

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: JULY 19, 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, SCOTT
GUILLERAULT, THOMAS CANAVAN, KENNETH LEMOINE, TONI DYER,
GARY SAUNDERS, JOSH MCINTYRE, ELENA PIEKUT, JANNA RICHARDS,
DARYL CLARK, JENNIFER MERCHANT, MANY PAID ON CALL
FIREFIGHTERS, AND HEIDI GRINDLE.**

Meetings will be broadcast live on:

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

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

Spectrum Channel 1303

Call to Order.

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

Pledge of Allegiance.

All stood for the pledge of allegiance.

Rules of Order.

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

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

- *06/21/2021 Regular Council Meeting.*

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

RESOLVED to approve adoption of the minutes from the June 21, 2021 Regular Council meeting as presented.

City Manager's Report.

Call to Order.

Pledge of Allegiance.

Rules of Order.

Approved - Adoption of the minutes from the June 21, 2021 Regular Council meeting as presented.

City Manager's Report.

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Glenn Moshier, City Manager provided a brief update on the American Rescue Plan Act; these are the funds that will be coming to the City at some point later in the year. Funds have been allocated to the State of Maine; the State has requested more clarity from the Federal Government on some of the restrictions related to those funds. This has caused a delay in getting those funds out to the communities. The funding will be sent to the municipalities in two increments; once the funds are received the City will have two years to commit the money to the expenditures that fall within the parameters, which the government will be providing. The City will have three years to actually spend those funds. Moshier explained the goal of this money is for more long-term spending. He is working with City staff to determine different ways to use these funds. As part of this process the community and City Councilors will be asked for input on how to use the funds.

Committee Reports.

➤ Harbor Commission – Councilors Phillips and Lyons attended the Harbor Commission meeting this month. Phillips reported things are going well, there was a small problem with the diesel pump. That issue has been resolved. The Commission will be considering whether to sell ice next year upon a suggestion that was made. Boats have started to come into the harbor for the season. Lyons reported there still has been no progress made on dredging the Harbor. Phillips stated that project will still be a little while before it gets started.

➤ Councilor Kaplan explained she had not attended a meeting; however, felt there should be a meeting with the Streetlight Committee. She asked if City Manager Glenn Moshier could set that meeting up; the specific concern would be the end of Route 179. It is very dangerous and almost impossible to exit the side roads in that area. It was clarified the request was to setup a meeting to discuss traffic lights. Moshier explained the City is currently working on that issue with the Maine DOT as they must be involved in any issues with traffic lights. Jason Ingalls, IT has been in touch with the Maine DOT; at this time they are in the process of hiring a new representative for this area (he recently retired). Once they hire a replacement official, then Ingalls will meet with them. In the meantime, Moshier will schedule a meeting to get a clear understanding from everyone involved. Kaplan appreciated that, as she was worried someone may get killed in that intersection. Councilor Blanchette inquired which committee would be called

Committee Reports.

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upon to discuss this topic. At this time, the City does not have a traffic light committee. Chairman Hamilton inquired whether this concern would fall under the Streetlight Committee or under the Local Roads Committee. The consensus of the Council was this would not fall under the direction of the Streetlight Committee as they are charged with just the placement of regular streetlights along sidewalks for example. Hamilton noted there is already a Local Roads Committee meeting in the process of being scheduled and it might be most appropriate to add this topic to that agenda. Once the Local Roads Committee meeting is scheduled it will be posted for everyone to be aware of.

➤ Councilor Hamilton stated Friends in Action, the YMCA, and the City have formed a committee to discuss certain elements of the Moore Center Lease. The YMCA holds the lease with the City. Friends in Action was a tenant filling the goal of having a senior center available there combined with programming from the YMCA. The YMCA runs the facility. During COVID some of this plan was disrupted; this committee was formed to look forward. They would like Council representation on this committee; Hamilton agreed to be a placeholder while he checked with the rest of the Council on their interest level. This will be an Ad-Hoc Committee. Councilors Kaplan and Lyons indicated they were interested in serving on this committee; therefore, Hamilton appointed them to serve on this Committee. This will be a short-term commitment and the purpose is just to plan for the future.

Citizens' Comments.

There were no citizens' comments this month.

Presentation of Awards.

Gary Saunders, for twenty-five years of service with the Ellsworth Fire Department.

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

Special presentation by Chair Hamilton.

Citizens' Comments.

**Presentation of
Awards.**

**G. Saunders – 25
years with Fire
Department.**

**Special retirement
presentation, G.
Saunders.**

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Chair Hamilton recognized with deepest appreciation Gary Saunders for 27 years of distinguished and devoted service to the Ellsworth Fire Department. His career started as a paid on call firefighter from 1994 to 1996. Career firefighter from 1996 – 2011. Lieutenant 2011 – 2016. Deputy Fire Chief from 2016 – 1/2021, Interim Fire Chief 1/2021 – 6/2021, Fire and Life Safety Educator 1996 – 2016. Firefighter of the Year 2010 and 2014. (August 5, 2021 official retirement date). Saunders was recognized for the dedication he has given to his career and the City of Ellsworth citizens and encouraged to enjoy his retirement.

Fire Department Captains Promotion, oath of office and badge pinning.

Scott Guillerault, Fire Chief explained this evening he would like to involve the City Council in a tradition within the Fire Service. This event recognizes a promotion within the Fire Department by performing badge pinning ceremony. Kenneth Lemoine was presented with a pin by Chairman Hamilton and Lemoine’s wife. The pinning ceremony is a recognition of years of hard work and moving on to the next rank within the Fire Department.

UNFINISHED BUSINESS

There were no items under Unfinished Business this month.

CONSENT AGENDA

CONSENT AGENDA: All items with an asterisk () are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.*

There were no items under the Consent Agenda this month.

NEW BUSINESS

Public hearing and action on the following business license application (s):

**Captains Promotion
Ceremony – K.
Lemoine.**

Unfinished business.

Consent Agenda.

New Business.

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FIREFIGHTERS, AND HEIDI GRINDLE.**

Ellsworth Lodge of Elks #2743, 317 High Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Club-On Premise with Catering Malt, Spirituous and Vinous (Class I) 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 Phillips, it was unanimously

RESOLVED to approve the request of Ellsworth Lodge of Elks #2743, 317 High Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Club-On Premise with Catering Malt, Spirituous and Vinous (Class I) Liquor License.

Fogtown Brewing Co LLC d/b/a Fogtown Brewing Company, 25 Pine Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement).

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

Public hearing was opened.

There were no comments.

Public hearing was closed.

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

Approved - Ellsworth Lodge of Elks #2743, 317 High Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Club-On Premise with Catering Malt, Spirituous and Vinous (Class I) Liquor License.

Approved - Fogtown Brewing Co LLC d/b/a Fogtown Brewing Company, 25 Pine Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement).

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DARYL CLARK, JENNIFER MERCHANT, MANY PAID ON CALL
FIREFIGHTERS, AND HEIDI GRINDLE.**

**RESOLVED to approve the request of Fogtown Brewing Co LLC d/b/a Fogtown
Brewing Company, 25 Pine Street, for renewal of a City Class B License
(Victualer, Liquor, and Amusement).**

*Jennifer Wing d/b/a Peppers Pub Inc., 20 Water Street, for a new City Class C
License (Victualer and Liquor) converted from a City Class B (removed
amusement) and renewal of a State Restaurant/Lounge Malt, Spirituous and Vinous
(Class XI) 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 Phillips, seconded by Lyons, it was unanimously

**RESOLVED to approve the request of Jennifer Wing d/b/a Peppers Pub Inc., 20
Water Street, for a new City Class C License (Victualer and Liquor) converted
from a City Class B (removed amusement) and renewal of a State
Restaurant/Lounge Malt, Spirituous and Vinous (Class XI) Liquor License.**

*Taste Jamaica, LLC 190 State Street for renewal of a City Class C License
(Victualer and Liquor) and renewal of a State Restaurant (Class III & IV) Wine and
Malt 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.

