would be to open a clinic that could service between 500 and 750 people per day on multiple days per week. The search for a suitable space began; there was a checklist of items that had to be met in order for the site to be considered viable. A space was located a couple of weeks ago that appears to be perfect, the landlord has been willing to work with Ronan and Gaetano, currently the hospital teams are working on renovating the space and soon the logistics will be added to the site to convert it into a vaccination clinic. This clinic will be located next to Shaw's at the previous home of the Family Dollar store. As of May 1, 2021 the Governor has authorized that all adults in the State of Maine are eligible for the COVID-19 shot. This announcement pushed the need to open the center quicker than originally anticipated. Gaetano, provided the anticipated timeline and checklist of items that must be addressed in order for the center to open. The goal is to be ready to open for a trial run the week of March 29, 2021. April 1, 2021 is the target date to administer the first vaccine at this site. The clinic that is currently located at the Maine Coast Hospital will be moved to this new location and then scaled up from that point. The volume of patients will be largely dependent on the vaccine supply; this is believed to be improving. They will be reaching out to the Community for volunteers which includes working with commercial businesses and other organizations within Ellsworth. Chair Hamilton expressed his appreciation for the work that Northern Light Maine Coast Memorial Hospital has dedicated to this project. The Hospital system is stepping up to meet a need within the Community, the organization and planning for the clinics is coming at a great monetary expense to the hospital. Hamilton noted this concept will fit into a later conversation this evening on moving past COVID and reopening our community. This is a big step in that direction, as well as having this clinic as a resource will be critical to getting the citizens vaccinated. Councilor Lyons inquired how many people have been vaccinated at this point in Hancock County. The number is expanding daily; however, over the six week period they have been available Blue

Citizens' Comments.

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Hill Hospital and Maine Coast Hospital have given over 8,500 vaccinations. Not all of the people receiving those vaccinations have been from Hancock County likewise a lot of people from Hancock County traveled outside of the County to receive their vaccinations due to availability and scheduling restraints. It was believed the actual number is well over 20,000 Hancock County residents have received the COVID vaccination; once it has been confirmed with the CDC website an update will be provided on that number.

Presentation of Awards.

There were no awards to present this evening.

UNFINISHED BUSINESS

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. (Tabled at the December 21, 2020 and February 8, 2021 Regular Council meetings).

Steve Joyal, Facilities Manager explained at the request of the Council he contacted the three companies that had previously submitted quotes for the 60kw and 50kw propane generator to ask them if they would submit a quote for a 50kw diesel generator. To remain consistent with the earlier quotes received they need to quote the complete package including the groundwork for installation. The nine quotes ranged from \$24,860.85 to \$41,320.45. The lowest quote was received from CMD power systems for a 50kw diesel generator. See attachment #1 for the updated request as presented this evening. Joyal is recommending the contract be awarded to CMD Power Systems Inc. in the amount of \$24,860.85 for the purchase and complete installation of a 50kw Cummins diesel generator to be installed at 415 Water Street (Union River Center for Innovation). This expense will be paid for with grants.

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

RESOLVED to approve Council Order #122004, Request of the Facilities Manager to award a contract for purchase and complete installation of a 50kw diesel generator at 415 Water Street (URCI) to CMD Power Systems Inc. for \$24,860.85. The purchase and installation will be funded through secured grant

Presentation of Awards.

Unfinished Business.

Approved - Council Order #122004, Request of the Facilities Manager to award a contract for purchase and complete installation of a 50kw diesel generator at 415 Water Street (URCI) to CMD Power Systems Inc. for \$24,860.85. The purchase and installation will be funded through secured grant funds, as described in attachment #1.

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funds, as described in attachment #1.

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

Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth. (Tabled at the December 21, 2020, January 11, 2021, and February 8, 2021 Regular Council meetings).

Glenn Moshier, City Manager reported there has been progress; however, there is still not a final product to be voted on this evening. Northern Light Medical Transport provided a revised service agreement which was sent to the City's legal counsel for vetting. The City's legal counsel returned the document to Moshier with some recommended changes. Specifically these issues deal with a monetary increase and a lack of deliverables within the contract. This topic was raised as part of a discussion on the previous agreement at an earlier Council meeting. These concerns have been forwarded to the Northern Light Legal Department. At this point, Moshier is waiting for a response; he is hopeful between now and the next Council meeting a final agreement will be received.

On a motion by Blanchette, seconded by Kaplan, 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. (Previously tabled at the December 21, 2020, January 11, 2021, and February 8, 2021 Regular Council meeting).

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 #032100, Reservation of the City of Ellsworth's right to harvest alewives. **

Approved - Tabling action on Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth and the Emergency Medical Services Agreement. (Previously tabled at the December 21, 2020, January 11, 2021, and February 8, 2021 Regular Council meeting).

Approved - Consent Agenda as presented this evening.

Approved - Council Order #032100,

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See attachment #2 for the complete request describing the City of Ellsworth's right to harvest alewives.

*Council Order #032101, Request of the City Manager to hold a Special Municipal School Budget Validation Referendum Election on June 08, 2021, for the purpose of validating the school budget. **

See attachment #3 for the complete request.

*Council Order #032102, Request to approve a one season extension to the commercial lease agreement with Michael Harris, d/b/a Harris's Harborside Takeout for a vending concession stand at the Ellsworth Harbor. **

See attachment #4 for the complete request and signed lease extension.

*Council Order #032103, Request of the Finance Director for transfer of the Defendants In Rem (criminal forfeiture Doc. No. HANCD-CR-2019-01668) to the City of Ellsworth and to allow the Finance Director to deposit these monies into the Police Forfeiture Reserve Account upon receipt of the funds. **

See attachment #5 for the complete request and signed transfer of the Defendants *In Rem*.

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

RESOLVED to approve the Consent Agenda as presented this evening.

Before a vote was taken on the above motion Councilor Lyons asked for an explanation on the Alewives agenda item. Glenn Moshier, City Manager explained the City has a written agreement with an individual to harvest the alewives; this has been a standing agreement for the past 20 years. This agreement is nearing its end with that individual. He has exclusive rights to harvest the alewives and sell those. Lyons clarified one individual has the rights to all of the alewives; he further wondered if anyone else was interested in this process. Moshier explained this is a

Reservation of right to harvest alewives.

Approved - Council Order #032101, Special Municipal School Budget Validation Referendum Election on June 08, 2021.

Approved – Council Order #032102, one season extension to the commercial lease with Harris's Harborside Takeout.

Approved – Council Order #032103, transfer of Defendants *In Rem*.

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contractual agreement, when the current contract expires someone else could pursue an agreement with the City. Councilor Kaplan explained the agreement was formed long before the price increased dramatically. Lyons inquired how the City benefits from this company taking all the alewives. Moshier stated the City benefits from part of the revenues received from the sale of the alewives. Councilor Phillips stated the agenda item before the Council tonight is simply the right for the City of Ellsworth to harvest the alewives and no one else. The contract that has been referenced this evening has nothing to do with the request being voted on this evening. The request tonight is the simple fact that if approved the right will be reserved for the City of Ellsworth to harvest the alewives and retain the funds from this process. The referenced contract will be a separate item entirely at a future Council meeting when appropriate. Phillips stated this request is an annual agenda item required under State Law and all future Councils will see this request every year as he has for the past 27 or 28 years.

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

NEW BUSINESS

Request of the Water Superintendent to approve the warranty and service contract renewal for Horizons Solution as requested and added this evening.

Michael Harris, Wastewater Superintendent noted this is a contract that the City has had for the past five years to service and warranty variable frequency drives and programmable logic controllers at the Wastewater Treatment Plant. These items are critical to the efficiency of the plant as well as the operation of the plant. The variable frequency drives control almost all of the pumps and machinery located at the plant. They allow the plant to be as efficient as possible by controlling the speed at which the pumps operate rather than have the pumps come on at the maximum speed and remain that way consistently even if they do not need to be. The variable frequency drive (VFD) is programmable so that the pump can be slowed down and maintain a steadier flow and use less energy. See attachment #5A for the request and copy of the contract. Unfortunately, the City does not have enough technical expertise within the staff to repair or service these particular pieces of equipment. It is not uncommon for this piece of equipment to fail and when that happens it is very expensive. If a drive that is under the contract fails it is covered as part of the contract at no cost to the City. Harris stated prior to the

New Business.

