

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: SEPTEMBER 20, 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, REGGIE
WINSLOW, LISA SEKULICH, JANNA RICHARDS, SUE MCLEAN, JOSH
MCINTYRE, ELENA PIEKUT, AMANDA KUCHARSKI, TONI DYER, ADAM
WILSON, LARRY GARDNER, 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.

Councilor Blanchette added a couple of items to the agenda this evening.

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

RESOLVED to approve adding an agenda item for discussion and action on a permanent easement for the Frenchman Conservancy for the purpose of rehabbing and maintaining a portion of the river walk behind the Library and heading along the Shore Road.

Chair Hamilton noted that will be added as item #22.

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

RESOLVED to approve adding agenda item #23, Discussion and action to adopt the provisions of 5 MRSA §18 252-C as requested by the City of Ellsworth HR Director pertaining to the MEPERS (the employees insurance program).

Rules of Order.

The meeting was conducted under Robert's Rules of Order and other rules adopted

Call to Order.

Pledge of Allegiance.

Approved - Adding an agenda item for discussion and action on a permanent easement for the Frenchman Conservancy

Approved - Adding agenda item #23, Discussion and action to adopt the provisions of 5 MRSA §18 252-C...

Rules of Order.

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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:

- *08/16/2021 Regular Council Meeting.*

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

***RESOLVED to approve the adoption of minutes from the August 16, 2021
Regular Council Meeting as presented.***

City Manager's Report.

Glenn Moshier, City Manager noted September 20, 2021 through September 25, 2021 is Autumn Gold Days in the City of Ellsworth. For more information on the many different festivities that will be offered across the City and the savings in many of the stores and vendors, see the Ellsworth Area Chamber of Commerce website. Moshier stated The Heart of Ellsworth will be sponsoring the Art of Ellsworth Maine Craft Weekend on October 1, 2021 – October 3, 2021. More information on the activities that will be taking place that weekend can be found at The Heart of Ellsworth's website. Moshier listed a few of the events that will be taking place. The Ellsworth Fire Department will be hosting an open house on Saturday, October 9, 2021 from 10 AM until 2 PM; this event coincides with Fire Prevention Week.

Committee Reports.

Recreation Commission. Councilor Miller reported that the Commission will be recommending the City Council appoint Eric Marichal to the Commission this evening. The Commission voted at their latest meeting to hold the Christmas Parade on Saturday, December 4, 2021.

Finance Committee. Chair Hamilton announced the date for an evening meeting will be determined soon for holding a special Finance Committee meeting to review

**Approved - Adoption
of minutes from the
August 16, 2021
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Meeting as
presented.**

**City Manager's
Report.**

Committee Reports.

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the Bond that was approved a couple of years ago along with the Capital items and Capital purchases. In some cases these have been included in the Capital Planning documents for a while with the plan to revisit those items to determine where there might be some alignment. This will be discussed at the Special Finance Committee meeting and then brought back to an official City Council meeting for further discussion. This Special meeting would be a way for the Council to hear from City staff in terms of where those items stand and attempt to get out in front of some of these items. This Special meeting will be posted in time for the Community to participate.

HCTC Committee. Chair Hamilton explained the HCTC Committee has continued to meet with the School and Community members who are on the Ellsworth Business Development Corporation (EBDC). This Committee continues to look at a design for a new facility. The current firm has presented some modeling and they are also considering what it would look like to rehab the existing facility to bring it up to what the needs are both now and in the future. It is leaning in the direction of a new facility which will be more cost effective; however, that will be determined as the project moves forward. The City Council should have a final plan fairly soon to review at a formal Council meeting.

Citizens' Comments.