**Approved - Jennifer
Wing d/b/a Peppers
Pub Inc., 20 Water
Street, for a new City
Class C License
(Victualer and
Liquor) converted
from a City Class B
(removed
amusement) and
renewal of a State
Restaurant/Lounge
Malt, Spirituous and
Vinous (Class XI)
Liquor License.**

**Approved - Taste
Jamaica, LLC 190
State Street for
renewal of a City
Class C License
(Victualer and
Liquor) and renewal
of a State Restaurant
(Class III & IV)
Wine and Malt
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DARYL CLARK, JENNIFER MERCHANT, MANY PAID ON CALL
FIREFIGHTERS, AND HEIDI GRINDLE.**

Public hearing was closed.

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

RESOLVED to approve the request of Taste Jamaica, LLC 190 State Street for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant (Class III & IV) Wine and Malt Liquor License.

Rockbound Management LLC, d/b/a Twin Hills Cottages of Acadia, 210 Twin Hill Road, 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 Phillips, seconded by Miller, it was unanimously

RESOLVED to approve the request of Rockbound Management LLC, d/b/a Twin Hills Cottages of Acadia, 210 Twin Hill Road, for renewal of a City Lodging License.

Melanie Omlor-Fox d/b/a Helen's Restaurant of Ellsworth, 55 Downeast Highway, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant Malt, Spirituous and Vinous (Class I, II, III, IV) Liquor License.

Public hearing was opened.

There were no comments.

Public hearing was closed.

**Approved -
Rockbound
Management LLC,
d/b/a Twin Hills
Cottages of Acadia,
210 Twin Hill Road,
for renewal of a City
Lodging License.**

**Approved - Melanie
Omlor-Fox d/b/a
Helen's Restaurant
of Ellsworth, 55
Downeast Highway,
for renewal of a City
Class C License
(Victualer and
Liquor) and renewal
of a State Restaurant**

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DARYL CLARK, JENNIFER MERCHANT, MANY PAID ON CALL
FIREFIGHTERS, AND HEIDI GRINDLE.**

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

**RESOLVED to approve the request of Melanie Omlor-Fox d/b/a Helen's
Restaurant of Ellsworth, 55 Downeast Highway, for renewal of a City Class C
License (Victualer and Liquor) and renewal of a State Restaurant Malt,
Spirituos and Vinous (Class I, II, III, IV) Liquor License.**

Before a vote was taken Councilor Kaplan inquired if the gross sales totals were required on the State Liquor License application as all other applicants include that information. It was explained those are not a requirement.

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

*Daniel C. Potts d/b/a Lakeside Cedar Cabins, 397 Mariaville Road, 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 Phillips, seconded by Blanchette, it was unanimously

**RESOLVED to approve the request of Daniel C. Potts d/b/a Lakeside Cedar
Cabins, 397 Mariaville Road, for renewal of a City Lodging License.**

*Council Order #072100, Request of the City Manager to approve a settlement
agreement for the property located at 99 Bangor Road.*

Glenn Moshier, City Manager explained within attachment #1 there is a letter Moshier received with an offer to settle the debt on the property at 99 Bangor Road.

**Malt, Spirituous and
Vinous (Class I, II,
III, IV) Liquor
License.**

**Approved - Daniel C.
Potts d/b/a Lakeside
Cedar Cabins, 397
Mariaville Road, for
renewal of a City
Lodging License.**

**Approved - Council
Order #072100, to
authorize the
settlement of the
repurchase**

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The settlement amount is less than the actual total owed on the property including the back taxes. As a result of the foreclosure from 1994 the owner of the property entered into a REPIC contract with the City of Ellsworth. At this point, in Moshier's opinion it is in the best interest of the City to settle the tax debt in the amount of \$6,700 as suggested in the settlement agreement (letter from Carol Lyons). See attachment #1 for the complete request, letters from Carol Lyons and Will Miller, as well as the tax obligation information. Moshier has consulted with legal counsel who informed him that the City Council has the authority to accept such a settlement, if that is their desire. The request would include the City issuing a quit-claim deed in the name of the 97 year old gentleman who currently resides there, which would return the property to him. Councilor Kaplan stated if she had her way, the City Council would settle for \$1; she further inquired if that was actually a possibility. Chair Hamilton explained his understanding was that the portion of the obligation the City is receiving were funds that were raised for this purpose. In this case the money is not being paid by the individual himself; this is money that is being donated on his behalf. The difference is what he would have owed. Councilor Blanchette explained the \$6,700 is approximately half of the amount owed. The property owner is a 97 year old World War II Veteran, who is eligible for the Veteran's exemption and the Homestead exemption. He never applied for either exemption; the amount of money that he would have saved over the years more than equals the remaining half. Based on this information, Blanchette is in favor of approving the settlement agreement. Moshier explained both of the exemptions previously mentioned have since been applied to the current tax obligation and essentially have eliminated any future need for him to pay taxes to the City of Ellsworth. The exemptions have varied over time so without going back through and applying them to individual years and given the exemptions are not retroactive they cannot be applied to previous tax debt so it is unclear exactly; however, it is safe to say that had he had those exemptions earlier on in this situation he may not be in this situation at all. Kaplan wondered as a City at what point does a person actually own their home. As she explained a person can pay off their mortgage but then you end up with a 97 year old World War II Veteran who based on a value of a home is in debt to the City even though he probably has no mortgage. Kaplan surmised he is not the only elder person within the City that is experiencing similar circumstances. She thought the Council should ask themselves at what point does a person actually own their home; if they do not pay the City, the City will take their property. Kaplan wondered if there would be any

agreement (letter from Carol Lyons) between the City of Ellsworth and Mr. Comeau for the sum of \$6,700 and authorize the City Manager to pursue the issuance of a quit-claim deed for 99 Bangor Road to Mr. Comeau.

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age limit that the City could consider waiving the requirement to tax a property. In her opinion, at some point the City should be giving elders a break rather than continuing to tax them. Councilor Lyons inquired if when a taxpayer is struggling to pay their tax obligation and does speak to City staff about that concern could they discuss with them exemptions that they might be qualified to have. According to what he has heard, this resident never knew he could take advantage of these exemptions while speaking with City staff numerous times in the past; no one ever offered him the Veteran's exemption or the Homestead exemption. Moshier was confident if a resident came in today asking staff for assistance and guidance they would be provided with the opportunity to apply for the exemptions they are qualified to receive. Moshier was unable to verify what took place in 1994 with this individual or even if those exemptions existed during that time period.

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

RESOLVED to approve Council Order #072100, to authorize the settlement of the repurchase agreement (letter from Carol Lyons) between the City of Ellsworth and Mr. Comeau for the sum of \$6,700 and authorize the City Manager to pursue the issuance of a quit-claim deed for 99 Bangor Road to Mr. Comeau.

Council Order #072101, Request of the Finance Director to award a contract for auditing services.

Josh McIntyre, Finance Director explained the City Council had received the bid proposal from RHR Smith and Company as part of their electronic packet along with a copy of the cost proposal to conduct the audits for Fiscal years 2021 – 2025. See attachment #2 for the complete request, spreadsheet of bids received, and Cost Proposal for Financial Statement Audit (the full bid document was too long to include; however, is available upon request). The current auditor who has been with the City for approximately 10 years announced in May that they were no longer able to continue performing the audit. In the middle of June, the City issued an RFP to select a new audit firm. The proposal provided within attachment #2 was the only one received. This is a reputable firm, with an extensive list of municipal clients throughout the State. McIntyre spoke with two of the references, they both gave enthusiastic endorsements, as well as he has previous personal experience

Approved - Council Order #072101, to allow the City Manager to negotiate final terms and to enter into a contract between the City of Ellsworth and RHR Smith & Company for auditing services for Fiscal Years 2021 – 2025.

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working with this firm. Chair Hamilton inquired if the School Board would need to vote on approving this firm as the audit services will include both the municipal and school information. It was confirmed that only the City Council needs to approve the proposal. Councilor Kaplan noted this is a five-year contract with static pricing which indicates the pricing will not increase each year. McIntyre confirmed that was correct. Hamilton noted it would have been nice if more than one proposal had been submitted; however, that was not within the Council's control and based on an audit being required in order for the City to access any kind of funding for projects without an audit a vote would be necessary on just the one proposal received.