**Approved -
Warranty and
service contract
proposed by Horizon
Solutions in the
amount of \$1,238.00
per month.**

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implementation of the original contract a VFD did fail and the City paid \$10,000 to replace it; if that had been under a contract the City would not have incurred that expense. The current contract expires in March. Harris had inquired with the company if this could be delayed until July 1, 2021 so that it could be included within the normal budget cycle. This approval would keep the contract from expiring prior to the normal budget cycle. The reason the company would like to renew the contract this month is because the company will no longer be offering this type of contract. They will be offering a newer version that gives the City less benefit and costs more money. Harris negotiated a contract that would be signed in March so that it remains under the previous stipulations and is not impacted by the new policies. The start date for the City's contract will be July 1, 2021; so that it will coincide with the normal budget cycle moving forward. The cost will increase from \$1,077 monthly to \$1,238 monthly. The reason for this increase is because when the City originally entered into the agreement the majority of the equipment was new; therefore the chances of the company incurring a failed drive were a lot less than they are now. Now that the equipment is five years older the contract is slightly more expensive. Harris has the necessary funding within his professional services line item; that is the account that is currently used for this expense. Even considering this slight increase, Harris should be able to keep this line item at the same level within the Fiscal year 2022 budget. Harris noted there are three drives on the plant site that are not covered under this contract; they came as a proprietary piece of the aeration blowers. Currently, one of those has failed, the price to replace this has not been obtained yet. The City will have to fund this expense. Harris is currently negotiating with Rockwell, in an effort to replace the proprietary drive with a Rockwell drive instead of another proprietary drive so that it can be included within this contract. This drive will cost a significant amount of money to repair or replace. If a drive fails it could cost approximately \$10,000 compared to nothing if it is under contract. Chair Hamilton stated this would be insurance on very expensive equipment. Harris explained the problems that exist if a VFD fails, as well as how they are wired which contributes to the complexity of the situation.

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

RESOLVED to approve the warranty and service contract proposed by Horizon Solutions in the amount of \$1,238.00 per month.

Councilor Miller stated in response to Councilor Lyons earlier question regarding the number of Hancock County residents that have been vaccinated. The answer is

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currently, 21,443 people have been vaccinated in Hancock County to date. 14,348 have had the first dose and 7,095 have final doses.

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

The Eagles Lodge, Inc., 278 High Street, for renewal of a City Lodging House License.

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

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

Councilor Kaplan confirmed the signature on the license will be obtained by the City Clerk's Office. Heidi Grindle, City Clerk confirmed the signature will be gathered before the license is forwarded to Eagles Lodge. It was just an oversight when it was submitted by the applicant.

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

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

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

Public hearing was opened.

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

Approved - Morse, LLC d/b/a Tag's Sports Bar 248 State Street Suite 4 for renewal of a City Class A License (Amusement, Liquor, Arcade and

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HEIDI GRINDLE.**

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

Asset Management Inc. d/b/a Riverside Café, 151 Main Street, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous, and Vinous Liquor License.

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

RESOLVED to approve the request of Asset Management Inc. d/b/a Riverside Café, 151 Main Street, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous, and Vinous Liquor License.

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

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

**Victualer) and
renewal of a State
Class XI,
Restaurant/Lounge
Malt, Spirituous, and
Vinous Liquor
License.**

**Approved - Asset
Management Inc.
d/b/a Riverside Café,
151 Main Street, for
renewal of a City
Class C License
(Victualer and
Liquor) and renewal
of a State Restaurant
(Class I, II, III, IV)
Malt, Spirituous, and
Vinous Liquor
License.**

**Approved -
Ellsworth Moose
Lodge #2698, 47
Foster Street,
renewal of a City
Class B License**

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HEIDI GRINDLE.**

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

Josie's Country Store d/b/a Josie's Country Store 126 Surry Road for renewal of a City Class C License (Victualer/Liquor) and renewal of a State Restaurant (Class I, II, III and IV) Malt Liquor, Wine, and Spirits Liquor License.

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

RESOLVED to approve the request of Josie's Country Store d/b/a Josie's Country Store 126 Surry Road for renewal of a City Class C License (Victualer/Liquor) and renewal of a State Restaurant (Class I, II, III and IV) Malt Liquor, Wine, and Spirits Liquor License.

Council Order #032104, Presentation with the opportunity for public input on applying for a Connectmaine planning grant and approval to form a City Broadband Committee.

(Amusement/pool tables, Liquor, and Victualer) and renewal of a State Class V, Club w/o Catering Malt, Spirituous, and Vinous Liquor License.

Approved - Josie's Country Store d/b/a Josie's Country Store 126 Surry Road for renewal of a City Class C License (Victualer/Liquor) and renewal of a State Restaurant (Class I, II, III and IV) Malt Liquor, Wine, and Spirits Liquor License.

Approved - Council Order #032104, the planning grant proposition as filed

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Jason Ingalls, IT Administrator and Janna Richards, Economic Development Director provided an update on the state of broadband in Ellsworth and some of the steps the City may take in regards to this concept. See attachment #6 for the complete request, Connectmaine Grant Precertification draft document, power point presentation, and presentation power-point slides. Ingalls stated the definition of broadband is generally defined by the speed of the connection. In the case of Ellsworth it can easily be determined by whether you have access to Spectrum or not; if a residence has access to Spectrum then in turn that residence has access to broadband service. DSL is a copper service from the telephone company; in most cases those residents do not have access to broadband. The majority of the City of Ellsworth in the South and West portions have access to Spectrum which includes the Surry Road, Bucksport Road, Downeast Highway, and the Bar Harbor Road. The areas that are missing that access are in the Northern part of the City; this area includes North Street, Mariaville Road, Winkumpaugh Road, Happytown Road, Nicolin Road, and the Branch Pond Road; those areas are lacking access to adequate broadband. A few years ago the City built a three mile fiber optic network within the heart of the City. There are a few customers on that service and GWI provides the service to those customers. The City owns and maintains the fiber and attachments. This project places the City a little above the curve compared to other municipalities because the City is already licensed pole "Attachers" with Versant and Consolidated. The City has already completed a majority of the steps that other towns are just starting to work on; for Ellsworth this process was completed through the Northern Borders grant awarded three or four years ago. Ellsworth is already fiber rich; however the problem with that fiber is it is located along the main corridors and is not easily accessible to small businesses and residences. This is caused mainly because of network designs and the cost of gaining access to that fiber. Ingalls explained by offering broadband in those areas the City would be supply approximately 1,200 properties that have a building on them, this could be a residence or business; or approximately 30% of the total residents and businesses within the City. Ingalls addressed the reality that there are some residents located within the served areas that may not have access and that might be due to the length of the driveway or there may be some other reason why broadband may still not be available to those residents. Janna Richards, Development Services Director explained it is well known there are citizens and businesses within the City of Ellsworth that have connectivity that is adequate enough to either do business, remote schooling, work from home and then those that are not able to do those tasks. Richards explained how the numbers were calculated that Ingalls provided; however, to get a better idea of properties that are not served by adequate