Cara Romano, Executive Director of Heart of Ellsworth presented a few of the entrepreneurial ecosystem programs that Heart of Ellsworth is currently running or ran earlier this year. Romano referred to a packet of information contained in attachment #1. The first program she described was Bricks and Clicks, it was a business recovery program. Each program participant paired with a technical expert for a free one on one consultation to identify business solutions and challenges, as well as help the entrepreneurs on Main Street open up during the spring of 2021. There were 22 total program participants and there was a budget of \$10,000. Romano listed the program goals were designed to expand and retain existing downtown businesses. Another goal was to get the consultants and program participants to identify solutions for the challenges they faced reopening after the Pandemic. The final goal was providing networking opportunities for the entrepreneurs and the consultants themselves. The program was offered free to all of the downtown businesses. The program was sponsored by the Maine Community Foundation, First National Bank, Machias Savings Bank, Franklin

Citizens' Comments.

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Savings Bank, and Bangor Federal Credit Union. The second program currently half way completed, is the Downtown Grants Program. Last year, Machias Savings Bank funded the inaugural program with a \$4,500 contribution. During the second year, \$11,000 was successfully raised to re-grant through the 2021 funding cycle which will take place in November. There were 3 jurors last year who chose from 12 applicants; 7 awardees were determined. A scoring rubric was used to rate the projects. The jurors from last year were: Janna Richards (City of Ellsworth, Economic Development Director), Courtney Cullum (Heart of Ellsworth Board member and community member), and Shannon Byers (Small Business Development Corporation (SBDC) and CEI). The program goals were to bolster the downtown community by putting money back into the pockets of the innovative and hardworking downtown businesses. Community banks were highlighted within the Ellsworth community to educate the downtown businesses and create partnerships with the community-minded banks and small business owners. The sponsors were the Bangor Federal Credit Union, First National Bank, Franklin Savings Bank, Machias Savings Bank, and Bar Harbor Bank and Trust.

Presentation of Awards.

Reggie Winslow, for 5 years as the Ellsworth Water Department Superintendent.

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

UNFINISHED BUSINESS

There were no items under Unfinished Business this month.

CONSENT AGENDA

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

Council Order #092100, Request of the City Clerk for approval on the time polling

**Presentation of
Awards.**

Unfinished Business.

Consent Agenda.

**Approved - Consent
agenda as presented.**

Approved - Council

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*places open for the November 2, 2021 State of Maine Referendum Election and City
of Ellsworth Municipal Election as 8:00 AM. **

*Council Order #092101, Request of the City Clerk for appointment of Wardens and
Ward Clerks for the four voting districts within the City of Ellsworth for the
November 2, 2021 State of Maine Referendum Election and City of Ellsworth
Municipal Election. **

See attachment #2 for a complete explanation on the request.

*Council Order #092102, Request of the Deputy Treasurer/Tax Collector to accept
payments on a Real Estate Purchase Installment Contract (REPIC), property
located at 53 Pine Street (Map 134 Lot 115), and to authorize the City Manager to
release said property through a Municipal Quit-Claim Deed. **

See attachment #3 for a complete explanation on the request.

*Council Order #092103, Request of the Recreation Commission to appoint Eric
Marichal as a member of the Commission with a term to expire on June 30, 2022. **

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

RESOLVED to approve the consent agenda as presented.

NEW BUSINESS

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

*Provender, LLC d/b/a Provender, 112 Main Street, for renewal of a City Class C
License (Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III,
IV), Malt, Spirituous and Vinous Liquor License.*

**Order #092100,
polling places open
11/2/2021 8:00 AM. ***

**Approved - Council
Order #092101,
appointment of
Wardens and Ward
Clerks for the four
voting districts.**

**Approved - Council
Order #092102,
accept payments on a
Real Estate Purchase
Installment Contract
(REPIC), property
located at 53 Pine
Street (Map 134 Lot
115).....**

**Approved - Council
Order #092103,
appoint Eric
Marichal to the
Recreation
Commission, term to
expire 6/30/2022.**

New Business.

**Approved -
Provender, LLC
d/b/a Provender, 112
Main Street, for**

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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 public comments.

Public hearing was closed.

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

RESOLVED to approve Provender, LLC d/b/a Provender, 112 Main Street, for renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV), Malt, Spirituous and Vinous Liquor License.

Acadia Bowling Lanes LLC d/b/a D'Amanda's, 25 Eastward Lane, for renewal of a City Class B License (Victualer, Liquor, and Arcade) and renewal of a State Restaurant (Class IV) Malt Liquor (beer) 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 members of the public.