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

RESOLVED to approve Council Order #072101, to allow the City Manager to negotiate final terms and to enter into a contract between the City of Ellsworth and RHR Smith & Company for auditing services for Fiscal Years 2021 – 2025.

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

Glenn Moshier, City Manager explained staff has been working on this subject matter since the last Council meeting. See attachment #3 for the suggested recommendations for potential changes to Chapter 4, Fire Prevention Codes and Ordinances as well as a memo from Scott Guillerault, Fire Chief and Thomas Canavan, Fire Inspector, the proposed Ordinance with recommended amendments in red, updated letter from Elena Piekut, City Planner, written advice from the City Attorney, and the original packet of information supplied at the workshop by Elena Piekut.

Scott Guillerault, Fire Chief reminded the Council this has been an ongoing process with a public hearing being held at the June 21 Council meeting, a workshop was held on July 1, and based on the recommendations as well as ideas that were voiced during those two meetings some changes are being proposed this evening. Guillerault stated he is proposing an addition of a subsection of Chapter Four concerning a minor subdivision exemption. The proposal would include working with planning. The subdivision shall be exempt from the section if the Fire Chief finds that all of the following criteria have been met. All new lots in the proposed

Approved - Not accepting the proposed changes to the minor subdivision exemption for Section 7.54 as presented this evening in attachment #3.

No formal vote was taken this evening. A consensus vote was taken on requested amendments to be discussed at a future meeting.

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subdivision have frontage on a public street, existing water supplies for firefighting are sufficient to meet the needs of the proposal, and that existing water supplies include an open water source. The maintenance and access shall be insured by the applicant in accordance with Section 7531. The proposal does not otherwise require connection to public water or the provisions of a sprinkler system, or another on-site water supply for firefighting under any other City Ordinance or adopted code. The Fire Department is recommending approving this language it will answer some of the questions that relate to small subdivisions. The reason for changing the requirements for small subdivisions is that they do not necessarily create an additional burden on the City infrastructure. They feel by giving this exemption it will allow the developers or whomever owns that property to be able to sell their land without covenants. This would also allow prospective buyers to move forward with their housing purchase without having that covenant binding them to a cistern which is an agreement with the other lot owners or adding a sprinkler system and incurring a larger cost. Chair Hamilton asked Guillerault to explain (b) existing water supply for firefighters are sufficient to meet the needs of the proposal. Guillerault explained that would mostly apply to the Fire Department identifying the available water sources in the area and whether they include a dry hydrant, a fire hydrant nearby, a nearby open water source, or something that would be nearby in the area. It would not necessarily be bound to the 1,000 feet for a cistern or something similar. This would provide for a little more distance to an available water source. The current subdivision that is in question, is more than a quarter of a mile away from the next available water source, in that case, by allowing this exemption that would provide the owner/developer the ability to continue with the projects on that land without including covenants to the lots. Hamilton inquired if the language leaves it up to complete interpretation by the Fire Chief that makes it difficult to maintain consistency among projects as the understanding could change with the person who happens to be the Fire Chief at the time. The proposed language does not specify any distance and kind of makes the Ordinance arbitrary based on the individual. Guillerault felt it would be something that would require some further clarification with the Planning Department; specifically in regards to the distances when the applicant is seeking approvals for each subdivision. Guillerault thought by providing that exemption it allows the Fire Department some latitude to make it more accessible for building those subdivisions. Councilor Phillips noted he agreed with Hamilton regarding if there are no set numbers or any perimeters it is pretty vague and is arbitrary. Phillips

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: JULY 19, 2021

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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inquired whether Mr. Hangge had been authorized by the Fire Marshal's Office yet, according to the letter from Inspector Canavan Hangge is in agreement with performing the inspections. It was confirmed that Hangge has been approved by the Fire Marshal's Office to perform this work. Guillerault explained Uponor sent the paperwork through to the Fire Marshal's Office and they approved it, so that Hangge can move forward with the inspections. Councilor Kaplan still was not happy with the language that allows four or fewer lots because there may be cases where a landowner would like to subdivide their land into 6 lots. They might run into this same problem where they cannot afford the fire hydrants or cisterns; therefore, they will obviously pass that expense onto the consumer. Kaplan noted Ellsworth is not a rich community; she understood as it had been mentioned that Gorham has a similar Ordinance as this one. Gorham has a median income higher than Ellsworth; she noted the increase this requirement will cause to the price of the home that will be built. This extra fee is difficult in a city that is crying out for affordable housing according to Kaplan. Guillerault stated he cannot change the subdivision clarification; the determination for a minor subdivision being four or less and five or more being classified as a major subdivision. The different classifications are determined through the Planning Department not the Fire Department. Councilor Miller agreed with Kaplan and reminded the Council and staff that he had previously sent an email stating if this was the only option to come to this point and only remove that or clarify that subdivision that is really not enough for him. It is not even close enough for him; in his opinion this is a bad Ordinance. Kaplan inquired if Guillerault had a sprinkler in his own home, she indicated she does not have a sprinkler system in her home and that most people do not. Phillips thought the sprinkler system is probably a terrific idea and he is not doubting or arguing that it saves lives; however, he does feel it is an expensive proposition that places the cost onto the homeowner. He thought the cisterns are not necessarily a wonderful idea but at least with that option the cost is spread amongst all of the lot owners instead of each individual. Phillips would be happy with removing the sprinkler portion of this Ordinance. If somebody wants to install sprinklers let the homeowner do that based on their own personal choice. Phillips thought the City should provide the necessary water and require the cistern be available in certain applications. At this point it seems like the easiest and most logical approach the City has; the sprinkler systems have been nothing but contentious through the years and not utilized by the provided documentation due to the cost. Guillerault noted the cisterns were already an option. Phillips noted leave

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those in the Ordinance as an option; remove the sprinkler requirement. Guillerault inquired if the sprinkler situation would be revisited if/ when the State of Maine adopts that ruling and it becomes a State mandate. Phillips noted if the State does adopt that, then the City will live with that; however, it is not currently a State mandate now. Hamilton explained he has looked at Ordinances within other communities that have similar water supply/water access but they exempted the minor subdivision in their ordinances; they did it outright. In this case, this language would read for minor subdivisions as defined by the Ellsworth Code of Ordinances Chapter 28 Subdivision Ordinance and of Chapter 56 Unified Development Ordinance shall be exempt from this section. That language is very similar to how those other communities handled the matter, they just exempted the requirement to have any one of those three options. Hamilton did not feel the Council should consider excluding major subdivisions of six or more lots. Based on the information that was presented very few subdivisions are minor to begin with; in his opinion making this requirement not apply to minor subdivisions would not have a big impact anyway when it is considered from a historic point of view. The larger subdivisions are generally more than six lots anyways and in most cases the bigger buildings require a sprinkler system anyway under a different code. Hamilton could support exempting minor subdivisions period from any of those three options. He thought it made more sense and would be consistent with some of those communities that have adopted similar Ordinances. Blanchette clarified the minor subdivisions being discussed are those that are residential single homes in nature. This would not include apartments or commercial. Guillerault explained those are described under a different Ordinance and those requirements mandate that multi-family and commercial buildings have a sprinkler system. Lyons agreed sprinkler systems are expensive and the tanks according to the estimates included could be as expensive as \$48,000. Lyons wondered why the City could not require one of the tanks within the subdivision; it seemed to reason there would only be one house burning at a time. It did not appear as a subdivision would need two or three tanks to put out a fire; this would cut down a lot on the cost. Moshier reminded everyone the requirement is for one every 1,000 feet per the City of Ellsworth Ordinance. Lyons suggested amending that wording and require one tank per subdivision, maintained by everyone on that subdivision. Lyons felt this should be ample water to put out a fire; Kaplan stated that might depend on the size of the subdivision, considering the fire hoses have a set length. She felt the 1,000 ft. increment was calculated on the length of the fire hoses mixed with considering the