**tonight within
attachment #6 and
move ahead with it.**

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

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**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, LISA
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broadband Richards felt conducting a survey of residents would be best. This would be particularly helpful in the underserved areas within the northern sections that Ingalls addressed. The survey will help determine the rates and the appetite for broadband service at different price points. As part of this process the goal is to conduct a local speed test. Currently, Connectmaine statewide is allowing people to use a link to conduct a speed test. That data is difficult for municipalities to see, the object is to get that data locally, possibly, in connection with the survey. This would allow the City to see if residents have internet service and whether it is adequate enough to conduct simple tasks such as uploading and downloading documents. The thought is the survey would be incorporated into a greater broadband plan. Currently, through the Federal stimulus packages there is money available for broadband. A majority of that money in Maine is getting channeled through the Connectmaine authority. They are offering two different types of grants. One is a planning grant and the other is an infrastructure grant. The City of Ellsworth is considering applying for the planning grant first. This decision was made because in order to apply for an infrastructure grant the municipality would have to be shovel ready, know exactly what the network is going to be, and where the poles will be located. The City is not at that point in the project yet; the thought is by applying for this planning grant first it would put the City in a position to be ready to apply for the infrastructure grant later. The planning grant would fund a plan that would showcase Ellsworth's broadband needs and goals. It would provide an inventory of the City's existing infrastructure and assets. This would give the City a gap analysis identifying what additional infrastructure is necessary to reach the broadband goals within the City. This would also provide the City with network designs and cost estimates to reach those goals; as well as, different business model types. Richards stated the City could partner with an internet service provider, have a city owned internet service, or the City could stay status quo and not move forward with expanding broadband. The type of business model the City selects corresponds with the funding mechanism. There are other Federal grants in addition to the Connectmaine infrastructure grant that could help fund other types of business models. The plan would outline all options allowing the City to identify the best path forward in providing affordable and adequate service to the underserved sections of the City. There are a few prerequisites to apply for the planning grant. 1) Submit the pre-certification application (see attachment #6). The pre-certification application requires a community to hold a community meeting (multiple meetings) to engage residents, businesses, and internet service providers. This meeting is intended to be one of the first meetings where the City is engaging stakeholders as well as residents. A letter has been sent to internet service

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providers, letting them know this meeting was taking place tonight. Feedback was received from one of the stakeholders. 2) The City should form a formalized broadband committee. Within the pre-certification application there were recommended roles for the members on that committee. Richards stated within the draft documents are proposed names of potential members for that committee; however, it is still open for input and discussion at this point. Richards and Ingalls are looking for direction on whether the Council would like to formally create that committee. Following that Richards and Ingalls would submit the pre-certification application. Then await the status before proceeding with the planning grant. The planning grant does not require a match. Richards explained part of the stipulation is that public comment would be taken this evening (if there is any tonight). Chair Hamilton has received some public comments on this topic via email. Councilor Blanchette was in favor of the names that were listed within attachment #6 for the proposed committee. Ingalls was contacted by a resident who lives in the underserved area of the City who suggested the committee should include one or two citizens from those areas. This category of membership was not included within the suggested membership list. Councilor Lyons volunteered to be on the committee if somebody else did not want to serve in that capacity; he lives in that area as well.

See attachment #7 for the four emailed comments received and read into the record this evening by Chair Hamilton.

In response to the question asked by Pioneer Broadband regarding how much money the City is seeking, whether quotes have been received yet on anything that is being considered; Ingalls stated the answer is no. The decision has not been made yet in regards to how much money is needed. Preliminary discussions have been held with a planning firm and some estimates have been considered. Real numbers are not being considered at this point; Richards clarified more estimates are needed. So far only a ballpark figure has been identified based on an estimate of the types of deliverables the City would require.

There was a question (no name provided) concerning whether the project would go out to bid. Richards and Ingalls confirmed the normal process would be followed.

Councilor Grindle inquired what the expected timeline would be for this project. Ingalls was not positive because it depends on how the project proceeds. If a grant is going to be used, the City would have to wait for the grant windows to open. It

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would be possible to complete this process without grant funds. Ingalls provided an example of a successful project that did not use any grant funds. In that example the network is paying for itself; that was a completely self-funded construction. Ingalls pointed out if grant funds are not utilized the project could move along faster but that would mean more risk to the taxpayers. A decision would have to be made on which path the project will take forward before a timeline could be determined. Ingalls estimated to complete the northern portion of the City would cost approximately \$4 million dollars. This would require approximately 80 to 90 miles of fiber optic cable and include every house within that area. If the funds were available tomorrow the project would still take approximately 18 months to complete. Richards explained in regards to the planning process; the grant window should be opening next month. It is possible to fast track getting the application submitted during April or May and simultaneously conduct the survey. The goal would be to have a draft plan in July or August. It appeared this phase of the project could be completed by the end of summer.

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

RESOLVED to approve Council Order #032104, the planning grant proposition as filed tonight within attachment #6 and move ahead with it.

Before a vote was taken, Hamilton noted having citizen's input and representatives from different business sectors would be very important. Richards and Ingalls are planning on including those two groups within the committee membership.

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

Discussion on moving beyond Covid and Re-Opening our Community. (Sponsored by Chair Hamilton)

Chair Hamilton read into the record a statement he had prepared that was related to this topic tangentially. Hamilton explained on Friday, March 5, 2021 he sent a letter to Senator Luchini and Representative Grohoski asking them to support the removal of the physical distancing requirements in schools and to advocate for the legislature to resume their role in approving executive action. Hamilton explained he had a personal and professional commitment to the mental health of the children and community as well as all communities. The request he submitted to Senator

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Luchini and Representative Grohoski pertained to state level issues; they are the elected representatives for Ellsworth and the decision makers as to what actions will or will not be taken. Hamilton viewed this request as one that was personal and not one that was associated with his role as a City Councilor. Through the course of having individual conversations with other Council members regarding a number of issues he mentioned the nature of his letter as well as expressed his concern for the mental health of children. Two Councilors expressed a desire to add their name to the letter. He ultimately asked other Councilors if they wanted to add their name to the letter that was not based on their role as councilors but rather as citizens of Ellsworth. The letter was not debated, voted upon, or presented as official City businesses. Recently, Hamilton has been accused by a few members of the community as violating the Freedom of Access Act (FOAA). He did not view this as an issue related to his role as a City Councilor, his decision to include other City Councilors was based on the fact that he knew how they felt about the issues. He took great care to present the letter to the Councilors as a private matter. Hamilton also presented the letter to the recipients that articulated this point. Hamilton realized that by allowing other Councilors to add their signatures to the letter creates an appearance of Council action; although, none existed. He apologized for this appearance. Hamilton read the beginning of the letter into the record "Dear Representative Grohoski and Senator Luchini. It is important to state that this letter is being written from the point of view as citizens; although, we are elected officials of the City of Ellsworth. This letter was not constructed from that role." FOAA regulations allow members of entities to have conversations outside of public proceedings as long as the discussions are not intended to defeat the purpose of FOAA. There was no attempt to defeat the purpose of FOAA as the opinions expressed within the letter represented Hamilton's personal opinion and not that of an elected official. In spite of providing clarity at the outset of the letter regarding its origins, Hamilton can understand a letter submitted with all names of Councilor members may be misconstrued; however, the construction of this letter was not intended to be a representation of the Council. Perception does not make something improper it does however fuel the desire to cast aspersions and present the perception as fact. Hamilton feels this is a personal matter and is confident there was no violation of FOAA. Hamilton understands the perception issue and he will not utilize the same approach in the future to advance issues that are personal and not City related. This agenda item was placed on the agenda prior to this concern being raised.

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Hamilton noted this item was intended to start a dialogue with the Community. It initially started during the budget discussions with Gretchen Wilson from the Ellsworth Chamber of Commerce around businesses and their reopening plans. Part of this discussion involved the information supplied tonight in regards to the vaccination plans and moving forward as a Community. Hamilton noted the Community is approaching a very different phase of the pandemic. Moving forward includes having enough vaccines available for all Americans by May, this could result in a very normal summer, as well as translate into businesses reopening fully. Hamilton felt as a Community, discussions are needed to see what different groups need in order to prepare for this phase, including different categories of assistance that might be needed to move forward. The important thing is to look forward to the positive not stay mired where the Community has been. There has been a lot of optimism as we move into this phase and the planning needs to take place now.

Councilor Grindle, explained first and foremost she wanted to publicly state her intentions for signing the letter Hamilton referred to earlier was her way of pushing for five days a week in person learning. She was not directing anything toward the school staff, teachers, administrators, or Board members. She publicly apologized for the insane amount of restrictions they have been so diligently following for the past 365 days. Grindle is frustrated with the CDC, the Governor, the Maine CDC, and the Department of Education and their one size fits all approach that is outdated and doesn't appear to be following science. Particularly concerning the amount of data that is available to them and all the public health experts stating kids need to be in school five days a week. In her opinion this needs to happen. In order for the current situation to change, Grindle encouraged the public to stop contacting the local school board and to start calling the Governor's Office and the Department of Education.

Councilor Lyons agreed with the statements made by Grindle.