Public hearing was closed.

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

RESOLVED to approve the request of Acadia Bowling Lanes LLC d/b/a D'Amanda's, 25 Eastward Lane, for renewal of a City Class B License (Victualer, Liquor, and Arcade) and renewal of a State Restaurant (Class IV) Malt Liquor (beer) Liquor License.

Da Butler Did it, LLC d/b/a Dragonfire Pizza, 248 State Street, for a new City Class B License (Victualer, Liquor, and Arcade < 12 devices) and a new State Restaurant

renewal of a City Class C License (Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV), Malt, Spirituous and Vinous Liquor License.

Approved - Acadia Bowling Lanes LLC d/b/a D'Amanda's, 25 Eastward Lane, for renewal of a City Class B License (Victualer, Liquor, and Arcade) and renewal of a State Restaurant (Class IV) Malt Liquor (beer) Liquor License.

Approved - Da Butler Did it, LLC

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(Class III and IV) Malt Liquor (beer) and Vinous Liquor License.

Owners Jessica and Bill Butler were present, as was required by the Licensing Ordinance in regards to new businesses.

Public hearing was opened.

There were no comments from the members of the public.

Public hearing was closed.

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

RESOLVED to approve the request of Da Butler Did it, LLC d/b/a Dragonfire Pizza, 248 State Street, for a new City Class B License (Victualer, Liquor, and Arcade < 12 devices) and a new State Restaurant (Class III and IV) Malt Liquor (beer) and Vinous Liquor License.

Council Order #092104, Request of the Public Works Director to accept the Winter Salt Bid.

Lisa Sekulich, Public Works Director stated the low bidder this year was New England Salt. On August 25, 2021 there was a bid opening with three bids being received out of the five requested. See attachment #4 for the complete request, bids received, and the bid specifications. New England Salt was significantly less expensive than the remaining bidders; their bid was in the amount of \$55 a ton. This is slightly more expensive than last year. The City has done business with New England Salt for approximately two years without issue. Sekulich is requesting the Council award the bid to New England Salt.

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

RESOLVED to approve Council Order #092104, the request of the Public Works Director to award the FY2022 Winter Salt Supply contract to New England Salt Co. at \$55.00 per ton of delivered road salt. The Contract amount to be funded from the Highway Department operating budget.

**d/b/a Dragonfire
Pizza, 248 State
Street, for a new City
Class B License
(Victualer, Liquor,
and Arcade < 12
devices) and a new
State Restaurant
(Class III and IV)
Malt Liquor (beer)
and Vinous Liquor
License.**

**Approved - Council
Order #092104, the
request of the Public
Works Director to
award the FY2022
Winter Salt Supply
contract to New
England Salt Co. at
\$55.00 per ton of
delivered road salt.
The Contract
amount to be funded
from the Highway
Department
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Council Order #092105, Request of the Public Works Director to purchase a 1 ton 4WD single cab work truck, and authorize the City Manager to sign all necessary agreements.

Lisa Sekulich, Public Works Director stated on Wednesday, September 8, 2021 there was a bid opening for a new 2021 or 2022 one ton four-wheel drive pickup truck for the City's Public Works Department. Two dealerships responded; Darlings Ford and Varney GMC. See attachment #5 for the complete request, bids received, and the request for bids specifications document. Sekulich noted when the City reached out to Varney GMC to confirm they were the low bidder, she was informed the vehicle they had submitted their bid on had been sold. It is basically a first come, first served type scenario; Sekulich then asked them if they had any other vehicles that would meet the specifications. The Darlings Ford truck that was bid would have a delivery date of 4 to 5 months out. Varney GMC had a vehicle they could substitute for the vehicle previously bid on which is currently on the assembly line. That truck would arrive sometime in December. The current state of the world is making it difficult to purchase any type of vehicle. This new truck would be replacing one of the old trucks that was lost approximately a year ago. Last year, one truck was replaced and then this second truck is now in this year's budget. This would be the second replacement of the trucks that were lost last year. With the purchase of this truck the Department will be back up to their normal pickup truck fleet. Councilor Blanchette confirmed that the higher priced one has a 3 month out delivery date; Sekulich noted that vehicle should be on site by mid-November/December. Blanchette was just considering the price difference of \$4,000 for the same truck and more or less the delivery time will be approximately 3-4 weeks difference. Sekulich noted the dealerships are stating 4-5 months; however, if GMC is delayed by a month there is no doubt that Ford could potentially be delayed a month as well. Glenn Moshier, City Manager noted the difference is the Varney truck is already ordered and is already in the production line. The Ford truck still needs to be ordered; it is not even in the production line yet. The projected 4-5 months is based on a vehicle that has not even started the process yet. The Varney truck is one they had already planned on having on the lot and a VIN # has already been assigned to the truck that Sekulich would like authorization to purchase this evening. Chair Hamilton thought it would be helpful if Sekulich could provide a presentation at a future Council meeting on the vehicles the Department currently has and discuss the inventory. That is one of the things he hears questions about in the community concerning why is the City buying another