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lot sizes. Kaplan felt when considering minor versus major subdivisions the lot size should be factored into the decision. Moshier noted the goal with the changes being proposed this evening was to keep it consistent with the Land Use Ordinance with the City of Ellsworth. The designation between minor and major subdivisions is described with the Land Use Ordinance and for consistency's sake that is where the four or less language come from. There are no restrictions or size requirements added to that language. Moshier stated he believes the current language within the Ordinance is very specific to avoid the impression as Hamilton stated earlier in reference to the proposed language being arbitrary or leaving a lot up to interpretation. When the Ordinances are written very specifically it takes away any room for interpretation, it removes the ability for someone to arbitrarily decide whether there is sufficient water sources or not. By limiting it to just the three options then it is clear whether a developer can use, (1) the city water with a hydrant, (2) install a cistern, or (3) a sprinkler system is installed. This provides developers clear and concise guidance as to exactly what they need to do in order to move their project through the Planning Board process and ultimately finish their project. This also makes the developers aware right from the start what the expectations are so that they can budget throughout the process; they can determine from the beginning exactly what the end product will cost them. Moshier felt the above comments were items that support the need to include specific options for developers within the Ordinance. More specifically by including this information it makes the developers job easier, it makes their development go more smoothly, and the project does not come before the Planning Board with the developer's interpretation of whether their calculations indicate they have adequate water supply for fire prevention, only to learn the Fire Chief says they do not. This then creates friction and animosity between staff and the developers and eventually, the Planning Board will have to be the ruling board to decide whether there is an adequate water supply or not. If the Ordinance is clear and specific on the available and acceptable options than it will take away all of the guesswork. Hamilton noted that Ordinances are supposed to have some meaning on the frontend of projects and then they dissolve or dissipate which in the end it just places extra burdens and costs on developers and homeowners. This process does not follow through with the true meaning of the Ordinance. Hamilton provided an example of how the Ordinance required the subdivision he lives in to create a fire pond at the time the subdivision was built and now those do not work any longer which leaves homes all over the community without the purpose/goal behind this Ordinance. Hamilton

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agreed with Kaplan concerning the costs particularly with the types of homes and the costs that would be added to a small subdivision. This would make it impossible to sell the lots; mixed with does it really serve a purpose other than complying with an Ordinance. Hamilton does not think it does; personally he thinks it does in a larger subdivision where it affords that protection. In the case of a minor subdivision, he feels the City is forcing/imposing it on them simply because it exists as an Ordinance; not because it is going to serve much of a purpose, especially if the property cannot be sold. Hamilton personally feels exempting minor subdivisions is the most appropriate pathway and does not totally eliminate it and keeps it in place for the larger divisions. Minor subdivisions are no different than someone purchasing a single plot of land and building a house on it and not having to have any kind of sprinkler or water supply in Hamilton's mind. Phillips agreed with Hamilton's decision and it sounds reasonable. Miller still does not like the language; single family dwellings are still being punished and it will still increase the price of a house in that area. Miller noted Tom Canavan, Fire Inspector stated during the last Planning Board meeting that he could not force people to install a sprinkler system in their home. He did not think the City should force people to install a sprinkler system in their home or a cistern in their neighborhood. Miller was uncertain why the City would consider doing that and if the entire Ordinance were to be repealed, he questioned whether there were still State regulations that covered all of these requirements. Thomas Canavan, Fire Inspector stated he would have to look into that assumption. Canavan knew there were requirements within the NFPA codes that the Fire Department follows. He also was aware there was scrutiny around the NFPA board members and their motivations behind including certain requirements. Canavan noted since the State has adopted it as a rule of law, as a Fire Inspector and as a firefighter he has to enforce the rules that are set forth by the Fire Marshal's office through the State. One of those being NFPA 1142 which derives an equation within that code that provides the number of gallons of water that would be necessary to put out a fire at a certain size home if it is fully engulfed. The reason a 10,000 gallon cistern is required as a minimum standard is partly based on that equation and partly due to the length of time that might elapse before the mutual aid departments can arrive with more water particularly in the rural areas. Canavan explained the process that is used while using their resources to start the attack on a fully engulfed structure. The covenant was placed in the requirements by NFPA 1142 for the urban and suburban developments, it is in place so that firefighters are ensured that when they are going

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into that fire there is a hose that is fully charged with water to protect themselves and anyone in the home. Canavan understood it is not the best situation or the best scenario for cost; however, if that was not required the Fire Department would not have enough water on the trucks to conduct even an initial attack on a house fire. By having the sprinkler systems and/or added water source present it gives firefighters a chance to either protect the lives of the people inside the home or the property which are the two main objects firefighters are concerned with. Kaplan inquired if there was a subdivision created 15 years ago and then they added on to it this year; the first 20 homes would not be subject to this and the same scenario would exist. Canavan stated the City cannot enforce it if there is already a subdivision and a homeowners association established. When they add on another 5 lots to that existing subdivision then those lots will fall under the current regulations. There was a discussion on what the difference is between the first 15 houses and the last 5 houses; the only difference would be those lots were established prior to this Ordinance being adopted in 2008. Kaplan still did not like the Ordinance primarily because it increases cost and it creates a barrier to home ownership. She honestly believed in regards to the NFPA, there is a situation where the people who sell the sprinkler systems, sell the fire equipment, the people who sell the cisterns and the people who sell the pumps are on the Board and making the recommendations. In her opinion if there is an organization that is making recommendations they should have unbiased, non-interested parties making the final decisions. Furthermore it states on the NFPA website these are voluntary unless your municipality makes a law according to Kaplan. Canavan stated the State has adopted all of the NFPA codes that are listed on their website as a rule of law. Kaplan wondered why if that statement is true why then is the State of Maine not demanding the sprinkler systems, cisterns, and the hydrants. Canavan stated the State of Maine does actually require the hydrants, the cisterns and sprinkler systems are up to the local Ordinances to determine what they would like. The local municipalities were given the authority to determine the rules as they deem adequate in connection with fire or water protection for the different locations within their boundaries. Kaplan contended that would reinforce that those codes are voluntary. Canavan noted it is voluntary until something happens and then it becomes mandatory; he further explained the NFPA is derived around something happening, somebody died, or someone was hurt badly at which point committees are formed to establish new NFPA rules and later put into place. The NFPA is more reactive than they are proactive according to Canavan. Their purpose is to

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provide guidelines and avenues for local Fire Departments to use while creating Ordinances and establishing guidelines that work for their particular communities. Kaplan noted it is easy to create Ordinances and recommendations when those departments are not the ones paying for it; it is the homeowner that will be the one paying for it and they cannot afford it. She reminded the viewing public that the community is screaming about housing affordability in this City and in this area. Canavan understood that concept; however, he could not change that. He did point out that when these projects come before the Planning Board; those members involved in that process make every available effort to help the contractors and developers in any way; however, not necessarily cutting safety but to cut costs. Canavan provided a few examples of things that might be able to be modified in an attempt to cut costs associated with the project. There are certain aspects that are set forth beyond the City Ordinance and are stated within the NFPA codes. In regards to certain safety measures the codes state you “shall” when the word “shall” is used it is mandatory. Kaplan noted currently the most cost effective modest income homeowner entry is a manufactured home and mobile home. Currently, if a homeowner purchases one of those for a subdivision basically it is delivered, put together, and then the sheetrock must be removed to install a sprinkler system. This process is estimated to cost more than \$30,000, just for the sprinkler system. Canavan noted the place where the manufactured home is being built can perform the rough-in inspections it would just need to be coordinated with local contractors on the ground in the State where the home is being built. Once the home arrived in Ellsworth and everything is tied together then the final flow test is performed. Once the house is put together and the flow test meets the standard the homeowner will receive a certificate of occupancy. Kaplan thought the rough-in could not be conducted without the Uponor inspector approving it. Canavan indicated there are other Uponor Inspectors, (Derr and Hangge) are just the local inspectors for Uponor. There are other inspectors within other States and Uponor can send representatives anywhere they need to in order to conduct the required inspections. Kaplan inquired how long that process would delay the delivery time, while the person is still renting while they have a mortgage on the house. Hamilton noted his one concern with larger subdivisions is the unintended consequences of potentially having a developer suggest a plan that includes building homes right on top of one another. Then there would be a huge potential of risk and a fire could spread very quickly. Hamilton was attempting to find a balance between the cost and safety. Once that criteria is removed that opens the process up for other potential worse