Conversations around helping to support reopening plans will continue during the next formal meeting as well as throughout the budget meetings. Hamilton encouraged the Community to get engaged in these conversations. Through Hamilton's work in the mental health field and based on the statistics it is clear the longer the Community stays in lockdown the more toll it takes on people's mental health. He was not implying that everything that has taken place has been inappropriate or unnecessary. He was advocating for moving forward based on the

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ever changing statistics that support that direction. Hamilton noted as far as his role within this Community he is interested in supporting everyone, assisting in moving forward, recognizing things have moved to a different phase, and to prepare this Community for what he hopes will be a “normal” summer. Hamilton recognized the past year has impacted everyone very differently, there have been deaths, there have been losses, people have been very sick; however, at the same time the Community needs to move forward and the opportunity is presenting itself now.

Councilor Miller explained due to a meeting this evening where the plans to reopen the schools are being discussed, the representatives from the school that were planning on attending tonight’s meeting were unable to make it. Miller stated things are moving forward regarding that concern and hopefully all the kids will return to school shortly. With the children returning to school, it should allow others in the community the ability to get back to work instead of staying at home taking care of their kids. This action should help the businesses as well.

Hamilton echoed comments made by Grindle, as well as recognized the Ellsworth School Board has done a great job. They are trying to move forward; however, they are being constrained by the Executive Orders and by the guidelines that exist. The question is where does action need to happen, identifying this, and advocating at the right place where changes really can happen.

This was a discussion item only; no formal action was taken or required.

Council Order #032105, Request of the Public Works Director to award a contract for center and sideline striping and authorize the City Manager to sign the contract.

Lisa Sekulich, Public Works Director explained this is an annual request. The City is an urban compact which means the City is responsible for the maintenance of some of the state-owned roads. Included in that maintenance is the road striping. See attachment #8 for the complete request, bids received, and bid document. Sekulich recommended the bid for center and long line striping be awarded to Lucas Striping. They have been awarded this contract for the past few years and continue to be the low bidder this year. Councilor Lyons noted over the past few years it appears the lines do not stay as bold as they once did. Sekulich explained when State Street was originally painted the State used a different type of paint; that would have been brighter than the basic waterborne paint that is used now. According to Sekulich the paint on the other roads should all stay bold as they are

Approved - Council Order #032105, Request of the Public Works Director to award the center line and side line striping contract to Lucas Striping, LLC at the unit prices per attachment #8 and authorize the City Manager to sign the contract.

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all painted with a waterborne product with glass beads. In theory the center and sidelines should be as bold as they were in the past. Councilor Blanchette noted he had a similar email conversation with Sekulich concerning how by fall of each year the crosswalks, stop lines, stop bars, and sidelines are gone. He did some research and found a product called Methyl Methacrylate Markings which are apparently bright and last for two or three seasons. Sekulich noted this is a brand new technology and has not been proven yet; however, that is the theory behind it. Blanchette inquired if the City could try some crosswalks with this technology as a test. Sekulich noted this request is for painting long lines only; the crosswalks will be included within the bid documents submitted to the Council next month for consideration. Sekulich explained the Maine based company that currently has that type of technology has not returned Sekulich's phone calls or emails. They have also received the request for bids on crosswalks, stop bars and symbols; it will be interesting to see if they bid on these items with the new technology or even just the common type of paint. Blanchette requested before the Council votes on it next month, based on cost, they select two or three crosswalks or stop bar areas to run this test on rather than wait another year. Sekulich stated she would research this possibility. Councilor Phillips noted in regards to the concept of fading paint, the Council did pay the current contractor to paint Myrick Street twice (once in the spring and once in the fall) for three or four years in a row. This was evaluated to see if it helped keep the lines more visible; unfortunately by the end of the winter they were just as faded as before. Nothing was gained by paying the additional cost. Phillips noted until there is a better paint available there doesn't seem to be a good solution to this problem. Sekulich noted there are different types of paint including thermoplastic which is a heated plastic, it does cost approximately 3 to 4 times more than the type currently being used. Even the thermoplastic products are destroyed by the snowplows during the winter months. The MaineDOT uses waterborne paint on the majority of their back roads which is exactly the same as what the City uses. Blanchette inquired if it would make sense on some of the high use areas in Ellsworth to consider a different paint or product as a test. Sekulich did not feel this would be beneficial as she was referring to the turnpike, 295, or the major corridors throughout the State. Although, the Council generally felt this was a good idea, Sekulich explained the problem with using multiple products there is a cost associated with that too. The thermoplastic technology requires a very large heated vehicle be brought on site to heat up the plastic material and the cost to have that type of vehicle brought to this location would be prohibitive just for a test area. The cost is only justified if the City were going to use this technology for the entire project. The cost to benefit ratio would be hard to justify for just a ½ mile test area.

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To Sekulich's knowledge there are no other municipalities using this type of technology or paint; other municipalities have been inquiring from Sekulich who the City uses because they have even less success with the visibility of the products. Many of the municipalities surrounding the City of Ellsworth have the State MDOT paint the center lines and side lines because the majority of the main corridors are state owned. Chair Hamilton noted realistically a contract is needed tonight to get the season started and if an alternative is being considered that needs to be planned and researched for next year. There will be more discussions on this topic next month; Sekulich believes there might be price increases overall in pavement marking this year.

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

RESOLVED to approve Council Order #032105, Request of the Public Works Director to award the center line and side line striping contract to Lucas Striping, LLC at the unit prices per attachment #8 and authorize the City Manager to sign the contract.

Council Order #032106, Request of the Wastewater Superintendent to accept a bid for the procurement of the pump for the Water Street Pump Station project.

Mike Harris, Wastewater Superintendent explained this item is in conjunction with a project that will upgrade the Water Street pump station. It became clear during the project planning phase that under the current global situation the ability to order and receive pumps in a timely manner has gotten challenging. There was a concern that if the project was done as a complete unit including ordering the pumps at the beginning of the project; it would potentially be held up because the pumps had not arrived and therefore the project could not be completed in a timely fashion. The plan was to bid the pumps separately with the goal of procuring them as soon as possible. This should allow the project to move quicker during the construction phase. See attachment #9 for the complete request, recommendation from Woodard & Curran, and bid forms. Two proposals were received; one from Smith and Loveless, Inc. and the other from Hayes Pump Company (which represents Gorman Rupp). The Hayes Pump Company bid was significantly lower at a price of \$63,240. The Engineers scored each proposal; Hayes proposal received a higher score. Harris is recommending awarding the bid to Hayes because they will be delivering the Gorman-Rupp pump which is the same brand of pump already being used at the Plant. There are a few very old Smith and Loveless pumps still located

Approved - Council Order #032106, Request of the Wastewater Superintendent to approve the bid proposal by the Hayes Pump company in the amount of \$63,240.00 to be funded from the funds in the Northern Borders Grant and our matching funds.

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at the Plant; Harris has been in the process of replacing those recently with Gorman-Rupp pumps as needed. Due to Smith and Loveless bidding on a skid style mounted pump station instead of just two separate pumps it caused their bid to be substantially higher. Their bid was higher because they bid on a 12" pump rather than the 10" pumps; this would ultimately require amendments to the project design scheme as well. After all the comparisons were completed, the Hayes Pump Company submitted a very competitive bid price. Councilor Blanchette inquired about warranties. Harris explained each proposal contained warranty information. The Hayes Pump Company has a standard five-year warranty on the pumping equipment while Smith and Loveless provides a 10-year standard warranty. Neither company offered pricing for an additional warranty period. Harris explained how the scoring was impacted according to the warranty provided by each company. The typical warranty period for most pumps is five-years. Councilor Lyons inquired how the pricing would have been impacted if Smith and Loveless had bid on 10" pumps as stated in the bid documents. As it was unclear the impact; he wondered if someone should check with Smith and Loveless before a vote was taken. Harris noted this project is part of the Northern Borders Grant and the stipulations of that grant states bidders must meet the criteria for procuring bids. Each company was provided with the exact same bid package; how they responded to the bid package was their decision. Lyons thought the 10-year warranty seemed like a better option compared to the 5-year warranty. Harris did not believe the rules of the procurement process within the grant regulations would allow him to contact the bidders with inconsistencies or deviations from the bid specifications. Harris would have preferred the 10-year warranty; however, even with the equipment that was installed within the new Plant the warranty was only 5-years on most of the equipment. Harris reminded the public that the Water Street pump station has been experiencing issues with overflowing when there is a lot of melting snow or rain. Each time there is an overflow, Harris has to report that to the Department of Environmental Protection (DEP). The DEP has mandated that the City of Ellsworth correct this issue. The overall project will include upgrading that whole pump station to provide more capacity in order to deal with the higher flows. This project also included investigating the collection system by cleaning, jetting, and operating a camera through the collection system that is connected to that pump station. Areas were identified that needed repairs and Harris has already resolved one of those. The overall purpose of the project is to provide the City with the capacity needed and ensure the collection systems that feed into that pump station has the level of integrity necessary to ensure extra storm water flow or ground water

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flow is not absorbed into that Station. This pump station is located directly behind R.F. Jordan's property on Water Street.

