

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 19, 2021

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: HAMILTON

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, ADAM
WILSON, DWIGHT TILTON, LISA SEKULICH, GARY SAUNDERS, 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 Councilor Robert Miller at rmiller@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.

City Clerk Heidi-Noël Grindle called the April 19, 2021 Regular meeting of the Ellsworth City Council to order at 7:00 PM.

Selection of Chair Pro-Tem.

City Clerk Heidi-Noël Grindle called for nominations on Chair Pro-Tem for the evening. Councilor Miller nominated Councilor Phillips for Chair Pro-Tem. Councilor Blanchette seconded the nomination. Seeing no further nominations for Chair Clerk Grindle declared nominations closed for Chair Pro-Tem.

Clerk Grindle called for a vote on the nomination for Phillips as Chair Pro-Tem:

It was by unanimous vote Councilor John Phillips was elected as Chair Pro-Tem for the evening.

Pledge of Allegiance.

All stood for the pledge of allegiance.

Rules of Order.

Call to Order.

**Selection of Chair
Pro-Tem.**

Pledge of Allegiance.

Rules of Order.

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The meeting was conducted under Robert’s Rules of Order and other rules adopted at the November 9, 2020 Annual Organizational Meeting of the Ellsworth City Council. After being recognized by the Chairman, a person may speak not more than three (3) minutes on any one item on the agenda. In addition, the person may speak not more than two (2) minutes in rebuttal.

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

- March 15, 2021 Regular Meeting. (Request to table)

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

RESOLVED to approve tabling the adoption of the Ellsworth City Council minutes from the March 15, 2021 Regular Council Meeting.

City Manager’s Report.

Glenn Moshier, City Manager noted there are a few people in the hallway that would like to speak during agenda item #16. Moshier clarified there have been some organizations that have contacted the City concerning reservations for events at either Harbor Park or Knowlton Park. The City has been waiting to permit reservations due to the current COVID situation with the goal of waiting until the Governor felt it was time to reduce the requirements and restrictions. As of May 24, 2021 outdoor gatherings are scheduled to go to 100% occupancy at which time barring any changes in the Governor’s current policy the City will start accepting reservations for those locations. There will be the caveat that any enforcement of mask mandates or any other requirements by the State for outdoor events will be handled by the individual organizations. The enforcement piece will not be the responsibility of the City to ensure those guidelines are followed.

Committee Reports.

No reports this month.

Citizens’ Comments.

Councilor Miller read into the record an email from Toni Buzzard concerning the City Basketball Courts. See attachment #1 for the complete email.

Approved - Tabling the adoption of the Ellsworth City Council minutes from the March 15, 2021 Regular Council Meeting.

City Manager’s Report.

Committee Reports.

Citizens’ Comments.

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Presentation of Awards.

There were no presentation of awards this evening.

UNFINISHED BUSINESS

Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 14, Licenses and Permits Ordinance. (Tabled at the December 21, 2020 Council meeting).

See attachment #2 for the complete request from Dwight Tilton, Code Enforcement Officer.

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

RESOLVED to approve removing permanently from the agenda action on amendments to the City of Ellsworth Code of Ordinances, Chapter 14, Licenses and Permits Ordinance.

Prior to a vote being taken on the above motion, Dwight Tilton, Code Enforcement Officer explained when this request was reviewed in December of 2020 some very important concerns were brought up. These included what the impact would be on the Girl Scouts and other similar groups. Tilton thought the way the economy was heading at this time and the restrictions being reduced he doesn't think there will be that many vendors coming into Ellsworth to sell their lobsters. Tilton noted if the pattern that was seen last year becomes a problem again this year, staff will be more than happy to step in and address Chapter 14, Licenses and Permits Ordinance. At this time, Tilton doesn't see the need to amend the Ordinance. Tilton explained by removing this request from the agenda it doesn't have to keep coming back month after month.

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

Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth. (Tabled at the December 21, 2020, January 11, 2021, February 8, 2021, and March 15, 2021 Regular Council meetings).

Presentation of Awards.

Unfinished Business.

Approved - Removing permanently from the agenda action on amendments to the City of Ellsworth Code of Ordinances, Chapter 14, Licenses and Permits Ordinance.

Approved - Tabling action on Council Order #122005, Discussion and action

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Glenn Moshier, City Manager read into the record a portion of the response from Northern Light that indicated where they stood on this issue. The portion of the response Moshier read stated “we appreciate your input and have reviewed the comments by your attorney; however, this agreement matches all the other agreements we have in place within Hancock County communities. We prefer to keep standard approach as we have the past three years. We plan to staff two ambulances with advanced EMT level or above in Ellsworth, which will be available to respond unless on calls elsewhere. Moshier explained the agreement was forwarded to the City attorneys who in turn had some requests, those went to the legal department within Northern Light and essentially they returned the document to the City stating the service agreement they submitted is the one they would like to move forward with. Chair Pro-tem Phillips summarized Northern Light has no desire to modify the agreement the City received other than the negotiated terms of reimbursement. Moshier did not feel like the Council had enough information to act on this request this evening as it was unlikely anyone would be able to recall what the exact wording of the proposed contract was. Moshier questioned whether the Council would prefer to go back to the EMS Committee first before bringing the request back to the Council or just bring the service agreement back to the Council directly in May for a final decision and vote. Phillips noted at this point no other avenue has been found or explored; some people have been looking into this issue, and the other ambulance services have reviewed the situation and decided that it is not profitable enough to pursue. At this point it does not appear the City has any other choice in resolving this concern. Moshier stated the City has explored some other options and they did not materialize because they were not cost effective. Moshier thought next month the original service agreement could be brought forward after the full Council had an opportunity to review the contract. Councilor Kaplan thought it might be beneficial to hold one more EMS committee meeting before the next Council meeting. Moshier also noted Northern Light has provided the City with a written notification that they will be vacating the Ellsworth Fire Department as of July 31, 2021. Councilor Blanchette was concerned with the contract language that states there would be two units to respond; what they don’t say and what is happening, that is two units for all of Hancock County. There have been situations where both units are responding to calls in different towns which currently leaves Ellsworth without an ambulance. Councilor Miller clarified there is another unit that is located in Holden that can respond to a call in Ellsworth as well. The contract indicates they will station an additional unit in Lucerne to cover and then after that they will send a unit if available. The consensus of the Council was the situation is not ideal;

on EMS Services within the City of Ellsworth and the Emergency Medical Services Agreement. (Previously tabled at the December 21, 2020, January 11, 2021, February 8, 2021, and March 15, 2021 Regular Council meetings).

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however, the City is at a point where it needs to offer the Ellsworth citizens some type of protection. Councilor Lyons questioned why the Council would sign an agreement that will last up to three years after the legal council had concerns with the language contained within the contract.

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

RESOLVED to approve tabling action on Council Order #122005, Discussion and action on EMS Services within the City of Ellsworth and the Emergency Medical Services Agreement. (Previously tabled at the December 21, 2020, January 11, 2021, February 8, 2021, and March 15, 2021 Regular Council meetings).

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 #042100, Request of the Recreation Commission to accept the resignation of the following members: Benton Bird and Lillian Frank – terms to expire on June 30, 2021, and Amy Phillips - term to expire on June 30, 2022. **

*Council Order #042101, Request of the City Clerk for appointment of Wardens and Ward Clerks for the four voting districts within the City of Ellsworth for the June 8, 2021 City of Ellsworth School Budget Validation Special Municipal Referendum Election. **

See attachment #3 for the complete list as presented.

*Council Order #042102, Request of the City Clerk for approval on setting the polling places opening time as 8 AM for the June 8, 2021 City of Ellsworth School Budget Validation Special Municipal Referendum Election. **

Consent Agenda.