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case scenarios. Councilor Grindle stated she agrees with statements made by Hamilton as well as there are a lot of costs involved. She noted the many inconsistencies are also bothersome to her. Grindle stated the City is only one of seven communities that require cisterns or the sprinklers. Canavan stated each community has different guidelines; at last count he believed there were 13 communities within the State. Most of those communities are larger, rural communities that have some sort of ordinance established to include water sources (which could include a fire pond). Canavan listed communities such as Hermon, Gorham, Portland, South Portland, Farmington, Sanford and the type of requirements they have in place. He felt with Ellsworth providing three options it provides developers a choice on which water source works best within their project; rather than the City forcing an option upon them. Grindle was curious to know within a community of similar size to Ellsworth (Brewer or Waterville for example) what kind of Ordinances they have in regards to this matter. She felt it was unnecessary if Ellsworth is adopting Ordinances that are much stricter than other communities. In this case if it is not a State law even considering the life safety component and safety of firefighters, she cannot justify the City being one of just a few municipalities within the State to have this requirement. Moshier added this is the third time in a public meeting that the City has had this discussion and there has not been one other developer come forward and echo this concern or collaborate this requirement is causing a hardship or problem for them. There has been a significant amount of development over the last 20 years within the City of Ellsworth and it continues. He felt the fact that no other developer has come forward to let the Council know this requirement is standing in the way of them developing cost-effective housing within the City, speaks volumes to the fact that the developers who have been working within the City of Ellsworth have an appreciation for the fact that the City provides a clear road map as how to get their projects approved and completed in a manner that is as cost effective as the City can assist them to be and timely. Kaplan argued that this type of Ordinance goes in favor of a larger developer with deeper pockets as opposed to possibly a smaller developer who would like to do something; however, knows these are barriers to start with and doesn't even try. Moshier stated if the minor subdivision is exempted as proposed this evening that would provide that opportunity for the smaller developers. This will allow a smaller developer to create a subdivision in a more cost effective manner while still offering that level of protection and the guidance for those bigger developers who want to create a larger subdivision. The larger

**RECORD OF REGULAR MEETING
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subdivisions run the risk of having houses that are more compact and close together. A fire in this type of subdivision could be catastrophic. Kaplan reiterated the Ordinance has no logic when it comes to lot size; it does not have any classification as to the risk of damage to neighboring properties. She further stated it did not make sense to her for the same Ordinance to address a property that is located 10 acres away from the next property versus a property that is located 50 feet away from the abutting property. Moshier reminded the Council this is just one Ordinance, there are other building codes and requirements that come into play when a subdivision and homes are being built that are not addressed within this Ordinance. This Ordinance is strictly dealing with fire protection; therefore, there are answers to the questions being raised this evening just not within this particular Ordinance. Moshier stated there have been projects come forward where houses were feet apart. There is a potential in the future if there is a large subdivision where houses are only a few feet apart from each other (five or ten feet) that one of those houses will catch on fire and if the City does not have an adequate water supply and as well as the limited resources which already exist as far as fire protection goes particularly with the fire service and the mutual aid resources it will be a case of already fighting an uphill battle combined with there not being any adequate water supply the City is just adding additional barriers to the firefighters being able to protect the property and lives of Ellsworth citizens (which is their first goal). Retired Fire Inspector, Mike Hangge explained there are basically two major subdivisions that existed and then were extended. At that time, the developer initially went before the Planning Board with a plan to have the homes contain a sprinkler system. Later in the process they changed their plan and installed underground cisterns. One of the subdivisions is off from Bridgetwin and the other is off the Christian Ridge Road; these were two big subdivisions. There is a developer that has a set of apartments that has already built several apartments and the last one has a sprinkler system. This is a case where there are several buildings but only one has a sprinkler system. Based upon not only City Ordinances but also fire codes; therefore, precedence has been set that this has happened in the past within the City of Ellsworth. Hangge noted there have been contractors that have done that; however, they may not have done it happily. They did realize that they needed to have something available for fire protection. Hangge explained there are a few advantages with cisterns in regards to fire protection those are: 1) they are life safety system to get people out of homes, 2) if there is a fire in one home that is close by to the other that might cause an exposure resulting in two fires, and 3)

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cisterns are used for controlling forest fires or wildland fires. Hangge tied the fire of 1933 in Ellsworth to this discussion as that is just one example within the City where the fire spread from one building to another because of a lack of water supply. Within the areas being discussed there are several wildlands and if there is a fire in one of these places and it starts to grow it could impact more than one home. A 10,000 gallon tank is not a whole lot of water. Hangge stated there is a minimum lot size for a home and the homes must be built a certain number of feet away from the property lines; however, the City cannot dictate where the home is located on the property as long as they meet the setback requirements. The City just needs to require that fire protection is in place to protect that placement. Miller reiterated this Ordinance still hurts small businesses and the single dwelling house. He stated it sounded like the City needed to change another Ordinance which dictates homes need to be 15 feet apart and just repeal this one. He really did not like this Ordinance particularly because he questioned why a person would pay more for a house in Ellsworth than right across the town line (out toward Rt. 179). It seemed if a house was that far out of Ellsworth the Fire Department would not be able to protect the home unless the homeowner installed a sprinkler system or a cistern in the event of a fire. Phillips noted after three sessions on this topic that it was likely the Council has heard all the input from staff that is necessary. There have been discussions amongst the Council members already and it seemed appropriate to hold the public hearing at this point upon closing that the Council needs to discuss this topic amongst themselves and decide what should be done.

Public hearing was opened.

Christopher Derr, Uponor sprinkler system installer and developer of a three lot subdivision on the Happytown Road already sent a lot of information to the City Councilors and City staff. See attachment #3A emailed information referred to by Christopher Derr during his presentation. Derr provided some quotes from products he researched on his own; he was also provided from both contractors on the tanks what is needed in the process to install them. He explained in regards to the mobile and manufactured homes that come from out of state the inspections still need to be completed in the State of Maine; that is a Maine State Fire Marshal's rule. Maine is the only state that requires the inspections. Derr explained on the plan set he receives from Uponor it clearly states for the inspection the flow test it is not required for NFPA 13 (D); and yet it is still required in the State of Maine. This

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ELLSWORTH CITY COUNCIL**

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extends to having the RMS representative perform those inspections. He further explained the project he is currently working on has a requirement for all sprinkler permits to be subject to final authority by the Fire Marshal's office. It was specifically entered on the permit that they will be present for that final inspection. Now to coordinate inspections it is between Inspector Mike Hangge, Ellsworth Fire Department whoever would like to be present (Canavan or Guillerault), a video call if it should be necessary with the Uponsor representative, and now the State Fire Marshal's office. Derr explained the out of town lots are approximately 40,000 square feet and are larger out of town; the smaller lot sizes are located in town. He explained with regards to the options that are available for fire protection there is either the fire sprinkler system requirement which he can attest to has driven buyers away from the lots. The contractors he spoke to also have subdivisions that initially involved installing sprinkler systems and will now be going back to the Planning Board to amend the plan to include installing cisterns. This decision was made because of a negative reaction. Hamilton corrected Derr's use of the word mandated a sprinkler system would be installed to say they chose that option. The developer has a choice according to the current language within the Ordinance and is determined at the beginning of the project so that the cost of the project is very clear from the start. Derr stated although there are choices to be made that involves a very large upfront cost so if a developer is looking to not invest a lot of money into it at the beginning a developer can decide to install the fire sprinkler system requirement on the plan and give yourself a couple of years and determine what the market is like (obviously currently there is a negative reaction to these systems) and then return to the Planning Board and amend the plans to include installing the tanks. When a developer is already in that type of business the cost will be less for them to install the tanks than it would be for Derr to utilize this option. Derr stated for his subdivision located on the Happytown Road there was a question on how many tanks would be required. At the beginning it seemed like only one would be required because there was less than 1,000 feet of road frontage. However, within the Ordinance it states "at not more than 1,000 foot intervals measured along vehicular access and travel routes throughout the development." Derr did not have any roads through the development, there are only driveways. He questioned whether each would individual driveway be considered an access point that would need to measure a 1,000 feet off from; or would just road frontage be measured. The Ordinance does not state road frontage. Derr stated he did not have the means to install a cistern for those lots; it did not make financial sense to do that based on