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

RESOLVED to approve Council Order #032106, Request of the Wastewater Superintendent to approve the bid proposal by the Hayes Pump company in the amount of \$63,240.00 to be funded from the funds in the Northern Borders Grant and our matching funds.

Chair Hamilton read into the record an email from a parent who also happens to be on the School Board. She spoke to the City Councilors as a mom of a student in Ellsworth. She thanked each member of the Council for standing up for students during this Pandemic as private citizens. She has noticed and appreciates that many of the Councilors have helped in different ways to make sure the teachers, staff, and students get their needs met during this difficult time. As a School Board member on the Committee for a return to in-person learning; she could only say they met by zoom and had a good meeting. More details will be provided during the next public meeting of the School Board. Thank you all for what you do. Abby Miller.

Council Order #032107, Discussion and action on the role of Ellsworth within the Frenchman Bay Regional Shellfish Program.

Glenn Moshier, City Manager explained Councilor Blanchette would likely join the conversation as he has been involved for a number of years. Moshier noted the City understands the value that the program has afforded the Frenchman Bay area over the past several years since the conception 10 plus years ago. The reality is the areas that are being serviced are outside of the City of Ellsworth. For the duration of the program Ellsworth has bared the burden of the fiscal responsibility for the program, the managing of the program, and up until two years ago the law enforcement supervision of the program (the enforcement portion). Throughout this process, the Regional Shellfish Board has become less and less involved and the leadership has been somewhat suspect over the years. Recently, it has declined somewhat and it has created more problems for City Hall staff with the execution of the program and the selling of the licenses. Moshier stated in his estimation which is also supported by City Staff that the time has come for one of the other communities to step up and take over the management of the program. Moshier feels the City has run its course with the program and the City has completed what

**Public Comment
received.**

**Approved - Council
Order #032107,
provide 90 days'
notice to the
Frenchman Bay
Regional Shellfish
Program Committee
of Ellsworth's
withdrawal from the
program.**

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they set out to do in supporting the program and uphold the organization. At this point, the City feels it is in the best interest of the program for one of the other communities to step up, take over the reins, and relieve the additional burden from City staff. Councilor Blanchette stated when the program began Ellsworth took it upon itself at the request of the other communities because they had a full-time staff, working in one building, which made it convenient for everyone to get their licenses. Blanchette stated it was never meant to be a permanent status; he felt it was now time for other communities to take on this program. He felt Ellsworth had this responsibility for too long considering there are 7 communities all together within the program. Moshier stated there is a potential if one of the other communities doesn't assume these responsibilities that the organization as it exists could fold. There are some administrative responsibilities, reports due to the State, all of which the City of Ellsworth has been taking care of exclusively for the duration of this program which has been 10 plus years. We have had many conversations with the Board members, the head of the Board, which has changed over the last couple of years. He has expressed concerns because he has reached out to the other communities and for one reason or another they do not have the capacity to take on this program. This is not a concept Ellsworth is springing on the Board, this is a conversation that the City has been engaged in for at least the last two years. The City continues to get the same answer, none of the other communities can do it. The time has come for one of the other communities to administer the program. Councilor Lyons inquired how many people in the City of Ellsworth would this decision impact as there is no shoreline per say to harvest clams from. Moshier confirmed there are no accessible harvestable clam flats within the City of Ellsworth; at last count there were approximately 10 Ellsworth resident license holders. There is a possibility if Ellsworth no longer administers the program and the program were to continue to function then those individuals would still be able to purchase a license. If the program were to fail then the individual communities that have these clam flats would then have to pass their own ordinances and then essentially police their own individual communities. At that point the individual harvesters would have to go to each community to purchase a license. The Ellsworth residents that hold commercial harvester licenses do not dig clams in Ellsworth. Moshier explained how the program is designed to work, with all seven communities paying into the program, and all the communities have viable mud flats with the exception of Ellsworth.

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

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CITY COUNCIL ABSENT:

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RESOLVED to approve Council Order #032107, provide 90 days' notice to the Frenchman Bay Regional Shellfish Program Committee of Ellsworth's withdrawal from the program.

Chair Hamilton read an emailed comment into the record. This is an example of collaboration with the County seat and largest town among the others. The comment asked if the license fees cover the cost of the management and oversight of the program. – Andrea Perry, Ellsworth.

**Public Comment
received.**

Chair Hamilton inquired whether the license fees generate enough revenue to cover the City of Ellsworth's cost of providing this service. Moshier did not have the financial figures available from the program this evening. It was Moshier's understanding over the past few years, the program really has not been able to make ends meet which is part of the reason the program stopped employing a Warden full-time for enforcement. The program financially could not afford to pay that expense; the decision was made to hire two part-time employees. This arrangement would save the program the expense of paying benefits. If the program does generate enough revenues to cover the program, it is minimal at best. It does not cover the aggravation that the Clerks have received over the years when dealing with the program, the State mandated requirements, and reporting requirements. Hamilton acknowledged one of the challenges with trying to accommodate public comments through this medium during the pandemic has been that emails may be delayed in reaching him. It is unclear when the comments were sent; however, they are read into the record once they are received. In this case, the comment was received after the Council voted on the item. In the past, when that has happened it has been questioned whether the late comment would have impacted the outcome of the vote or not. Hamilton offered the Council, based on this comment, the opportunity for any member to provide a motion to reconsider the vote. Seeing none, the Council moved onto the next agenda item.

Council Order #032108, Discussion and action on approving a Resolution declaring Ellsworth as a 2nd Amendment Sanctuary City. (Sponsored by Councilor Kaplan)

Chair Hamilton stated he has already received a number of emailed comments throughout the week. He will be reading all of those comments into the record and they will be attached to the official record of the meeting. Only the comments made in-person this evening will be typed into the record. As there were many people

**Approved - not
approve (deny)
Council Order
#032108, a
Resolution that
would declare
Ellsworth a 2nd
amendment**

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present, Hamilton noted comments will be limited to 3 minutes each. Hamilton reminded the public if they do not hear their emailed comments being read into the record, please resend it this evening. He believes that a confirmation email was sent to everyone who sent in a comment to verify the intention was to have their comments read into the record this evening. See attachment #10 for the proposed Resolution of Ellsworth as a 2nd Amendment Sanctuary City.

sanctuary city as presented this evening. See attachment #10.

Councilor Kaplan explained she was approached by several residents who specifically asked her if she would present this request. She acknowledged she is a lawful law-abiding gun owner who understands some of the legislation that is in the works at the Federal level. She explained it is a blatant violation to the Constitutional rights, including trying to create a national gun registry. Another concern is wanting to confiscate weapons, creating barriers to entry, including the taxation of guns that people already own, and guns that people are going to purchase as well as ammunition. Kaplan further explained the second amendment was so important it is listed as number 2 on the list; her concern was if you can violate one right you can violate the next. Kaplan noted other municipalities in Maine have adopted similar language; she mentioned particularly Paris and Fort Fairfield. As of March 5, 2021 there are currently 1,006 Cities across the Country that have adopted similar language to protect their 2nd amendment rights. Kaplan explained this would not create any new legislation. It is just stating if the Federal Government passes laws that are going to require confiscation, including new laws that are not currently on the books today which create unlawful gun confiscation from law abiding citizens that the City would not engage in that.

Public comments were accepted from the people in the Council Chambers first.