Approved - Consent Agenda as presented this evening.

Approved – CO #042100, resignation of B. Bird, L. Frank, and A Phillips from Rec Commission.

Approved – CO #042101, appointment of Wardens/Ward Clerks for 6/8/2021 Election.

Approved – CO #042102, June 8, 2021 election polling places to open at 8

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See attachment #4 for the complete request as presented.

AM.

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

RESOLVED to approve the Consent Agenda as presented this evening.

NEW BUSINESS

New Business.

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

Finn’s Irish Pub, Inc. d/b/a Finn’s Irish Pub, 156 Main Street, for renewal of a City Class B License (Amusement, Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous, Vinous Liquor License.

Approved - Finn’s Irish Pub, Inc. d/b/a Finn’s Irish Pub, 156 Main Street, for renewal of a City Class B License (Amusement, 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 from the public.

Public hearing was closed.

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

RESOLVED to approve the request of Finn’s Irish Pub, Inc. d/b/a Finn’s Irish Pub, 156 Main Street, for renewal of a City Class B License (Amusement, Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous, and Vinous Liquor License.

Ellsworth No. 1, LLC, d/b/a Hampton Inn – Ellsworth, 6 Downeast Highway, for renewal of a City Lodging License.

Approved - Ellsworth No. 1, LLC, d/b/a Hampton Inn – Ellsworth, 6 Downeast Highway, for renewal of a City Lodging License.

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

Public hearing was opened.

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HEIDI GRINDLE.**

There were no comments.

Public hearing was closed.

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

**RESOLVED to approve the request of Ellsworth No. 1, LLC, d/b/a Hampton Inn
– Ellsworth, 6 Downeast Highway, for renewal of a City Lodging License.**

*Ellsworth RI, LLC, d/b/a Ellsworth Ramada, 215 High Street, for renewal of a City
Lodging License.*

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

**RESOLVED to approve the request of Ellsworth RI, LLC, d/b/a Ellsworth
Ramada, 215 High Street, for renewal of a City Lodging License.**

*Cresswell Investments, LLC d/b/a Airline Brewing Company, 173 Main Street, for
renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal
of a State Restaurant (Class III and IV) Malt and Vinous Liquor License.*

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

**Approved -
Ellsworth RI, LLC,
d/b/a Ellsworth
Ramada, 215 High
Street, for renewal of
a City Lodging
License.**

**Approved - Cresswell
Investments, LLC
d/b/a Airline
Brewing Company,
173 Main Street, for
renewal of a City
Class B License
(Victualer, Liquor,
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renewal of a State
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HEIDI GRINDLE.**

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

RESOLVED to approve the request of Cresswell Investments, LLC d/b/a Airline Brewing Company, 173 Main Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Restaurant (Class III and IV) Malt and Vinous Liquor License.

Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 60, Property Maintenance Ordinance.

Dwight Tilton, Code Enforcement Officer explained on August 19, 2013, Ellsworth developed a hybrid of what the International Building Code had for a Property Maintenance Ordinance. The reason this was necessary for the City of Ellsworth was the City was having a problem with tenants not allowing access to their apartments and would lock the rooms. This Ordinance would also allow the Code Enforcement Department the ability to locate dangerous and abandoned homes. All of these concerns are already addressed within this Ordinance; tonight Tilton would like to add language under Section 17, Dangerous Buildings. This additional language will help the public realize it is not just the City making this information up, this is a State law. Once this language is added the Code Enforcement Office can address the concerns and find a way to work with the property owners. See attachment #5 for the complete request and proposed amendments. Tilton explained typically when the case goes to court, the City will win; however, the City's costs are not always recuperated. Tilton provided an example of a case the City recently worked through in regards to this concern. In some cases the City can clean up the property and assess a special tax to the property owners so that the City can recoup their costs in the cleanup. In other cases the City will take ownership of a property through tax liens, cleanup the property and then sell the property in order to get the money spent on the property back. The City is currently in the process of taking ownership of two homes that will need to be demolished or sold. Tilton reminded the Council that at the time this topic came up before Councilor Blanchette had mentioned taking the revenue from those sales would be a great way to start the seed money for removing these homes instead of using tax dollars. Tilton stated if this amendment is passed he would recommend setting up a fund with the revenues received from the property on McGown Hill and the Wallace property on the Bangor Road. Councilor Kaplan had several questions as well as concerns about this topic. Section 105.3 The Right of Entry, after Kaplan read into

Vinous Liquor License.

Approved - Amendments to the City of Ellsworth Code of Ordinances, Chapter 60, Property Maintenance Ordinance as presented this evening (attachment #5).

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the record the wording within the Ordinance she stated this goes against the rights of privacy, unreasonable search and seizure and similar rights. Kaplan felt a lot of the items within the entire Code were subjective. Words such as unsanitary, unsightly are subjective, Tilton agreed with Kaplan. There are also references to being an attractive nuisance and Kaplan provided examples of other things a person may see as an attractive nuisance opposed to a building. Kaplan questioned what right the City would have if a property owner had posted a no trespassing sign to say that an abandoned building is an attractive nuisance. Kaplan provide examples of different scenarios that might cause a building to appear abandoned; the Ordinance doesn't say the building has to be dilapidated, it just has to be abandoned. Kaplan felt there were too many risks to the taxpayer; there were concerns with the language of something being obsolete. She questioned what type of building would be obsolete; her concern was demonstrated through an example of a specific heating source in a building to be seen as obsolete based on a time in history when Green Committees are strong and encouraging a greener type of heating source to be used. Kaplan would like to see more clarity on what specifically allows the City to take over a property, away from a homeowner, additionally the violation fine could be up to \$2,500 a day. Kaplan noted if a person cannot afford to fix their property, does the Council honestly think the property owner can afford that fine per day. Tilton stated that requirement is from State Statute and is not a City decision. Councilor Lyons questioned who makes the determination that a property is an eyesore or wondered if this is more of an issue that the property owner has not been paying the taxes. Tilton explained this Ordinance is about unsafe buildings; the Code Enforcement Department is concerned with the health, safety, and welfare of the residents. In the 40 years Tilton has been a Code Enforcement Officer there has been one time (he does not go on people's property without their permission) he secured a warrant to enter a house. This one time he was forced to take this route, there were 70 cats living in that dwelling and there were 2" of cat feces on the sideboard. Tilton was made aware of this situation from complaints from the neighbors and others affiliated with the dwelling. Tilton's point was he has been in this career a long time and he does not just enter a property to take a person's home; he has had a lot of pressure over the past 10 years to take care of some of these homes and he has resisted that pressure. At that time he didn't feel the City had the resources and he didn't feel the properties were in that bad of shape; he also doesn't mind sticking his neck out for people that are having a difficult time. Kaplan acknowledged that was Tilton's style; however, was concerned once it was put into statute would be reliant on any future Code Enforcement Officer's interpretation. Tilton explained that this