**RECORD OF REGULAR MEETING
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DATE: JULY 19, 2021

TIME: 7:00 PM

PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS

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the value of the lots. There was a discussion on what to require in regards to the cisterns. Derr stated after speaking to the local State Farm Branch (Jeff Buzzell) he learned they offer a 7% annual premium discount. Based on the average premium in Ellsworth of approximately \$1,000 saving a homeowner approximately \$70 a year after installing a \$30,000 system. Considering this information the savings would never pay for itself; that incentive is not there. Hamilton thanked Derr for providing the City Council with a lot of information and recognized the fact that Derr conducted a lot of research. He noted Derr has a vested interest as a developer and installer of the systems; however, Hamilton still found the information that was provided to be as objective as possible. The information was provided from outside sources and the information was helpful. Hamilton appreciated the time Derr took to pull that information together and share it with the Council. Councilor Lyons inquired if the numbers have been misrepresented and he questioned where that thought came from. He wondered what Canavan and Elena Piekut, City Planner meant when it was indicated during the last Planning Board meeting that the numbers and costs associated with the systems are being inflated. Lyons confirmed with Derr that his cost analysis as presented to the City Council tonight were accurate. Included in those estimates was a cost from R.F. Jordan for one tank in the amount of \$48,000. Derr stated that was a correct price and he felt confident speaking on behalf of R.F. Jordan as well; having this Ordinance has hindered the sale of those lots. This Ordinance has added expense which will eventually increase the lot costs for people considering moving to Ellsworth. They are also considering moving away from sprinkler systems and moving to the fire tanks because that seems to be the only financially beneficial option that is left. Derr explained if a developer has access to the public water system and once the water main and hydrant are installed that is an upfront cost that adds value to those lots. In that case the City will take over responsibility for the line and the hydrant. The homeowners are responsible for the tank and all future required maintenance; this is another added expense to the homeowner. Derr stated the quotes did not involve the cost to fill the tank with 10,000 gallons of water; this would be another added expense whether it comes from the City Water Department or a private water hauler. Derr agreed with comments made concerning the minor subdivisions and exempting those from the requirements. He explained the difficulties he would have had with the available options for a fire protection water source had he decided to subdivide that parcel and create two more lots, prior to the consideration by the Council to exempt minor subdivision from this requirement. Derr stated another discussion

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could be held on the complexity of creating a minor subdivision as well as all the other components involved in that process; he believed that process deters a lot of people. He also stated there has not been a lot of development in Ellsworth for land subdivisions that have not been waterfront; he believed there were 13. That was corrected from the audience to be over 60 lots; Derr recognized that to be correct information. He was referring to the number of subdivisions, one had 4 lots, another had 14 lots, and one had 7 lots. The chart that was included in the attachments did not include a lot of development and a lot of that information is covered under other building codes including commercial and multi-family projects. In the recent past that is where the majority of development has been in Ellsworth.

Janna Richards, Economic Development Director spoke on the level of development within the City of Ellsworth. She was concerned with a potential misconception that the reason there has not been development is because of this Ordinance. In 2008 there was a recession and in terms of trends the last thing to bounce back after an economic recession are land subdivisions. This includes both within the urban core and out into the rural areas. In fact, the rural areas are largely more impacted than the urban core which is why the Council will see over the last six years the City has had over 245 multi-family units built within the urban core. There are development trends that are a direct impact of the 2008 recession and not the Ordinance that was passed in 2008. Richards indicated staff can provide numbers and data that reflects this trend if desired by the City Council. Richards was concerned there would be a misconception that the development within Ellsworth is impeded strictly by this Ordinance; she recognized the possibility that it was a variable. She was confident that economic factors that are bigger than just this Ordinance were at play.

Public hearing was closed.

Hamilton asked Phillips to clarify the Ordinance process as far as the amendment/change process. He stated what is before the Council this evening is a proposal to amend an Ordinance which requires a certain notification timing. If the Council deviates from that for example if a Councilor would like to present a different motion that involves different amendments than were proposed, is there a different process the Council needs to take. Hamilton wondered if the Council could take that action this evening or does that need to be postponed for a future

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meeting because that new amendment would need to be advertised. Moshier's understanding is for a final adoption of the new wording it would need to be postponed to a future meeting so that the wording could be placed alongside the previous wording and it would have to be posted for community review and then brought back in August for a final adoption vote by the Council. City Clerk, Heidi Grindle confirmed the amendments before the Council this evening were advertised. Richards explained typically the Council would make recommendations on whether to deviate away from what staff presented within the packets and those recommendations would be made as to exactly what they would like to see at the next meeting. Staff would then incorporate those changes into the Ordinance and then present the new amendments in relation to the current wording at the next Council meeting or at a future meeting once those are completed and legal review has taken place. This allows time for the public to review the same documents containing the changes the Council will be considering and have an opportunity to provide feedback on the information as well. Hamilton stated a proposal from staff is before the Council containing recommendations for the existing Ordinance. Part A, the Council can take action on it or leave it alone. Part B, if there is other action that the Council would like to take and there is agreement on that, those suggestions will return to City staff to integrate into the current Ordinance and advertise it for the next City Council meeting for a formal vote. Tonight, if the Council moves in that direction they will not be changing any Ordinance if there is another proposal that is supported by the Council. There are two options tonight, either take action on this proposal or not take action on this proposal. If the Council would like to create new language and agree to that and then the new language will move forward or the Council reaches an impasse and nothing changes.

Kaplan inquired what would happen if the Council wanted to repeal the entire document and build a new one from the ground up at a later date. Hamilton stated if that is the case then that recommendation would need to be agreed to by the Council and if that agreement is reached then it would return to City staff to make that change. Staff would strike out all of the language, the desire to repeal the entire Ordinance would be advertised publically for the next Council meeting at which point the Council would vote to formally approve repealing the entire Ordinance. Moshier added the proposal before the Council this evening does not include the entire Chapter 4; the discussions have all related to a subsection of Chapter 4. When the Council states the Ordinance, it refers to the entire Chapter 4 Ordinance.

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The Council would need to be very specific as to the subsection if the desire was to strike it entirely. Lyons stated so the request would pertain to Section 7.5, Moshier indicated that would be correct. Moshier stated by doing that it opens the door for any development that is underway or comes forward to proceed without guidance of any degree concerning fire protection, including any major subdivisions that may already be in the works between now and whenever new language for that section could be agreed upon and adopted by the Council. Miller did not agree that would translate to no fire protection because there would still be state regulations that would have to be implemented. Lyons agreed there would still be state regulations on file. Moshier noted the requirement which is what Derr provided as referenced in Title 30 Municipal and Counties in municipal subdivisions is sufficient water, the proposed subdivision has sufficient water available for the reasonable, foreseeable, needs of that subdivision. That would be a pretty vague statement and it opens the door to City staff having to make that decision in the event of these subdivisions. Without any clear guidance, it will make it difficult for developers and will make it contentious between staff and potential developers to reach an agreement in regards to what exactly answers that call.

Phillips stated this topic has been debated back and forth; at first he thought the sprinkler system should be removed. After a moment, he thought maybe it should be left as an option. There is a need for a water supply outside of the public water system locations especially within the larger subdivisions. Phillips did feel the City needed to be responsible and have some type of water supply. The open source (fire ponds) is questionable; the Fire Department's routine testing did not happen so many of those do not work now; however, if the City takes the cistern route it appears to be a better option when needed. Phillips believed if a larger subdivision is created outside of the city a water supply should be required. In his mind, the sprinkler systems could be left in so if somebody decides they want to install sprinklers it can be their choice, leave the cisterns in and maybe change the distance. In regards to the minor subdivision, he likes the idea of an exemption. The wording already exists as he read into the record from the wording provided in the attachments, "minor subdivisions are defined by the Ellsworth Code of Ordinances, Chapter 28 Subdivision Ordinance, and or Chapter shall be exempt from this Section". Phillips suggested exempting all instead of the other subjective wording in there after that point which makes it arbitrary. He repeated to exempt

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minor subdivisions. The Ordinance as it stands would not be something he could vote to approve.