Mark Rosborough, Ellsworth Resident and past Council member stated the 2nd amendment should not have to be addressed. He felt with politics the way they are today, some additional protections are needed for each community. He explained the two situations within his life that were gun related. One took place outside of the Country and the second was here in his own community. He does not want to be in that situation again without being able to protect himself. Rosborough stated the 2nd amendment gives him the right to have a gun. He asked the Council to make sure that right is not taken away from citizens; he asked the Council to be supportive of this proposal.

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Larry Bull thanked the Council for hearing this request. He has sent an email. The 2nd amendment right is exactly that, our God-given right. According to Bull, no one should be taking that away from citizens. He appreciated the Council doing this for the citizens and it meant a lot to him.

John Linnehan, read a couple of items into the record. He is pro-second amendment. He believes every Councilor present swore an oath that they would uphold the United States Constitution. He read into the record a United States Supreme Court ruling called the Law of the Land. He further read into the record from the U.S. Supreme Court case Marbury vs. Madison 1803. He referenced the current movement to do away with the Constitution and he was hopeful the citizens have the unanimous support of the City Council regarding the 2nd amendment. He felt this could also be applied to the communication Chair Hamilton had earlier in the meeting regarding the school system. The Executive Orders are hindering the school system from being open right now. They are not laws, they are in violation of the constitution. This same application can apply to the 2nd amendment rights and reopening the schools as well; Linnehan believed citizens need to get back to the basics. Patriots as well as City Councilors need to step up, conduct a little research and defend the Constitutional freedoms and rights of their citizens.

Gwen Clark, Ellsworth citizen supports the 2nd amendment. She supports the entire Constitution; she has watched as some of the citizen's rights have disappeared from the first amendment. Freedom of speech, Freedom of press, and now this. The Forefathers would not have put this topic as a 2nd amendment if they did not feel strongly about it. Clark stated here we are hundreds of years later worrying about another right being taken from us. She supports the 2nd amendment; she would not feel safe living in a City that didn't support the 2nd amendment. Clark is in support of this agenda item as a starting point.

Terry Milliken, Ellsworth resident stated she believes everyone should be in support of this agenda item.

Robert Duhaime, stated the point of a second amendment sanctuary resolution is to start at the very basics with the citizens to let them know the laws coming down from the Federal Government are unconstitutional and unjust. He noted to see the movement of adopting similar resolutions start to take hold in this State is a great thing; he would like to see the City Council vote to support the 2nd amendment sanctuary movement. He recognized many people will see this as a pointless

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gesture and that it is meaningless; however, the reality is law enforcement starts at the most basic level, the local level. Duhaime felt if the City could say to the Federal Government we are not going to support the use of our local tax dollars and local resources to support these unconditional gun control laws, then the City can make the Federal Government reconsider enforcing these unconditional laws they are trying to push through.

Hamilton read an email from Keith Smith, resident of Ellsworth into the record. He asked for the Council's support for the Resolution declaring Ellsworth a 2nd amendment sanctuary City. His interest in this matter is two-fold. First, he felt strongly that citizens and by extension the communities must take a stand and be counted for our constitutional right to have and bear arms. Second, Smith would like to know definitively how each Councilor feels about making such a Resolution. (Printed copy of email was not available).

Hamilton read into the record an email from Todd Little Sebold, Ellsworth resident. He wrote in opposition to the Resolution to declare Ellsworth as a second amendment sanctuary. He noted during a pandemic, local citizens are worried everyday whether they can receive a vaccine, if their kids can go back to school full-time, and whether another surge of infection will come from a new variant. It is budgeting season and the Council has important work to do while building a budget that will help schools, small businesses and town government during the economic downturn. He further felt this request was unnecessary and purely symbolic. He noted this type of resolution is part of the national publicity and scare campaign that is being promoted by national gun lobbies and gun rights extremists all over the Country. Little-Sebold felt it was strange for the Ellsworth City Council to state they will not comply with laws passed by our elected representatives in either Augusta or Washington. He asked the Council to not take a position which is so deeply polarizing and purely symbolic. Secondly, he felt it was based on a fundamental misunderstanding of the role of local government and even Maine's home rule laws with regard to Federal law. Little-Sebold noted local forms of government cannot simply set themselves up to pick and choose which Federal and State laws they will and will not enforce. He also questioned whether the City legal counsel has offered any advice to the City Council on this topic. The email questioned whether this Resolution violates the fundamental premise of a law known as the supremacy clause. A locality that represents several thousand people cannot override the will of the people enshrined in law at the State or Federal level. Little-Sebold stated the declaration that the Council has a right to make this

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Resolution because of the Constitution of Maine and rights of home rule is simply not true. This fundamentally misconstrues your power and role in law. The protection of Constitutional rights is not the Council's primary function. He encouraged the Council to keep their focus on the local issues that are within their purview and don't get drawn into the radical position of national gun rights groups. (Printed copy of email was not available).

Ron Fortier stated he believes the 2nd amendment sanctuary issue is strictly a political viewpoint issue and the action of the City Council will mean absolutely nothing. If the Federal Government is contemplating law changes the sanctuary resolution will do nothing to change that. Federal firearms licenses to buy, sell, repair firearms are issued by the Federal ATF and have absolutely nothing to do with State of Maine or City of Ellsworth. Statewide law enforcement officers have taken an oath to uphold the laws of the State of Maine and the United States; they would be charged with enforcement of any changes to firearm laws. Fortier further believed nothing would come of this to benefit the citizens of Ellsworth; he urged the Council to not support the resolution. He believed if changes were to be made they would need to be done in Washington D.C.; political statements do not belong at Council meetings. (Printed copy of email was not available).

Ruth Rozzi stated Ellsworth should not be classified as a 2nd amendment sanctuary City. Ellsworth does not need this classification. (Printed copy of email was not available).

Patrick Downey, Ellsworth resident stated he is in support of declaring Ellsworth as a 2nd amendment sanctuary City. (Printed copy of email was not available).

Linda Lang, Ellsworth resident. I strongly vehemently object to making my wonderful Ellsworth... (Rest of email was not read into the record). Email is not contained in the minutes. Hamilton stated he would not tolerate name calling or other disrespectful measures within the emailed comments; just the same way they would not be tolerated in-person during the public session of the meeting.

See attachment #11 for the printed comments as read into the record by Chair Hamilton.

Tommy Justice (1)

E. Mathias Kamin III (2)

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Lorena Stearns (3)

Andrea Perry, Ellsworth resident. (4)

Kim Millett (5)

Jon Stein, Ellsworth resident. (6)

Leslie Harlow, Ellsworth resident. (7)

At approximately 9:05 PM a five minute recess was taken. The public meeting resumed at approximately 9:09 PM.

Amy Grasso (8)

Leita Zeugner, Ellsworth resident (9)

Hazen Camber, Ellsworth resident (10)

Janis Garland, Ellsworth resident (11)

Lawrence Chattley (12)

Greg Downing, Ellsworth resident (13)

Pilar Burmeister (14)

Audrey F. Tunney, Ellsworth resident (15)

Rebecca Leamon (16)

Sara Hessler, Ellsworth resident (17)

Jean and Allen Workman, Ellsworth resident (18)

Chris Keefe, Ellsworth resident (19)

Anne Russenberger-Keefe, Ellsworth resident (20)

Anna Pazereckas, Ellsworth resident (21)

Rodney Fox, Ellsworth resident (22)

John Seavey, Ellsworth resident (23)

Mike and Nancy Harrington, Ellsworth resident (24)

Spencer Patterson King (25)

Phyllis Young, Ellsworth resident (26)

Candace Gammelin, Ellsworth resident (27)

Selene Meeks, Ellsworth resident (28)

Jeffrey Smith (29)

Susan and Dennis Barnard, Ellsworth residents (30)

Paul Markosian (31)

Martha Dickinson, Ellsworth resident (32)

Casey Hanson (33)

William Clark (34) email provided; however, not read into the record this evening.

V. Kelly Bellis (35) email provided; however, not read into the record this evening.

Nate Hanson (36) email provided; however, not read into the record this evening.