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Ordinance has existed since 2013; the only amendment he is making tonight is adding language to illustrate that it is based on a State Statute. Councilor Phillips clarified the language being added this evening is Tilton copying the text from the State Statute and adding it to the existing Ordinance word for word. Phillips further stated the State Statute covers the City whether the actual wording is added to the Ordinance or not. Tilton stated if the City did not have this Ordinance in any capacity then the State Statute would still stand and the City could still use Title 17. Even though the State Statute covers the City, Tilton wanted to add the language to the local Ordinance as well because when property owners see this City Ordinance they believe it is the City that did it or requires this process. Tilton wanted the property owners to understand this is based on a State Statute. Councilor Blanchette used pictures of a dangerous building to demonstrate the other risks these buildings pose to the City. The foundation of the building had holes large enough for children or even an adult to fit through; this building was abandoned approximately 12 years ago. The timbers that support the same building reflect that of a dangerous building. The owner has done nothing to get rid of this problem, there are animals that live in the building, and small children could find this as an attractive nuisance; Blanchette is trying to stop that risk from happening in Ellsworth. After reviewing many pictures of different dangerous aspects of the building, Blanchette adamantly stated the City does not need buildings such as this as they do nothing to promote the City or attract people to the neighborhoods. One house up from this one was rehabbed along with the property in the range of tens of thousands of dollars a couple of years ago; however, they still have to look at this one. This house should have been torn down at least a decade ago and yet it has been allowed to stand. Blanchette noted at his last count there are 7 homes in Ellsworth that are in similar shape to this one or even worse; the City owns one of them. Blanchette felt this situation has gone on long enough and the City cannot allow this to continue any longer. Lyons asked what the owner would like to do with the property; Blanchette stated they do not want to do anything with it. Blanchette was suggesting the City pass this Ordinance, then remove the structure, and place on a lien on the property to recoup the City's expense through a supplemental tax. Lyons clarified if the owner cannot afford to pay the lien off then the City would take their property. Tilton stated this process would go through the Court System; the City Council could not just vote to tear the structure down. It involves a legal process; that is why it is important to have seed money so it does not become a burden on the taxpayers. Generally, a property owner is not acceptable to the City ordering them to tear a dangerous building down with the intention of then selling the property. Phillips asked what the steps would be to

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decide to demo a dangerous building or not. Tilton explained he would reach out to the property owner, create a paper trail before going to court, if the property owner refuses to go, the Council will hold a public meeting to decide if the house is safe or not, once determined to be an unsafe dwelling, prior to that the Code Enforcement Office would have an engineer determine the building is not structurally sound. This determination is not something the City would want a staff member to make because it could be challenged if the person does not hold the credentials to state it is not structurally sound. If this all goes through then the City attorney present the entire case in a court of law. Tilton stated typically the City will win the case; however, normally the City does not recoup all of their expenses. Phillips clarified once the process is followed and completed the City will have time invested by the Code Enforcement Office, a substantial amount of money tied up with an attorney fees, the expense of having the buildings torn down which include labor fees, and disposal fees. At this point the owner that does not have the money to pay for all these fees will be presented with a bill and ultimately the City will either seizing the property or putting a lien on the property which in a majority of cases results in a foreclosure on the property at some point. Phillips noted at this point the City could have between \$20,000 and \$40,000 tied up in removing the building. Blanchette noted at that point the City has removed a dangerous building that will avoid a potential accident due to children playing in or around. Phillips noted Ellsworth is not unique in this situation. Kaplan stated she can understand the entire safety concern or issue is with the wording "obsolescence" and "abandonment"; she further wondered how long a person would need to be away from their property before it is considered abandoned. Tilton stated the majority of Code Enforcement Officer do not consider the abandonment part as long as the taxes are paid and the house is being maintained it is not an issue. The issue comes in when a property owner walks away from the property, the windows start to become broken out and transient people are possibly moving in which has happened in Ellsworth before, then it becomes a concern. A few different scenarios were discussed as a way of demonstrating whether or not a property would or would not lose their property rights according to this Ordinance. Tilton explained under the language within Chapter 60 it does allow the Code Enforcement Officer to request the building be boarded up and secured; if they are unable to do that the City can perform that work and give them a small bill for that cost. There are other ways to address this concern if the property owner is willing; taking a person's property is an extreme case. Kaplan inquired if there is a definition for an obsolete building or a description of what obsolescence would constitute. Tilton did not have the complete Ordinance with him this evening; however, stated he would find out.

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Phillips noted although the City Council was debating this topic tonight the reality is this is a State Law. At this point the discussion is only addressing why the State found it was necessary to pass this type of law in the first place. Phillips stated the only decision to make tonight is whether the Council agrees to add the language from State Law to the current Ordinance. This would just make it clearer and easier for the Code Enforcement Officer to find and use if the situation warrants, then it will trigger a process. The process involves bringing the situation before the City Council at which point 7 different people will be deciding whether the building is obsolete or not; not just the Code Enforcement Officer.

Public hearing opened.

David Burks, Ellsworth resident/neighborhood where the property is located that Blanchette showed to the Council this evening. Burke supported the proposal to strengthen the Ordinance tonight at the current time it does not appear the Ordinance is strong enough to correct the concerns. Burke described a few other buildings that would fall under this category and the need to remove those or hold them to the standards found within Chapter 60 of the Code of Ordinances. He understood the property rights issue and recognized that was important but the neighbors should have the right to live in a neighborhood that doesn't look like it does. Lyons clarified the exact language from the current Title 17 of State Law is just being added to the existing Ordinance language; absolutely nothing else is being added or taken away from the current Chapter 60 City Ordinance.

Public hearing closed.

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

RESOLVED to approve the amendments to the City of Ellsworth Code of Ordinances, Chapter 60, Property Maintenance Ordinance as presented this evening (attachment #5).

A vote was taken on the above motion with 5 members voting in favor (Blanchette, Grindle, Lyons, Miller, and Phillips) and 1 member voting in opposition (Kaplan).

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DATE: APRIL 19, 2021

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

**CITY COUNCIL PRESENT: BLANCHETTE, GRINDLE, KAPLAN, LYONS,
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CITY COUNCIL ABSENT: HAMILTON

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, ADAM
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Council Order #042103, Discussion concerning different options for dealing with floating structures on lakes within the City of Ellsworth. (Sponsored by Councilor Grindle).

This was a discussion only agenda item, no formal action required or taken this evening.

Councilor Grindle reminded the audience that this was just a discussion item and no action would be taken this evening. This issue was brought to her attention by a number of people; particularly in regards to the discussions that are currently taking place at the State level regarding floating structures on the State's lakes and ponds. She does have a particular interest in this topic and the City already has an Ordinance that covers houseboats at the Harbor. Grindle felt it was very important to keep in mind that the City has taken the time and money to make the lakes and ponds accessible to all residents as well as others who would like to use them. This is an opportunity for residents to come forward and discuss this issue further because there may be something happening at the State level and there is already a number of cities and towns in the State that have already adopted some sort of an Ordinance. Councilor Lyons questioned whether the City was trying to do away with people having boats moored in the lakes and ponds or one of the big slide floats. There were several people present this evening to discuss the topic; Grindle was very interested in hearing about what is happening at the State level.

See attachment #6 for prepared statements from Audrey Tunney, Dale Jellison, Andy Hamilton, and Layne Rowe.

Audrey Tunney, property owner on Green Lake, member of the Hancock County Lakes Association, and President of the Green Lake Association spoke on behalf of both of those organizations this evening. Hancock County Lakes Association is an alliance of the individual lake associations in the area to help one another and support one another particularly in environmental protection of the lake. Tunney stated the Green Lake Association has worked with the community at Green Lake for many years; their purpose is to advance and promote Green Lake as a valuable natural resource. The focus is on environmental protection, which includes wildlife. Other topics of protection include water quality, recreational safety, limitation of noise and light pollution. These objectives are met through programs, publications, and educational opportunities. They are available to help the property owners become the best stewards possible, to protect the lake and in so doing protect their property values. The shore front values are an important part of Ellsworth's tax base. Tunney stated owners of property around the lakes have been and are about to be more substantially affected by individuals mooring out in front

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of their shorefront property without permission. She felt the houseboats present a series of risks; she painted a picture of what some of those could be. Tunney provided some testimony from Tim Peabody, Inland Fisheries and Wildlife (IFW) Deputy Commissioner on the topic of LD 626. The houseboats present three risks to the State's great ponds, interference with wildlife, interference with navigation, and the unauthorized discharge of gray and black water because some of the structures are not designed with toilet facilities. Tunney added noise as a potential risk. She was in support of the Council and City staff reviewing the concerns addressed this evening and see if there is a way that the City could mediate some solutions to these problems as some other cities have done.