Hamilton stated the worst thing they could do as a Council would be to take action on an Ordinance and do it incorrectly. This will set up every developer, hold things up in court, it will cause a mess. He wanted to be sure this is handled in a way that is proper. Hamilton wanted clarification in regards to understanding around the fact that if the Council changes this or makes recommendations to change it, should the Council take a vote in terms of whether the Council is in agreement to that or not. He was not very clear on whether to take a vote or not in relation to the proposed recommendations the Council would like to make to the staff tonight. He thought maybe a straw vote would be helpful. Phillips noted at this point, a vote for this Ordinance is more than likely not going to pass; at that point Hamilton needs to poll the Councilors and decide what the Council needs to do. The wording needs to be worked out and provided to staff, so that they know what they are doing next. This wording cannot keep being beat back and forth; staff is making recommendations. Policy is set by Council; the Council does not need to agree with the recommendations. That is way this process works and that is on the Council's back and not on the City staff's. City staff is responsible for making recommendations according to the best of their ability and the Council will look at the information and make their own decisions. At this point, if Hamilton would like to call for a vote on the Ordinance as proposed he should, and determine it is not what the Council would like, and then a discussion can take place on what the Council needs to see in the new amendments. The new amendments need to be very specific, if the Council is going to consider this matter again. Moshier agreed the City Staff really needs clear direction, so that they do not return with wording that is not going to pass. The staff has worked very hard to try and accommodate Derr, try to answer the questions that the Council has, and has brought forward something that they knew would not be universally accepted; however, potentially had enough elements to pass the Council's expectations. If there are additional changes needed, the guidance here tonight will afford the staff the ability to make those changes, go through the process to make the public aware of those changes, and then bring them back in August for a vote.

Hamilton asked for a motion on the recommended changes that came before the Council this evening.

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

RESOLVED to approve not accepting the proposed changes to the minor subdivision exemption for Section 7.54 as presented this evening in attachment #3.

Following that vote the recommendation as stated by Phillips was to make minor subdivisions exempted completely. He suggested using the wording before them this evening; however, stop at “shall be exempt from this section”. The action tonight be a straw poll of who would be in favor of these amendments if made by staff and presented to Council at a future Council meeting. Grindle stated she could not make a decision until she knows what other similar sized communities do in these cases. Miller stated there are only 13 communities in Maine that follow any kind of Ordinance even close to this document. He stated the rest of the communities get along just fine without an Ordinance. Miller would like to get rid of the Ordinance. Kaplan agreed with getting rid of the Ordinance. Lyons was in agreement with Miller and Kaplan; however, he could compromise a bit and agree to adding language that states if someone wanted to put one tank for the subdivision somewhere centrally located. If the Fire Department really thought they would run out of water and that way the cost could be spread out more effectively. Lyons stated it would always still be an option if the developer or homeowner wanted to install sprinklers in their homes they can; they cannot be forced not to install them. Blanchette inquired from Guillerault in his experience how many gallons of water would be needed to put out a three bedroom two story home. Guillerault stated a 1,800 to 2,000 sq. ft. home fully involved would require approximately 600 gallons per minute and that is just to start not sustained. He explained 10,000 gallons could be used up very easily in 16 or 17 minutes max. This would just be to control the fire and not extinguish it even with the use of foam. There was a short discussion concerning the use of foam and how that would impact some of the water flow required. Guillerault felt with the available foam, 10,000 gallons should be an adequate supply. Lyons inquired if there was a cistern centrally located within the subdivision would that be adequate for a mile to 3 mile long subdivision. Guillerault stated the centrally located cistern would work depending on the limitation of the supply hose; each truck carries a 1,000 ft. so that is the limiting factor otherwise the Fire Department would need to start moving water by truck.

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This process creates a time delay. Phillips noted a centrally located cistern would work for a shorter subdivision; however, for longer subdivisions it may require more than one which would be handled through the planning stages.

Hamilton polled Phillips and Blanchette to see if either one of them supported the outright removal of Section 7.54; there were currently 3 Councilors in support of that option. Neither of them were willing to approve that option; therefore, that option would not receive the required 4 votes it would require to take action within the City of Ellsworth. At this point, there are 3 Councilors who would support total removal of Section 7.54, 3 Councilors that would prefer something different, 1 councilor that wants to receive more information before making a decision.

Kaplan inquired why not keep the exemption for minor subdivisions and for major subdivisions just supply the first two options (that is it) and eliminate the requirement for the sprinkler system. Phillips was initially thinking about that; however, if it is a major subdivision the option could be left in the text it still is an option. That would allow it to be the developer's choice. Phillips suggested including a 1,000 ft. rule for the tanks might improve that a little bit. Guillerault based the language on 2,000 ft. between cisterns which would allow two trucks if need be. He further explained one cistern could potentially cover 4-5 homes depending on the size of the lot. If there are two cisterns more territory can be covered than with just one; however, by extending the requirement to 2,000 ft. the Fire Department still has the capability to place a truck at a cistern and pump all the way back; opposed to getting the water to a truck shuttle which causes a lot of time and truck movement. A truck shuttle does not guarantee the water is immediately available. Guillerault's recommendation would be to allow 2,000 ft. between cisterns which would be a quarter of a mile. There was a discussion concerning the placement of cisterns to cover the most distance. Hamilton inquired how Miller felt about this recommendation; Miller was still a solid no at this point. Miller was adamant he could not support doing this to homeowners that want to move to Ellsworth, he thinks this is ridiculous and absurd, he would not vote for it and stuck to having it gone. Kaplan was firm on removing Section 7.54; however, until there was only 3 votes in support so now it is better to just compromise so she can get some aspects that she is in favor of. Kaplan was in favor of the language that would require a cistern every 2,000 ft. and still eliminate the sprinkler system requirement. Mike Hangge retired Fire Inspector reminded the City Council that

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past practice has supported this requirement. He cited this process being used at the Bridgetwin subdivision and the subdivision located off from Candy Way.

The potential amendments that appear to have the necessary 4 affirmative votes at a future Council meeting include: requiring a cistern every 2,000 ft. and minor subdivision exemption language will be stopped at “is exempt from this section”. Kaplan inquired if anyone else was in support of removing the sprinkler requirement and only provide two options. Hamilton agreed with what Kaplan was saying; however, thinks as long as it remains just an option or a choice in the plan they may prefer to take it. It doesn’t matter in the bigger picture because if they choose not to go in that direction they do not have to. Kaplan explained her concern with leaving the language in even as an option; her point was by just allowing the developer the first two options the fire protection expense is spread out evenly among all owners of the subdivision. This is a known cost right at the beginning of the project and no extra expense surprise at the end. By removing the language a homeowner can still install a sprinkler system if they want to. The cisterns would have to be installed before any of the lots can be sold and those subdivisions would require a road be built during the process so it makes financial sense to install it while the road is being built. Hamilton can live with that language as long as there is a water supply for the larger subdivisions.

Phillips clarified that Option 3 under Section 7.5 would be removed and Section 7.5 Option 2 amended to state 2,000 ft.

Elena Piekut, City Planner stated in order to provide the clearest language possible the Council should consider adding language that prohibits the use of sprinkler systems. She explained if it is just not listed as an option and a developer comes to the Planning Department and explains their plan is to install sprinklers in all of the homes within the subdivision as well as place the requirement within all of the deeds and listed on the plan; this would be appear to be an acceptable plan since it has been an approved past practice. Phillips inquired what would prohibit the developer from installing a sprinkler system; Piekut explained only by adding language that prohibits that as an acceptable fire prevention measure. Phillips clarified they are not adding a prohibition they are just removing the option. Piekut explained removing the option does not have the impact of removing the “option” that the Council may think it does. Phillips explained the cisterns are available for

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the benefit of the Fire Department to handle an emergency and if that homeowner/developer wants to install a sprinkler system in addition that is fine, they can have both. Piekut clarified the developer may still impose a requirement that concerns Kaplan by requiring a sprinkler system within the homes and pass that cost onto the homeowner. Phillips stated that would be the developers issue and the City Council cannot control everything. Hamilton clarified the City Council would be proposing language that would require the developer to commit to one of the two options provided. They must do one of the two options and they cannot substitute that requirement with the sprinkler system. Kaplan added if the developer is profit based they will not add in a \$30,000 sprinkler system per house. She reiterated the developer must offer one of the two options provided for water supply. Option 3 is just a homeowner choice in addition to the water supply provided by the developer.