Approved - Council Order #092105, the request of the Public Works Director to award the purchase of a new 2022 GMC Sierra 3500 HD 1 ton 4 Wheel Drive pickup as specified to, Varney GMC, at a cost of \$43,968.00 to be paid for through the Highway Department Equipment Capital Account.

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truck. He felt it would be helpful for the community to understand what the fleet looks like, how old the fleet is, what the Department is trying to do, and have that overall presentation. Councilor Phillips remembered most of the pickup trucks the Public Works Department owns have been inherited from every other department in the City. Sekulich noted this was correct. Phillips stated most of the trucks they currently have once were used by a different department until it needed a lot of work, which the Public Works Department performed and then they keep the truck until the frame rotted off or the body fell apart. The amount of new pickup trucks at the Public Works Department are limited. Hamilton agreed but felt that was the reason the overall presentation at a future Council meeting would be helpful. Sekulich reminded the Council that the Department lost two pickup trucks last year about this time of the year and the Department was approved to purchase one truck at that time. This truck purchase would bring the Department up to the normal fleet of pickup trucks, which is 4 pickup trucks for the entire Department. Councilor Kaplan confirmed the delivery time frame cannot be guaranteed at this time. Sekulich confirmed that was correct; the difference is this truck is already in the queue to be built whereas the other truck is not even that far along in the process yet. Sekulich noted the other GMC within the bid was the one that was sold between the time they submitted a bid and the bid opening date. Councilor Lyons inquired how long it would take Varney to get another truck just like the truck they bid on. Sekulich felt it would likely take the same amount of time it is going to take Ford (5-6 months). Sekulich drove up to Varney GMC the day the bids were opened in order to ask questions about how quickly the truck would arrive and that is when they found out the one that had been quoted had been essentially sold. This would be the next available truck that was a work truck and didn't have a bunch of luxury features on it. Kaplan confirmed this truck is not replacing a running truck it is replacing a truck that is no longer running. Sekulich clarified it is replacing a truck that has been out of commission for approximately a year.

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

RESOLVED to approve Council Order #092105, the request of the Public Works Director to award the purchase of a new 2022 GMC Sierra 3500 HD 1 ton 4 Wheel Drive pickup as specified to, Varney GMC, at a cost of \$43,968.00 to be paid for through the Highway Department Equipment Capital Account.

Council Order #092106, Request of the Public Works Director to approve the

Approved - Council

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purchase of a single axle plow truck from Daigle and Houghton.