Tunney introduced Dale Jellison, a member of the Green Lake Association and property owner at Green Lake who has been involved in researching this issue as well as participating in the public hearings for LD 626. Jellison stated on March 15, 2021 the IFW committee (State committee) that is chaired by Senator James Dill introduced LD 626. During that testimony, Tim Peabody, Deputy Commissioner for IFW presented several different issues that he felt the Committee should hear. Representative Stearns explained the focus is related to floating camps as he described a situation on Moosehead Lake. In this area a floating camp is rented out to the public, it is moored near a shoreline in front of a house. This is not a new issue, IFW and Department of Agriculture Conservation and Forestry (DACF) have dealt with several scenarios similar to this on Rangeley, Sebago, Long, and Androscoggin lakes just as an example. Jellison noted this is a cross jurisdictional issue that impacts both DACF and IFW's authority as well as municipal ordinance in some situations. Peabody went on to explain these static floating homes or camps that are connected to moorings displace water surface on great ponds that are held in public trust for citizens to have free access to navigate. Having no way to stop or minimize the number of these structures that are moored within the water safety zone could and does in some cases greatly impact navigation for commercial and recreational boating activity. The submerged lands program housed within DACF has rules that prohibit non-water dependent uses such as floating houses or camps but doesn't have a mechanism to enforce them. Jellison stated having structure such as the ones described often creates issues of waste disposal, a lack of maintenance, and subsequent material settling at the bottom of the lake. Many times the owner does not have the means to take care of it and the work to recover materials falls on a State Agency or a municipality to clean it up. According to Jellison both IFW and DACF agree this issue needs to be addressed and are fully supportive of the discussion due to the complexities

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mentioned they are asking the Committee to consider allowing the departments to work together and identify all the sections of law that may be affected by this issue and perhaps propose a solution. The testimony from Peabody was well received by the Committee and Jellison believes this is the time for action. LD 626 was sent back to workshop following the public hearing with an estimated time frame Statewide to not come out of Committee until February of 2022. Jellison is interested in working with Dedham and Ellsworth as more houseboats will continue to come to Green Lake and other great ponds; he agrees there should be work between the City Council and City staff in the near future to explore the options and address houseboats on the great ponds in Ellsworth.

Andrew Hamilton, an attorney at Eaton Peabody in Bangor and property owner on Green Lake. Hamilton clarified there is no proposed measure before the City Council this evening. He noted liberties in a public setting involves balancing those with property rights and public good. Three communities that have acted are strictly freshwater communities having no coastal waters to be concerned with. The City has dealt with houseboats in the coastal context on the Union River. Hamilton gave details on the situation in Rangeley that lead to the regulations that were implemented in that area. One requirement is to register the mooring if mooring the craft in front of private shorefront properties; the fee is very low and made payable to the town. According to Hamilton, the town collects more in mooring fees than they pay to enforce the requirement. The request did not include a measure this evening because Hamilton is very respectful of the rights of those who would like to navigate on the great ponds and his group would like to hear what the boat owners have to say. The City has asked their legal counsel if they have the authority to regulate houseboats on a great pond and consistent with what other municipalities across Maine have done the City's attorney has determined the City does have the authority to regulate on a great pond. Hamilton noted to his knowledge the City is supportive of legislative efforts to strengthen the State's oversight of houseboats on great ponds. At this time Hamilton is only asking for the City Council's permission to work with City staff to bring options back to the City Council to regulate houseboats on the great ponds within the City. It was his understanding the City staff would like the City Council's support to work on this in a way that first preserves the shorefront property values on the great ponds, does not impose heavy costs of enforcement on the City but continues the City's tradition of working with the State, and that balances reasonable use of the great ponds by houseboats with all other users and shorefront owners on the great ponds. Hamilton was not opposed to one houseboat for a few weekends it is not a problem

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but if it is a houseboat for an entire summer with notice to friends who come in and party on the houseboat that is a little different. He has told boater in the cove including those that use the beach, people can come in and use it occasionally but when they bring 10-15 friends all with 10-15 boats it changes the nature of it. He has requested they respectfully reduce the numbers that come in together. Hamilton shared a piece of the testimony from Representative Faye from Poland relating to an earlier practice of a gentleman's agreement concerning the placement of a mooring in relation to your property lines out to the water. These days those common understandings have largely disappeared with turnover in ownership. The increased number of watercraft, all types of floats, and the lure of online rentals of overnight accommodations on the water according to Poland it is exactly the right time to come up with a plan that will help Maine avoid some of the inevitable conflicts and safety issues that will come with this type of change. Hamilton offered his hand of respect and support for all of the Councilors and colleagues that own houseboats he would like to sit down and work through some issues in terms of what balance means, it will make it easier on the City Councilors and City administration. His concern is with people being disrespectful; he does not feel it is respectful of the houseboat owners to park the boat and invite all their friends to party on the boat. Hamilton asked for time at the end of the evening to respond to any other comments in an effort to bring this together and make some forward progress.

Representative Sherm Hutchins who represents one third of Green Lake through representing Dedham and Lucerne. The Committee has decided to continue the discussion in about a year after a study is conducted on this topic in order to gain insight and possible recommendations.

Terry Pinkham, residence on Nicolin and Bangor Road in Ellsworth, spoke concerning the earlier concerns with wildlife endangerment in connection with a houseboat or floating structure, pollution from gray or black water including debris that might be coming off the boat itself, and noise or light. Pinkham provided his expertise in the fields of being a master Maine guide, hunter, fishing recreationally and commercially as a commercial boat operator as well as being a steward of the environment. Pinkham stated every person who joins him also follows those guidelines. He is concerned that this discussion will lead to taking away the ability for kids and other people to get on a houseboat, swim, and enjoy themselves. Pinkham does have a house float, it is not a boat; it does not have a motor. Everyone who has the opportunity to be on the house float enjoys the experience

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according to Pinkham and they try to be respectful to everyone else. He provided a picture of the house float (see attachment #6 A and B), it is not the eyesore it is being described as. Pinkham noted this same group of people spend the entire winter on the pond ice fishing; at times there are approximately 100 permanent ice shacks that stay in that area all winter. This does not include the day/weekend users of the lake. The winter use is the same principle except there are more of them and it is not so hard to look at if you are not here during that time of the year. Pinkham would like to keep using the house float and their ability to use it at this location, respectfully; he did not want to see any of his liberties taken away either. In this State they have been able to do what they want when they want as far as it come to recreational fishing, hunting, boating, and playing in that nature. Pinkham questioned whether this was a topic the City Council even discusses or is this a State issue. Chair Pro-Tem Phillips noted at this point the concern is governed by State Laws primarily and the current request is for the City Council to enact some standards or ordinances that may affect it. Phillips noted this is the beginning of a process. Councilor Blanchette clarified the structure does not have a motor. In response to Blanchette's question of whether there is a bathroom facility on the structure, Pinkham noted there is a self-composting vanity inside (similar to a sailboat toilet). The floating house Pinkham owns is 24' long with 8-10 people on it, at times slightly more people will join the group, while other people raft up next to the structure. This appears to be a common occurrence all over the lake. They do have the facilities to take care of waste in an emergency situation, there is also a public outhouse at the Green Lake boat launch on the Nicolin Road which gets used quite often. Often times people associated with the floating house will not feel comfortable using the self-composting style facility so they will go over to the boat launch portable restroom instead. Pinkham stated there is not a set capacity limit because it is a float; Pinkham was not sure what the capacity of the composting toilet was. The toilet is approximately 2' wide by 3' tall and contains sanitized bags inside of it. The waste that goes in will later be closed up in a bag and later thrown away; just like another boat has done for years. Pinkham noted in regards to navigation, he keeps this structure not in the center third of the lake, they are always off the edge of the lake. He would place it in the middle except they don't want to get run over. Often there are 10 people on a pontoon boat; Pinkham inquired what the difference is between that situation and his floating house. One significant difference is the floating house does not put gas or oil into the water. The structure appeared to be western red cedar, carpeted inside, completely finished. The boat is owned by Pinkham and friend who will be speaking later this evening. Blanchette inquired if this type of structure requires a registration;

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Pinkham replied after checking with the State of Maine before it was built and learned it does not require a registration. Pinkham stated they do not have an issue with registering it; it does not require a registration because it does not have a motor on it. Pinkham noted they worked hard on the floating house, they spent money on the supplies, and pay taxes; therefore, feels they should get to use the lake the same way other people do. Lyons noted it is basically a pontoon boat without the motor. Everyone they meet compliment them on the structure; they are not located in front of a house, they are in front of the beach with houses located on the right and left of them.