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Following the public comments, Kaplan recapped that many comments stated nobody needs an AR-15, nobody needs an assault rifle. She stated an AR-15 is not an assault rifle; there is no specified definition for an assault rifle or assault weapon. She acknowledged a golf club could be an assault weapon in the wrong hands. Kaplan stated the fact there are so many people dictating what they feel either Kaplan or anyone else should or should not have the right to have is the very reason that these laws or these potential laws are coming down the pike. These will literally create barriers to entry, to express your constitutional right to own a gun. Some of the potential changes will require a \$300 purchase tax and a person will be required to go through a more extensive background check. Kaplan acknowledged she has always gone through a background check to purchase a gun; that process already exists for every gun purchase. Kaplan had no problem bringing this topic forward upon the request of several residents. She read into the record what the 2nd amendment specifically states concerning a well-regulated militia being necessary for a free state, (comma) and then it states the right of the people to keep and bear arms shall not be infringed. Kaplan stated this is a two-part statement and further explained the meaning of that statement. She encouraged the public to review the Federalist papers (particularly Federalist 29); a portion of this document was read into the record. Kaplan explained how this language relates to other rights given to the public through the Constitution. She further addressed the concern of guns falling into the hands of bad people. According to Kaplan, three of the number one places for gun violence are in designated gun-free zones with the most restrictive gun laws. She further stated this is not a democracy but rather a Constitutional Republic and every single Constitutional right was put there for a reason, to protect people from tyranny. Kaplan stated the rights of the individual supersedes the rights of the collective.

Councilor Lyons acknowledged Kaplan had residents ask her to bring this item forward; therefore, this should not be seen as Kaplan's political stunt. Lyons felt Maine should have a completely different set of rules based on their individual needs as a State; which may be very different than those that are necessary in places such as Chicago. He could see absolutely no sense in taking rights away from people who own guns or citizens who legally own guns and have never committed a gun related crime.

Councilor Grindle appreciated and applauded those who came forward to have their voices heard on this topic. She felt this proposal has a number of residents

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sounding the alarm and rightfully so; this is not a political or racist issue. Insinuating such just fuels the fire. This concept is about one of the many Constitutional rights that are under attack and it is about protecting the citizen's last line of defense. Grindle understood that many people feel the mechanism for contesting unconstitutional laws is broken and no one is listening. Grindle hears the concerns and understands the frustration associated with the topic; she is close to sounding the alarm but she is not completely there yet. She is not ready to start the precedent of picking and choosing which laws the City wants to enforce. Grindle supports the law enforcement 100% and she doesn't fully understand what this would do to them. She would like to learn a little bit more and encouraged Glenn Moshier in his capacity as City Manager and Police Chief to speak on this topic. Including if this would restrict them from enforcing certain gun laws and what this really means to Ellsworth. Grindle has not had enough time to research the legal ramifications and agreed with the resident who mentioned the City should seek a legal opinion on whether this opens the City up for litigation or not. She is asking for time to conduct more research and to closely monitor the situation. Grindle encouraged the public to keep making their voices heard, citizens need to keep speaking up. She recognized being a City Councilor was extremely difficult especially being in the position to listen to the polar opposite view points from the residents. She wondered if there was a way to make a formal declaration today to support the 2nd amendment as it is currently written. Grindle was not sure what that would mean ultimately and whether it would even be entertained by the City Council. She could not support the proposed Resolution this evening; however, acknowledged that could change tomorrow.

Councilor Blanchette asked Glenn Moshier, Police Chief for his professional view on this topic. Moshier answered Grindle's question specifically as far as how it could potentially impact law enforcement. Anytime, ambiguity is thrown into a situation where you have law enforcement (Police Officers) who are sworn to uphold the Constitution of the State of Maine, the Constitution of the United States of America and the laws therein it becomes more and more difficult for officers to understand where their priorities lie and where their parameters are within their everyday responsibilities and job duties. In regards to the 2nd amendment, Moshier stated the Ellsworth Police Department does not have the capacity nor do they have the authority to rule on any laws and deem them unconstitutional; that would be completely handled at the Supreme Court level of the United States of America. This topic could be debated all day long, the merits of the 2nd amendment, and the individuals all have separate and varying opinions as to what the exact wording of

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the 2nd amendment means when it comes to gun ownership. The point where this becomes problematic is when you declare yourself or the City declares itself as a 2nd amendment sanctuary city; the City would be doing just that declaring themselves a sanctuary city but you have no authority and the City will have no authority to stop or to tell law enforcement that they cannot enforce the laws that are deemed, voted on, and passed by the leaders in Washington D.C. or Augusta, Maine. Until those laws are deemed to be unconstitutional by the U.S. Supreme Court, law enforcement officers swear to uphold an oath to uphold those laws. Law Enforcement Officers do not have the ability or authority to pick and choose which laws they enforce and which ones they decide not to enforce. There are times where an officer is placed in a situation where the officer could bring liability on the City and on the individual officer if they fail to take action. There are laws that enable law enforcement officers to seize weapons from an individual and if the officer refuses to take action based on a sanctuary city or based on an individual ideal or belief that the law is unconstitutional yet the law has not been deemed unconstitutional by the U.S. Supreme Court that officer and in turn the City could be held civilly liable if that person does something hideous with that firearm. Moshier noted until such time that the laws that are on the books are contested by someone who believes those laws to be unconstitutional is successful at arguing their case to the Supreme Court; law enforcement officials have their hands tied as to whether they believe in or choose to enforce those laws. They often have to enforce laws that they may not wholeheartedly believe in or that they may not understand entirely. Law Enforcement Officers are told that these are the laws as they are written and the enforcement expectation is that officers will carry out their duties. Moshier stated approving this Resolution could absolutely impede law enforcement's ability to do their job, due to the ambiguity and confusion this would add to what is otherwise a simple understanding of what the expectation is. The Officers are charged with enforcing the law as it is written to protect the citizens of the City of Ellsworth. Moshier noted this Resolution is problematic as it is written. He noted there is no specificity; it may be clearer if the City declared themselves a sanctuary city for a specific violation of the Constitution, then that would be something that could be enforced and could be upheld. The problem is with just blanketly stating that the City would be a sanctuary city for the 2nd amendment and any gun control laws which "you" deem unconstitutional under the 2nd amendment. As it was made clear this evening, it is completely implausible that you would ever be able to enforce that or ever have an expectation that law enforcement or anyone else would have a complete understanding of what that means. Moshier suggested if the Council has any tolerance to consider this declaration further it would be to

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drill down on exactly what you are declaring; just to declare yourself as a sanctuary city for the entirety of the 2nd amendment doesn't make a whole lot of sense. If decisions could be made on specific laws that are determined to be unconstitutional then it might have merit. Hamilton inquired if there was a specific motion that anyone would like to move.

Councilor Miller questioned as a Federal employee, whether he should recuse himself or not from a vote. He was concerned as he would be voting against any potential Federal law that might be passed in the future. Hamilton noted Miller would need to make a decision based on his own comfort level. Hamilton asked for a motion to be placed on the table and then the Council could continue with discussions and questions. Lyons was considering instead of voting this evening, the Council should take another month to think about the topic and gather more information.

On a motion by Miller, seconded by, it was

RESOLVED to table Council Order #032108, Discussion and action on approving a Resolution declaring Ellsworth as a 2nd Amendment Sanctuary City.

Hamilton added a friendly amendment prior to a second being made on the above motion, tabling would not be the correct word; according to Robert's Rule it should be postponed indefinitely. If that wording is used this item could be revisited at some point; tabling is really just putting it off for within this meeting time. Hamilton noted it could be brought back to the Council after by any Council member in the future; if that is what Miller is looking to do.

Miller corrected his earlier motion to state:

On a motion by Miller, seconded by, it was

RESOLVED to postpone action indefinitely on Council Order #032108, Discussion and action on approving a Resolution declaring Ellsworth as a 2nd Amendment Sanctuary City.

A second was not made prior to Councilors Phillips and Blanchette questioning whether the motion was to postpone or table action. Hamilton clarified tabling is that it comes back onto the agenda as is; postponing indefinitely means that the

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Council doesn't vote on it, the Council is not considering the motion and the Council moves forward. Hamilton stated there is no motion to table at this point; he explained the Council is currently not considering a motion at this time. There is nothing to table; this is an agenda item without a motion. The Council is not considering anything; unless there is a motion there is no need to postpone or table. Blanchette inquired if there was a motion before the Council; Hamilton restated there is no motion before the Council right now.