Hamilton summarized based on what he has heard to this point. He would be looking for a consensus on the following:

The City Council is going to ask City staff to come back and change the 7.5.4 Minor Subdivision Exemption with a period at “shall be exempt from this section.” Everything else goes away.

For Major Subdivisions eliminate the option for sprinkler systems but have language that mandates one of the other two options; that is the language that the Council wants to come back to them.

The Council also wants within Section 7.5 Fire Protection for Subdivisions the existing Option 2 to state 2,000 ft. intervals rather than 1,000 ft.

Once this language returns to the City Council it can be discussed and reviewed at another public hearing with it being taken up at that time. Grindle reminded the City Council, if that is what other similar sized communities are doing. Hamilton clarified bringing that language back to the City Council is only an agreement on what the Council is looking for as it pertains to the language being proposed. Once the item returns to a Council meeting the vote will be what the vote will be. The City Council does want other information from similar sized communities to be part of the process. Moshier will obtain that information prior to the discussion and provide it to the complete Council before the ordinance language is even

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completed.

Hamilton confirmed the four consensus votes on the requested amendments were from Hamilton, Kaplan, Lyons, and Phillips.

No formal vote was taken this evening. A consensus vote was taken on requested amendments to be discussed at a future meeting.

Discussion and review of date/time of weekly council workshop. (Sponsored by Chair Hamilton)

Chairman Hamilton explained several years ago, the Finance Committee started meeting every Friday morning. The meeting served the purpose of reviewing the warrant and approving or not approving the warrant. This allows the bills to get paid in a timely manner; that is the responsibility the Finance Committee has been tasked with. At some point, there was a desire for the Council (at that time, Council members were able to attend usually after/during the regular Finance Committee meeting) to have a workshop where it gives the City Manager an opportunity to present information in terms of what is going on and brief the Councilors on issues that might come up. There are no votes taken or motions made. This time is informational only, the amount of information about the City is extensive and to have this kind of information ahead of time is very helpful in preparing for and setting the agenda for the Council meetings. Hamilton noted several Councilors have questioned the time of this meeting. He inquired if there is another process the Council could consider that would provide the opportunity for greater participation. Councilor Phillips explained the original intent of that meeting was for the signing of the financials and it grew into more of an informational meeting; that is why it was held on Fridays. This provided an opportunity to sign the warrant prior to that and then more Councilors started to attend the Finance Committee meetings and more information started to be provided during this time. Phillips noted all of the Councilors did not always attend; there were many meetings he missed. Hamilton explained the Finance Committee would have to be held during this time regardless because of the needs associated with the warrant. Councilor Kaplan noted it is impossible for anyone who works during the day to be there Friday mornings. Councilor Lyons agreed with that statement. Kaplan stated Councilors would need to take a day off or at least the morning to attend this meeting. Phillips explained

This was a discussion item only; there was no formal motion made or required this evening.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: JULY 19, 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, SCOTT
GUILLERAULT, THOMAS CANAVAN, KENNETH LEMOINE, TONI DYER,
GARY SAUNDERS, JOSH MCINTYRE, ELENA PIEKUT, JANNA RICHARDS,
DARYL CLARK, JENNIFER MERCHANT, MANY PAID ON CALL
FIREFIGHTERS, AND HEIDI GRINDLE.**

when this practice started the majority of Councilors worked an 8 AM – 5 PM workday and the meeting would take place for approximately 1.5 hours in the morning and then Councilors would be gone. Councilor Blanchette did not see a problem with the current arrangement and he would be in favor of keeping the meeting as is. Kaplan felt if the meeting is informational and half the Council cannot attend because of conflicting work schedules then it is not all that informational; only the members present are receiving the information being discussed. Blanchette felt no matter what the Council does there will be conflicts with schedules. Clerk Heidi-Noel Grindle suggested recording the finance workshop portion of the meeting. Lyons noted it would not be the same as being there and Councilor Miller noted Councilors could hear the discussion; however, would not have the opportunity to speak. Phillips noted the other methodology would be if there is a lot of information being provided it should be placed in an email and sent out to all councilors following that meeting. Kaplan noted that a synopsis of what was discussed would be nice. This should include what the meeting is going to be about and what the meeting was about. Hamilton stated this would work as long as it is also available to the public. If an email such as that goes out it will need to be accessible and known that members of the public can gain access to it. Clerk Grindle noted that process would still result in the same concern Miller described pertaining to Councilors not having the opportunity to speak on the topics or take part in the discussion. The other concern would be in order to make it accessible to the Councilors as Kaplan described the agenda would need to be known ahead of time so that it could be posted and then have the opportunity to weigh in on the discussion. Councilor Grindle inquired what time would work for the members of the Council not currently available at 7:15 AM on Friday mornings. Kaplan noted 6 AM would work for her and 5 PM or 6 PM works for Lyons; however, he noted that might not work for everyone else. Lyons inquired if the Committee had items they discussed every week or if it was every couple of weeks. Hamilton noted the workshop does not need to be weekly, it can be in any format that the Council desires. Some possible dates and times were thrown out including meeting every other week. Blanchette stated between the regular meeting, all the special meetings, committee meetings, union negotiation meetings, he is over extended with meetings. To add another regularly scheduled meeting to it, would cause him to want to start discussing a pay increase for the Councilors. If Councilors would like to turn this into a regular job which is what this situation is beginning to sound like then the pay would need to be brought into

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the conversations. There are five days to choose from, essentially with very few available times within those five days and if somebody is inconvenienced because they cannot make it due to their work schedule, so be it. It has been this way for decades and until tonight it has never been an issue. Blanchette was not willing to make it an issue and believed this was a discussion that would be more appropriate at the Organizational meeting in November, not in the middle of the year. Kaplan felt it would be fair to wait until November. Hamilton noted that would be consistent with the decision around moving the regular meeting time. The Charter does cover the Organizational meeting and that being the time to set dates and times for this meeting as well as everything else. When Phillips made that point it swayed Hamilton in terms of his decision around changing the time of the regular council meeting; this would be the same concept as far as the appropriate meeting to make those changes at. Hamilton could support that as the process; however, he would like the Council to do a better job of collecting and distributing the information. A summary sheet is available on what City Manager Moshier presents at the workshop; that will be made available to the public and emailed to the Councilors following the workshop. It will be posted on the website after the workshop so the public is aware of the topics that were discussed. Councilors who were absent can then connect with Councilors that were present, Moshier, or City staff in the meantime. Kaplan and Miller noted that is fair. Lyons included one request, every now and then if a hot topic is brought forward, that Councilors be made aware prior to the meeting so they can be included in the discussions. He doesn't mind being absent for other topics that in his opinion may not be as important as the houseboats or the fire suppression ordinance, for example. Hamilton noted this meeting tends to be more presentation than it does in terms of formal action. The example that was provided for possible presentations during the workshop was approximately twice yearly the Superintendent presents to the Finance Committee. He provides an update on the finances of the School because the Council has oversight on a piece of that process. That presentation is informational and helpful and speaks to Lyons point about knowing in advance when that will take place. By knowing that kind of schedule in advance might allow Councilors an opportunity to factor that into their schedules and attend, if possible. Lyons would like to know everything that is going on and have access to as much information as possible. Hamilton reminded the public those are public meetings, they are open to the public. Glenn Moshier, City Manager encouraged Councilors to reach out to him at any point during the day on Friday if they are

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curious as to what was discussed at the Finance Committee meeting. It is rather informal on most days and as Hamilton said there are occasions when there is valuable information shared and he can make a concerted effort to distribute that information to the Councilors in advance (when he knows in advance that something will be discussed). Often it might be Thursday afternoon when a staff member will notify Moshier of a financial issue then he might advise them to attend the Finance Committee meeting the next morning to provide an explanation on the unexpected issue. Lyons felt that process was fair.

This was a discussion item only; there was no formal motion made or required this evening.

Adjournment.

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

RESOLVED to approve adjournment at 9:05 PM.

A TRUE COPY

**ATTEST: _____
HEIDI-NOËL GRINDLE**

**Approved -
Adjournment at 9:05
PM.**