Jason Spinney, resident of the Beechland Road in Ellsworth and half owner of the boat stated the floating house is located approximately 250 feet away from anyone's dock and offset to the right in front of the beach. Spinney stated he has used the lake his entire life, fishing, swimming, ice fishing, and other activities year round. Spinney also addressed the ice shacks during his comments. Spinney noted they did their best to make the structure look nice and they have always been very courteous to anyone that has concerns with the structure unless they are literally yelling at them from the beach telling them they have to move, or using vulgar language. This structure is not larger than the average sized pontoon boat; Spinney felt anyone who moored a pontoon boat anywhere on Green Lake has the same exact real estate taken up as far as navigation for anybody else. This structure does not have a permanent mooring; they moved it around the lake 6 times last summer. It has two anchors that are used which are easy to pull and are very mobile. There is no concrete to drop into the water, it has a simple anchor. The structure is a float that is pulled out with another boat, no motor, no registration is required per the State. In response to Phillips question concerning overnight stays, Spinney answered they have only stayed overnight once. Generally, it is a day time use structure; the cabin is only 8' by 12'. Spinney displayed a picture of the structure on the television in the Council Chambers for the audience to see. He stated they built the structure out of full western red cedar, sided it, put in brand new vinyl windows and doors, new pontoons, and kept it as nice as possible. They are avid fishermen who care a lot about the environment; if anything is dropped in the lake from this structure the occupants are required to pick it up. As they are only in 10' of water this allows them to dive down and pick up anything that might fall into the water. They remove the trash and disposal waste from the toilet with them every night. The picture that was displayed on the television shows the structure parked approximately 150' off shore in front of a beach that is probably private property. Andrew Hamilton confirmed that was a private beach and inquired if written

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permission had been granted. Spinney stated the State told him they did not need written permission. Hamilton inquired how many boats can tie up to the structure. Spinney stated they put three or four maximum; any more than that the anchor will not hold. Hamilton noted he has seen six attached before; a picture may be available if requested.

Alison Cowan, resident of Ellsworth and property owner on Branch Lake stated she has a large float which has a slide on it and she has bouncy structure. She explained boats come from all over and anchor next to her and they play on her equipment; everyone has always shared their water equipment. As there are many families and friends in this area they often meet up not necessarily on purpose and enjoy some conversation and lunch in the middle of the lake; her understanding from the discussion is the Council doesn't want this type of activity to continue. Cowan has been on the house float structure in Green Lake before and found it to be very clean and pristine as well as the people are very friendly and nice. Her husband and brother became inspectors and they are very careful and cognizant of their surroundings including milfoil especially as they take their boat from one water body to another throughout the summer. Councilor Kaplan inquired if when the boats all tie up together if it is similar to a flotilla party on the ocean. Cowen stated yes very similar; however, often with fewer vessels. It was unclear if they all use separate anchors or just tie off to one another as they are not leaving the vessels for long periods of time. There was a question from the audience (Jellison possibly) in regards to whether Cowen was mooring this structure in front of her own property on Branch Lake. Cowen explained it is kind of in the middle of a cove. The question was further clarified to state if Cowen's property lines were extended out into the lake the boat would be moored in the general vicinity of that area. Cowen stated it would depend on which house you are in because it is a cove and would be in the front of a neighbor's house, one of which is hers, and another is her brother's house. The question went on to include whether Cowen has permission or if she has ever asked permission from the adjacent property owners to moor that structure. Cowen stated no she has not and does not have permission. Lyons asked a general rule question as it pertains to whether the water belongs to anybody. He provided an example of a time when he was fishing from his boat approximately 25' from their dock. Lyons believed the water is for everybody to use; just because someone owns the property that is 150' to 200' feet away from the water does that mean the property owner is the only one who can use the lake. Jellison stated no, the property owner does not have exclusive rights to the water body and he stated that is not the issue. Lyons further explained if the property lines are extended out in a

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straight line from everybody's property there will not be any room for non-property owners to use the water body. Jellison continued to clarify that if they want to get his permission to moor within 200 feet of the front of his property where he is paying between \$5,000-\$6,000 a year in property taxes and they are up until midnight or 2:00 in the morning partying and setting off fireworks directly within 200' of the front of his property that is the issue. The State is proposing to address a specific issue at Moosehead Lake and the concern extends further than that; that legislation will impact the entire state once that is developed. It was Jellison's understanding that Rangeley has passed an Ordinance that requires the mooring be licensed and the mooring cannot be licensed without specific written approval from the adjacent property owner. The thought behind the Ordinance puts the respect back into the public use of the water. Lyons inquired how far out from the beach does the property owner have ownership of. Jellison stated he does not own anything beyond the high water mark; the 200' mark is the headway area beyond that is the navigational area and IFW is DACF is addressing those issues in their testimony to the State. Kaplan clarified Cowen does not own the structure being discussed this evening; she also clarified this structure is not on a mooring. Hamilton stated every community treats a mooring and anchor the same way. Lyons noted it was agreed that the property owner does not own the water that the structure is setting on; someone within the audience stated that is correct.

Patty Hamilton, resident of Scott's Neck Way stated they did enjoy the company of the guests and they did a nice job of fixing up the houseboat. It is very nice and neat inside and children were playing on it. There were times when things got out of hand. There is a mooring that is connected to the bottom and to her knowledge they only moved it one time otherwise they stayed in one location all summer long. Permission was not obtained from the beach owner for the location this structure was moored at throughout the summer. P. Hamilton believed the conversation this evening indicates there is still a lot to be decided in terms of strategies between people and they share the common water and use of the lake. Some of the topics to be discussed include whether a compost toilet is good enough for the quality of the lake, whether someone should be able to park for one week, two weeks, or the entire summer. Possibly they should be encouraged to move the structure so that it is not the burden of only one place.

James Cowen, resident of Branch Lake spoke about his unpleasant experience at the Green Lake beach last summer. Cowen explained the structure being discussed this evening is on his anchor; the owners did not own a big enough anchor prior to

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Cowen allowing them to use his. Cowen asked if his “structure” would also be considered a house boat because it is 23’, has a toilet, bed, a little stove, and a cabin. The difference is Cowen has a motor on his structure and it is registered. Cowen agreed in order to figure out all the details it will require a lot of conversations and possibly some lawyers.