On a motion by Blanchette, seconded by, it was

RESOLVED *based upon the Police Chief's wording that the City Council does not have the ability or the authority to pass this motion, that it be denied.*

Before a second could be made on the above motion, Hamilton clarified again at this point the Council has an agenda item to consider action on approving a Resolution; the Council does not have a motion on the table to consider. All the Council has had at this point is a discussion on the agenda topic; so there is not a motion. Hamilton inquired if Blanchette was suggesting your motion to not consider. Blanchette stated not to consider was correct. Hamilton stated the motion on the table is:

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

RESOLVED *to not consider a Resolution that would declare Ellsworth a 2nd amendment sanctuary city.*

With a motion on the floor, Hamilton asked if there was more discussion before he called for a vote. Grindle inquired what the steps would be to bring this forward if a particular Councilor, group of residents, or more information comes to light from legal counsel, and there is a desire to consider this again. Hamilton stated the same steps would take place, by placing another agenda item on a future agenda. At that point the new agenda item could be discussed and another motion put forward. Blanchette noted this does not squash the discussion forever. Phillips stated it just addresses it for tonight's agenda item and it can always be brought before the Council again at another time. Hamilton thanked all parties as Grindle said for coming forward; there is some frustration about why the Council would consider this item. He explained items are presented to Councilors all the time that citizens would like brought forward. What may be important to one citizen may not be to

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: March 15, 2021

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: CITY MANAGER GLENN MOSHIER, LISA
SEKULICH, JANNA RICHARDS, MICHAEL HARRIS, JASON INGALLS, AND
HEIDI GRINDLE.**

another citizen. It is part of a Councilor's role to listen to the community, bring forward issues for discussion purposes, and give the community a chance to weigh in on those topics. Hamilton fully supports the 2nd amendment and what he struggles with is the concerns that Moshier has stated as well as the concept of sanctuary cities in of themselves. Even if the 2nd amendment was removed from the discussion completely, Hamilton was concerned when the precedent started that cities across the Country decided to declare themselves sanctuary cities and not enforce laws that are on the books around immigration. He also addressed the concern with municipalities picking and choosing what they will do and what they will not do, it is a dangerous precedent. There is a process for changing laws as well as for when executive actions are made that violate the Constitution. Hamilton would support action by the Council to make it clear a particular order violates the Constitution; he doesn't feel this situation warrants that action yet. Hamilton is nervous about creating sanctuary cities for anything; he doesn't think that is what the Country's forefathers wanted nor does he think that is what the Constitution states. Hamilton stated a municipality cannot pick and choose when they want to be a sanctuary City and when they don't; nor can they pick and choose when they think a City should enforce a law or should not enforce a law. With that being said, this is the type of proposal he cannot support on that merit and not on the merit of gun ownership. He feels that is an entirely different discussion and he would have a different position on that point.

Hamilton did not take further comments from the public as he reiterated the public discussion was now closed.

Councilor Kaplan felt there was a big difference between a sanctuary city for illegal immigration which is not a Constitutional issue and a sanctuary status that says that if the government without holding a constitutional convention of states tries to change the Constitution then that is where the problem lies. The Forefathers laid it out very specifically, they enumerated the citizen's rights; people come to the United States from across the World because of the freedoms that are available here. Kaplan concluded her thoughts by stating there is a big difference between declaring a sanctuary city for illegal activity as opposed to holding the government accountable to follow the Constitution itself.

Hamilton repeated the motion as being: *to not support the adoption of a Resolution declaring Ellsworth a 2nd amendment sanctuary city.*

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Lyons inquired if that would mean if the Council does not support the Resolution it cannot be brought back. Hamilton clarified, if a Councilor votes in favor of it, they are voting on what is before the Council this evening (see attachment #10). Next month, there might be a different proposal and another motion. This motion and vote does not bind future action, it just applies to the motion before the Council at this moment.

Heidi Grindle, City Clerk requested the motion be restated.

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

RESOLVED to not consider a Resolution that would declare Ellsworth a 2nd amendment sanctuary city.

Phillips read aloud the current agenda item as it appears this evening. He clarified if a majority of the Council does not agree on approving it; we are voting to deny (to not approve) and that takes care of it. Phillips explained at any time it could come back on the agenda. Blanchette inquired if Phillips was making that as a friendly amendment, he was fine with it and would accept it. Hamilton addressed Lyons concern; this is only voting tonight for this agenda item. There could be another agenda item next time and a different motion; it does not bind a Councilor in the future and does not bind this decision in the future. This does not lock in the possibility of never changing.

The official motion was altered by a friendly amendment made by Phillips, accepted by Blanchette and seconded by Miller to change the proposed motion language to:

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

RESOLVED to deny (not approve) a Resolution that would declare Ellsworth a 2nd amendment sanctuary city as presented this evening. See attachment #10.

A vote was called for with 5 members voting in favor. Lyons and Kaplan were still unclear what the motion meant and asked for further clarification prior to casting a vote.

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CITY COUNCIL ABSENT:

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That vote did not stand as Hamilton stated this matter was important and needed to be handled with clarity. Hamilton asked City Clerk Grindle to read the motion as she had recorded it. The official motion on the table was to not approve the Resolution to declare the City of Ellsworth as a 2nd amendment sanctuary which was a friendly amendment from Phillips on Blanchette's motion of not to consider a resolution. Blanchette stated that was a correct interpretation of what happened. Kaplan stated that would be to deny. That was also seen as correct. Hamilton stated the Council is not creating a Resolution, this is not accepting the resolution as presented this evening. Lyons was interested in picking the Resolution apart, he understands there are some laws that the Police will have to enforce but he would like a little more time to clarify what the Resolution is trying to achieve. Hamilton redirected the conversation back to the point of understanding what the proposed motion is. The Council has passed the point of discussion on the merits of the proposed Resolution (attachment #10) and have moved onto the voting phase. Hamilton noted by voting yes, then a Councilor is agreeing with the motion to not approve the Resolution as it was presented (attachment #10). If a Councilor votes no, then you are voting against that motion.

A new vote was taken on the motion as stated and clarified.

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

RESOLVED to not approve (deny) Council Order #032108, a Resolution that would declare Ellsworth a 2nd amendment sanctuary city as presented this evening. See attachment #10.

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

Hamilton apologized, due to all the emails there was one public comment that came through early on that was intended to be read into the record and was lost among the other emails. This email was from the Heart of Ellsworth (see attachment #12). Hamilton asked that this letter be posted on the City's website and added to the minutes from the meeting this evening. Hamilton will read the letter addressed to the City Manager and City Council at a subsequent meeting in its entirety as well.

**Letter from Heart of
Ellsworth (see
attachment #12).**

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Hamilton noted there is also a matter as the Council heads into Executive Session regarding a piece of property that the City owns; a citizen is interested in purchasing it. This is a property that the City has not determined whether they wish to keep or are willing to sell at this time. Mr. Marshall was present at the meeting this evening. Hamilton recommended that this item be included in the executive session because of the nature of the discussion. The legal aspect of the matter could be discussed in executive session, then the Council will report out with an answer for Mr. Marshall via email. Clerk Grindle clarified if Hamilton was requesting to add an additional executive session this evening. He stated just a brief discussion on the legal process around this property and the potential decision to sell it or not. Clerk Grindle recommended adding an executive session in the same manner as an agenda item was added earlier this evening, by unanimous vote of the Council. Councilor Phillips stated it could not be added this evening, the only thing that could be discussed was the matter that was noticed for the executive session. Hamilton stated he will look into this property issue tomorrow with legal counsel and proceed in the direction of the advice gained.

Request to add an executive session to the agenda this evening.

An additional executive session was not added this evening.

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

Approved - entering executive session to discuss personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 10:10 PM.

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

RESOLVED to approve entering executive session to discuss personnel matters in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 10:10 PM.

Chair Hamilton noted the Council will not be reporting out following the executive session. Glenn Moshier, City Manager remained in the executive session.

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

RESOLVED to approve adjourning from executive session in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6A at 10:30 PM.

Approved - Adjourning from above noted executive session at 10:30 PM.

Adjournment.

Approved - Adjournment at 10:30 PM.

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

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RESOLVED *to approve adjournment at 10:30 PM.*

A TRUE COPY

ATTEST: _____
HEIDI-NOËL GRINDLE