Lyons was willing to sit down with the people present this evening and discuss this one boat that seems to be in question in regards to the six lakes in Ellsworth. At first Lyons pictured this one boat as being just a pile of trash in the middle of the lake which after seeing the picture he was very surprised. In reality, it looks like it could be nicer than some houses. Kaplan noted as a shore front owner on tidal waters whenever a person purchases shore front property you learn to deal with certain things that you cannot control; however, the property line stops at the low water mark. That is the restriction water front property owners live with and they are aware of that when they purchase that type of property. Anything that happens on the water whether it is a loud boat or something else there is nothing the land owner can do about it because it is not their property. Lyons stated he would be willing to check the situation out at Green Lake and moderate the discussion between the owners of this boat and everyone present at this meeting and try to develop a strategy. The end result is the water belongs to everybody.

Councilor Miller read the only electronic comment into the record. “I would think that any sleeping structure floating or not must pass Code Ordinances for occupancy. This would mean that any structure that stays permanently upright not a tent and is lived in overnight most days of the week must have proper disposal waste water and not pollute the environment. This would exclude things such as floating docks, slides, and other items on the lake that are recreational but the City could ban structures that should not be inhabited for safety reasons and keep the lake clean from sewage as well. If the City needs stronger wording to enforce this we should research and adopt the language for health and safety of people using the lakes as well as any potential occupants.” – Abigail Miller

Kaplan felt a committee should be formed to research this topic and address the issues heard this evening, as well as the right to enjoy waterway issues. There is a balance that needs to be found so the people who live and also pay taxes in Maine and want to enjoy those waters are not deprived while at the same time not depriving the private property right owners of their private property rights of enjoyment. Councilor Blanchette noted that when the property lines were

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mentioned it has since been construed that they are saying that they own out into the water between the property lines, they do not. The way it is worded in attachment #6 it has been a gentleman's agreement that the mooring is placed in front of your property between an extensions of your property lines or an imaginary extension of your property lines out into the water. No one here tonight is claiming ownership, some people have taken umbrage that they claim those people have.

Andrew Hamilton restated his goal was just to have the opportunity to have a committee and a discussion. He understood the tradition of ice shacks and is not bothered by them. Hamilton was more concerned with the conflict that arises on the water sometimes. Boats going by does not bother him; however, a house boat with as many as six boats rafted up on it and it is there for the entire summer then it starts to cause a few concerns. Hamilton was just looking for some reasonable use concepts that come out of the committee discussion then everything should be just fine. There is a balance to be struck in this situation; they are not claiming ownership beyond the shore; however they would like some reasonable use understandings.

Kaplan was in favor of forming a committee. Phillips thought staff should look into some of the concerns and then return to the City Council with some suggestions, and then have a meeting after a little more information has been put together. Glenn Moshier, City Manager confirmed that would be okay; he said staff has already had multiple conversations with many of the people who spoke this evening. This was an issue that was addressed to a degree last summer, so this is not a new concern to the staff. Phillips thought it would be very helpful if staff put some information together that would include history on this issue, some ideas on what laws or rights the City does and does not have, and action we might take if we so desire. The consensus of the Council was to bring this topic back to another session, either in a City Council meeting or workshop setting. Moshier agreed City staff could make that happen.

This was a discussion only agenda item, no formal action required or taken this evening.

Council Order #042104, Discussion and action on whether to continue holding the property located at 1399 Bangor Road for a potential fire sub-station in the future or release the property to be sold in accordance with City of Ellsworth Code of

**Approved - Council
Order #042104,
retain the property
located at 1399**

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HEIDI GRINDLE.**

*Ordinances Chapter 10 Maintenance, Administration and Disposition of Tax
Acquired Property. (Sponsored by Councilor Blanchette).*

Councilor Blanchette stated the City has been approached by more than one person inquiring as to the City's ownership of the house located at 1399 Bangor Road. The City has owned this property for seven or eight years; originally this property was kept off the list of properties to be placed out to bid. The Fire Department requested several years ago that the City consider keeping this property for a future substation. As the City has not used it yet; this agenda item was requested to gain a sense of whether the City would like to continue retaining this property or if the Council would like to place it out for bid. It is a two acre parcel; the City had a REPIC (real estate purchase installment contract) with the owner of record. Once the owner of the property left the property due to health concerns the City ended up with the property. The City was the party in possession (throughout the REPIC agreement) of the pile of boards and rubble along with 2 acres of land. Phillips noted there have been discussions in the past where the City may eventually expand the Fire Department to include this parcel of land. It may not be an ideal situation or the right spot; however, it is something the City currently owns at no cost. As the City continues to expand there may be a need to do that or use that property. If the City does not hold onto this parcel then it will be back to the same question that always surfaces; how much money does the City have to spend and where do you spend it. Phillips was not sure exactly how much money the City would gain from the sale of the property; however, a sale of the property would turn it back into taxable property. While at the same time if the City decides to expand and build a substation in the future that will mean that particular spot is lost and the City is left to find a suitable property and will likely pay fair market value for that parcel of land. Councilor Lyons questioned if the Council was considering placing the materials out to bid if they were willing to tear the building down. Blanchette explained if this item comes to a motion, he would like to have the idea of putting out the salvage rights to the beams and timbers within the barn that has collapsed causing a major danger. He thought it could possibly be one of the worst buildings within the City as far as safety is concerned. Lyons clarified if that was something that could be done even if the City decided to keep the property. Lyons felt it was best to retain the land given the City already owns it and to obtain a parcel later when a substation is needed will cost the City a significant amount of money. Blanchette questioned whether the City would ever build a substation on that lot because it is technically in a 55 mile per hour zone and in the summer time it becomes an unofficial 80 mile per hour zone and it is located on top of a hill.

**Bangor Road,
possibly clean up the
structures, and keep
it for future
reference if the
Council did want to
build a substation.**

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: APRIL 19, 2021

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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

CITY COUNCIL ABSENT: HAMILTON

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, ADAM
WILSON, DWIGHT TILTON, LISA SEKULICH, GARY SAUNDERS, AND
HEIDI GRINDLE.**

Phillips noted this situation could be controlled with traffic signals or a light system that announces the fire trucks are departing. Blanchette agreed selling it now would allow another home to be built on the property turning the parcel back into a taxable property in turn taking some of the financial burden off all tax payers. Councilor Kaplan felt it would be less expensive to hold onto what the City already owns rather than to try and regain what you have later; however, she wondered if this building constitutes an attractive nuisance. Phillips noted it is in very poor shape; the house is stable and the barn is in much worse shape than the house. Lyons asked if an estimate could be obtained for tearing the house down and filling in the basement. Gary Saunders, Interim Fire Chief stated the Fire Department has taken the stance that they will no longer be burning down nuisance homes. Although it could be the best training available; however, the regulatory principles, rules, and regulations have gotten too strict. Once the building is burnt down the DEP requires the ashes to be tested for hazardous materials. Saunders agreed the barn at this particular property has fallen in and it does constitute a dangerous nuisance building. Saunders stated if the City decides to hold onto this property it is his hope that the structures would get cleaned up at least the barn portion. It was noted that the house itself has some good attributes to the structure it could likely be fixed up and salvaged. Saunders did not think this would be an ideal location for a substation. Some of the concerns included the wind that is likely present at the top of the hill especially during the winter and the entrance would be onto a three-lane road where it is technically 55 miles per hour when in reality the average speed is much higher. However, wherever the substation is built along that corridor would still require the fire trucks to pull out on to a major highway. The City does not plow that area, it falls under the Maine DOT's authority. Saunders stated the current real estate market probably supports selling the property for the highest dollar and it would return the property to the tax rolls. Originally, he was opposed to the idea of selling the property because he thought somewhere in that area would be a good location for a substation at one point. He has taken the mileage measurements and if a structure is within a five mile radius of a fire station the insurance premiums are reduced. A fire substation located in this corridor would help from the Winkumpaugh Road out to the four corners area, Branch Pond Road, and the Nicolin Road area. Currently, where the Fire Department is located has a five mile radius of about to Tracy's Apartment complex/Tracy's Karate studio; any properties beyond this area is charged an increased insurance premium. There was a discussion on how far the five mile radius would extend if a substation were located within this corridor and therefore how many more property owners would

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KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, ADAM WILSON, DWIGHT TILTON, LISA SEKULICH, GARY SAUNDERS, AND HEIDI GRINDLE.

receive lower insurance premiums. Saunders did note that building a substation would not benefit the City unless it is also manned.

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

RESOLVED to approve Council Order #042104, retain the property located at 1399 Bangor Road, possibly clean up the structures, and keep it for future reference if the Council did want to build a substation.

Prior to a vote being called for, Blanchette stated no matter which way the vote goes he would like to come back with a motion B. A vote was called for as stated above.

A vote was taken on the above motion with 4 members voting in favor (Kaplan, Lyons, Miller, and Phillips) and 2 member voting in opposition (Blanchette and Grindle)

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

RESOLVED to approve by consensus of the Council for the City to go ahead and put out the salvage rights to the collapsed barn, the structural salvage, there are a lot of valuable timbers in there with the recent rise in the price of lumber make it even more valuable now. The timbers are also very popular with the restorers and architects. Blanchette would rather see somebody use them than have them just stay exposed to the weather, rotting, and doing nobody any good. In conjunction with that Blanchette would also like to put out salvage rights to the contents of the “workshop”.

Phillips appreciated Blanchette making that motion; however, in regards to the agenda item he doesn't see the wording or the ability to do that. Phillips stated the agenda items was specifically whether to continue to hold the building. Phillips was not arguing as he thought it was a good idea but he did not know whether or not the Council had the right to do that tonight without having another public notice as part of the agenda. Blanchette stated it is the City's building. Phillips questioned whether a motion would be needed; if there is an agreement of Council member than it can be sent out. It appeared the Council was in agreement to do what Blanchette stated above as the second motion. Blanchette would like to see that tonight. Everything located on that property are City assets and are just going

Approved - (Consensus of the Council) - City go ahead and put out the salvage rights to the collapsed barn, the structural salvage, there are a lot of valuable timbers in there with the recent rise in the price of lumber make it even more valuable now. The timbers are also very popular with the restorers and architects. Blanchette would rather see somebody use them than have them just stay

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CITY COUNCIL ABSENT: HAMILTON

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, ADAM
WILSON, DWIGHT TILTON, LISA SEKULICH, GARY SAUNDERS, AND
HEIDI GRINDLE.**

to waste. Phillips agreed with Blanchette the barn is a pretty nasty looking place and it needs to come down. Although Lyons seconded the above motion; Phillips noted this would only be a show of hands to state the Council is in agreement with it and then staff can move along with the process. Kaplan clarified the motion would be looking for someone to salvage the barn and the building for their personal use but the City would keep the property. The City would definitely be keeping the property this would just be the salvage rights; this motion has nothing to do with ownership of the property. The bidders would be required to hold their own insurance. Phillips stated all the RFP's (request for proposals would come back to the City Council for final approval. An RFP would be designed with all the guidelines within it. There is a possibility that revenue would be gained from this proposal. Blanchette requested any revenue gained from this proposal should be used for seed money to establish an account for Tilton to use when implementing his new program within Chapter 60.

The consensus of the City Council members present was to approve the above motion relating to salvage rights to the barn and building.

Council Order #042105, Request of the Public Works Director to award a contract for marking words, symbols, stop bars, parking lines, crosswalks and authorize the City Manager to sign the contract.

Lisa Sekulich, Public Works Director explained this is a yearly request. The City has been designated as an urban compact which means the City is responsible for the pavement markings. Last month, the long lines were approved and this month the request is to approve the symbols, words, parking lines, and crosswalks. On April 8, 2021 there was a bid opening. Seven bids were requested; however, only three companies submitted proposals. See attachment #7 for the complete request, bid results, bid documents, and bid the package from the low bidder. Newman's Ground Effects was the low bidder; they have completed this type of work for businesses within the community. Sekulich is recommending awarding the contract to Newman's Ground Effects. Jordan Striping, the previous contractor for the City has retired. Sekulich noted Newman's bid was in the same price range as the expense was last year. The other bids were significantly more expensive. Phillips stated the three bids were \$49,935, \$45,395.60, and \$25,521; therefore, there was a substantial difference in price from the highest to lowest. The bid was for the same materials; however, Sekulich could not confirm the quality of any of the bidders as she has never worked with any of the three companies. Sekulich noted Mr.

exposed to the weather, rotting, and doing nobody any good. In conjunction with that Blanchette would also like to put out salvage rights to the contents of the "workshop".

Approved - Council Order #042105, Request of the Public Works Director to award the Words, Symbols, Stop Bars, Crosswalks, Parking lines pavement marking contract to Newman Ground Effects at the unit prices per attachment #7 and authorize the City Manager to sign the contract.

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Newman purchased a lot of Mr. Jordan's equipment and stencils when he retired last year. The waterborne paint quality is the exact same with the glass beads as the City requires, essentially it should all remain the same as past years. Councilor Blanchette inquired if the new type of marking had been researched yet. Sekulich contacted one of the two major vendors within the State; the other vendor and Sekulich keep missing each other's phone calls. The vendor Sekulich spoke with did not bid on the work but they were willing to speak her about the pricing and other factors. Sekulich was told the biggest concern for that company is the condition of any municipal roads because many of those are not in the best condition compared to State roads. Thermoplastic, which is not the MMR that was being considered; however, is like what the City currently has on State Street (was used when that street was redone) and is kind of inlaid a little bit. The cost of waterborne is about .10 per foot, the next level up would be like epoxy at .30 per foot, and thermoplastic is higher per foot. With epoxy and many of the thermoplastic materials there is a lot of surface prep required which generally adds an additional .15 a foot. The advice Sekulich gained was in the long run the thermoplastic ends up being 5 to 8 times the cost of the waterborne paint and it will not last for 5 to 8 years. Blanchette noted currently the waterborne paint is not holding up for a year. Sekulich noted the thermoplastic within the City was placed approximately 4 to 5 years ago; some of the symbols are still in great condition while others have been peeled up by the plows. That product does last a little bit longer; however, anything applied in the State of Maine due to the plowing season is not going to last forever. Sekulich stated there are no companies around here that offer spray thermoplastic which is another option.

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

RESOLVED to approve Council Order #042105, Request of the Public Works Director to award the Words, Symbols, Stop Bars, Crosswalks, Parking lines pavement marking contract to Newman Ground Effects at the unit prices per attachment #7 and authorize the City Manager to sign the contract.

Council Order #042106, Request of the Public Works Director to approve an excavator lease agreement for a term of up to 6 months.

Lisa Sekulich, Public Works Director stated this is a yearly request to rent an excavator for approximately six months. Due to the unseasonal weather this year the goal is to have the excavator on May 1 through October 31. The contract is for

Approved - Council Order #042106, the request to go into a rental agreement with Eagle Rental, for a 135 Class

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a period of up to six months which allows it to be returned early if it is not needed any longer. Two bids were received on the size excavator requested; they are the only two companies that have the size machines required. See attachment #8 for the complete request. Eagle Rental is the company the City has contracted with the past three years and they are the lowest again this year. Sekulich is requesting to award the contract to them again this year. Phillips confirmed Eagle Rental was acceptable at servicing the equipment and there were no issues with the machine. The price this year is \$4,200 per year. This is a little more expensive than last year; however, lower than the year before that (2 years ago). Last year, was an unusual year and therefore the company offered a very low price for the contract based on the low demand for the equipment.

excavator and attachments at a cost of \$4,200 a month, for a duration of approximately 6 months to be paid for through the Highway General Fund Account.

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

RESOLVED to approve Council Order #042106, the request to go into a rental agreement with Eagle Rental, for a 135 Class excavator and attachments at a cost of \$4,200 a month, for a duration of approximately 6 months to be paid for through the Highway General Fund Account.

Council Order #042107, Discussion on and action to hold a workshop to learn about the State of Maine's adult-use marijuana law and in particular the component of the law that addresses local regulation of marijuana establishments. (Sponsored by Councilor Phillips).

Consensus of the Council was to schedule a workshop between the Council and staff to discuss this topic further and discover what the City can and cannot do in regards to this topic.

Chair Pro-Tem stated the reason he requested this topic be on the agenda was because he has been approached by a business and there have been past discussions how the City was going to handle this topic and the laws have changed. This topic within the City doesn't seem to be moving forward. Phillips felt if the Council at least agreed to look at the topic, staff should at least be directed to work on some rules and regulations on both the ability to sell, grow, and anything else the State would allow the City to have control over. Councilor Kaplan noted what the City can do is create local regulations that can protect the people from adverse reactions that are unanticipated. She discussed her understanding and knowledge gained on the topic and how this is not a benign drug. Kaplan felt as a City it should be required if a business wants to sell it within the City they should have a warning label on it listing the potential side effects. Councilor Miller agreed the City Council should know what they are dealing with; therefore, having a workshop to explain the laws would be very beneficial because the current regulations and law

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HEIDI GRINDLE.**

are very confusing. Councilor Lyons stated he is against marijuana; however, is pro-business so if it is legal business he would be in favor of exploring the topic of allowing it.

Consensus of the Council was to schedule a workshop between the Council and staff to discuss this topic further and discover what the City can and cannot do in regards to this topic.

Before moving on Glenn Moshier, City Manager clarified the workshop would be for the City Council. Phillips noted it should be with the City Council at first with staff providing some guidelines on what the City can and cannot do. Moshier stated he will plan on developing a staff committee to present information, options, and educate the Council on the current status of the laws. Phillips would like information on what the City is allowed to control, what the State requires, and anything else that is pertinent to that topic for the City Council to make an educated informed decision on how to direct the City staff to create local laws, regulations, and rules for the City. Lyons clarified if this entire topic was against Federal laws; it was confirmed that currently it is against Federal laws. Kaplan did inquire if this is similar to the Second Amendment in the aspect that the City cannot pick and choose which Federal laws the City will follow. She further wondered why the City could pick and choose in the case of marijuana. Moshier stated the difference is the State legalized marijuana in this case; this is not an instance where particular municipalities are legalizing it. The State legalized marijuana and the City is selecting whether they want to allow people to retail sell it in the City of Ellsworth. It is already legalized in the eyes of the State. Miller stated even if the City allows a shop to open a DEA Agent from the Federal Government can still enter the shop make arrests and hold them in a Federal prison. Lyons clarified by the State adopting that law it overrules the Federal laws. It was pointed out that is not the case; the workshop will be held to gain clarity on this confusing topic.

Council Order #042108, Discussion and action on supporting the bike/pedestrian path extension project with local support through a future funding source. (Sponsored by Councilor Blanchette).

Councilor Blanchette updated the Council on the meetings that have been held with the State figures have been provided that add up to \$500,000. This would build the first half, engineer, and design all of it; construction would only be on the first half. The City's share would be 20%, or approximately \$100,000. The State would pay

**Approved - Tabling
Council Order
#042108, Discussion
and action on
supporting the
bike/pedestrian path
extension project
with local support**

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WILSON, DWIGHT TILTON, LISA SEKULICH, GARY SAUNDERS, AND
HEIDI GRINDLE.**

the remaining \$400,000. Since it is already April, Blanchette suggested holding off a month on approving this project. As the budget hearings have started, Blanchette felt it would be best to wait for that process to gain a fiscal understanding of where the City is at before committing to this additional expense. Blanchette would like to hear from the residents and City Councilors in regards to their opinions on whether they are supportive or not of this project. Councilor Kaplan felt until the City had better roads the focus should remain on making Ellsworth more driver friendly. Blanchette stated transportation takes many forms, depending on whether you are walking, biking, or driving; the Council needs to pay attention to all of it. Blanchette stated the Council cannot just cater to one certain segment certainly the bulk of transportation funding in the State is for vehicles; however, the Council also needs to take care of the others. Kaplan noted the majority of people are driving and people have been begging to get the roads improved for years and money keeps getting spent on pet projects. She went on to say if money keeps getting spent on pet projects such as walking paths, parks, green projects, and solar farms and the roads are not getting fixed the City is doing a disservice to the very people that elected the City Councilors in the first place. Blanchette did not think putting up solar farms that saves the \$200,000 a year on their electric fees is a pet project; just as anything that helps people maintain or regain their health while keeping them out of hospitals should be considered a pet project. This trail runs right through the heart of the City so that people in the neighborhoods, people on their lunch hour, before or after their workday can all use the walking path. The current paved rail to trail path is used extensively; during the summer time there are hundreds and hundreds of people that use that throughout the day. The extension to this trail would take people from the intersection at LL Bean or the Shaw's intersection all the way to Ellsworth Falls or Sunrise Glass safely unimpeded and is considered by Blanchette a win-win for everybody. Councilor Miller noted it is also a safer way for the children to walk to and from school. Councilor Lyons had the opportunity to walk the complete trail as it stands this evening and did not encounter any issues; however, his concern is with the safety on Oak Street near the section of Park Street. He strongly felt a sidewalk is need on Oak Street for the safety of pedestrians and drivers alike. Phillips agreed with Lyons that sidewalks are needed on Oak Street and that addition is tied in with a future rebuild of that Street. Phillips felt the bike/pedestrian path is a quality of life issue and people do use it dramatically; however, it is also a funding issue, question of timing, and who is paying for it. Councilor Grindle felt it was a good idea to extend the current path. She has seen many people walking on it as well as the children use it all the time, and it does complete the loop that City Manager Cole used to speak about. This

**through a future
funding source.**

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HEIDI GRINDLE.**

will allow people to get all the way from Sunrise Glass to the LL Bean complex, with the potential of an adding a crosswalk at the Shaw's shopping plaza (which has been a part of the discussions before) a person could get to the housing units and from there a person can access the waterfront; that would be the loop through the City. As part of this plan, a part of the road is unpassable you cannot get through there with a car; this section of the road will need to be fixed at some point regardless and this project would take care of that and anytime that the State is willing to contribute \$400,000 and the City is only responsible for \$100,000. Grindle agreed the project is still very expensive at a total cost of \$500,000; however, the State match is a very attractive element. She also agreed with Blanchette that it adds to the whole picture. Glenn Moshier, City Manager noted this has been a fine conversation; however, may be a bit premature. He noted staff should be present who have been involved in the process and who have the knowledge about the future funds that will be needed as well as ideas on potential sources for those funds that will be needed in order to have a more educated conversation on this topic as well as questions could be raised to the Public Works Director in regards to how this money may or may not impact the City's ability to take care of local roads. Although the concerns with Oak Street as well as other road ways is a valid discussion to have it might not necessarily belong with this project because with the right staff available to answer the questions may be able to direct Councilors way from thinking one has to negatively impact the other. Moshier encouraged additional conversation at the May Council meeting with appropriate staff available to answer the questions and provide more details.

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

RESOLVED to approve tabling Council Order #042108, Discussion and action on supporting the bike/pedestrian path extension project with local support through a future funding source.

Adjournment.

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

RESOLVED to approve adjournment at 9:25 PM.

A TRUE COPY

ATTEST: _____
HEIDI-NOËL GRINDLE

**Approved -
Adjournment at 9:25
PM.**