Lisa Sekulich, Public Works Director stated this purchase will update the fleet of snowplow trucks and would replace one of the oldest trucks. After discussions with multiple vendors and the history of knowledge from previous bids received the Public Works Department is requesting to purchase a 2022 plow truck fully rigged up for plowing from Daigle and Houghton. The truck chassis is scheduled to arrive at their location sometime in November/December 2021. Then the truck will be fitted up with plow gear from HP Fairfield. Due to the market and material issues, International is not taking new truck orders and build dates are into late 2022 or early 2023. See attachment #6 for the complete request, sales quote, and the request for bids specifications document. If the City were to put something out to bid right now it would not be built until early 2023. Western Star is also shut down and not pricing out trucks or accepting new builds at this time. This is the same situation for many of the other vendors Sekulich has spoken to at this time. This request would allow the Department to purchase and receive a truck in this fiscal year and not fall further behind in updating the fleet. This truck will be replacing the 2010 International plow truck, which is beyond fiscally responsible repairing. Sekulich noted they are requesting authorization to purchase the chassis, dump body, plow gearing, and a five-year engine after coverage warranty; there are other available extended warranties but she feels that this is the best deal for the City at this time. Councilor Lyons clarified the \$73,320 includes the plows and wings. Sekulich noted it includes a do all body including the sander, plow, wing, and fully rigged up plow truck.

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

RESOLVED to approve Council Order #092106, the purchase of a 2022 single axle International plow truck with plow, wing, dump body, and associated gearing supplied by HP Fairfield, from Daigle and Houghton for a sum of \$172,150.42 with funding coming from Bond Proceeds.

Council Order #092107, Request of the Public Works Director to accept the Hot Mix Asphalt Bid.

Lisa Sekulich, Public Works Director stated on Thursday, September 9, 2021 the City accepted bids for maintenance paving. Seven RFPs were requested and only

Order #092106, the purchase of a 2022 single axle International plow truck with plow, wing, dump body, and associated gearing supplied by HP Fairfield, from Daigle and Houghton for a sum of \$172,150.42 with funding coming from Bond Proceeds.

Approved - Council Order #092107, the request of the Public Works Director to award the FY2022

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one bid was received. See attachment #7 for the complete request, spreadsheet of bids received, and the request for bids specifications document. The only bid that was received was from Eurovia-Northeast Paving, AKA, Lane. Pricing is up from last year by approximately \$10 per ton; this was to be expected as the price of asphalt and other components of construction have increased over the past six months to a year. This bid is still within a reasonable budget for what was anticipated. Councilor Kaplan inquired if the three roads listed in attachment #7 were the only three roads Sekulich was planning on paving this year. Sekulich noted those are the three that are ready to be paved potentially this fall; upon accepting this bid the Council is authorizing unit pricing which means the Public Works Department can add and subtract. More roads could be added in the spring as they become ready.

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

RESOLVED to approve Council Order #092107, the request of the Public Works Director to award the FY2022 Maintenance paving contract to Eurovia-Northeast Paving per the attached pricing (attachment #7). The contract amount to be funded from the Local Roads Capital Improvement Account (9090900-59001).

Council Order #092108, Request of the Public Works Director to award the bid for the Water Street Drainage project.

Lisa Sekulich, Public Works Director stated on Thursday, September 16, 2021 there was a bid opening scheduled for the Water Street Drainage project. Five RFPs were requested; however, zero bids were received. This was the second time the project was placed out to bid and received zero bids. See attachment #8 for the complete request. Dates, timeframes, and other details were adjusted to encourage contractors to bid and ultimately complete the project; with still no contractors bidding this project unfortunately at this time Sekulich is requesting this item be removed without prejudice. The project may be placed out to bid again at a later date with the goal of receiving some bids at that time for work to be completed next fall. Councilor Lyons wondered if there was some particular reason contractors are not bidding on the project. Sekulich noted contractors are busy and due to the location it has a fairly limited timeframe of when the work can be completed on Water Street. One limiting factor is the work must be completed before or after traffic in that area becomes congested. Lyons noted that will not change next year

Maintenance paving contract to Eurovia-Northeast Paving per the attached pricing (attachment #7). The contract amount to be funded from the Local Roads Capital Improvement Account (9090900-59001).

Approved - Council Order #092108, Request of the Public Works Director to remove this request without prejudice so that it can be placed out to bid at a later date.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: SEPTEMBER 20, 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, REGGIE
WINSLOW, LISA SEKULICH, JANNA RICHARDS, SUE MCLEAN, JOSH
MCINTYRE, ELENA PIEKUT, AMANDA KUCHARSKI, TONI DYER, ADAM
WILSON, LARRY GARDNER, AND HEIDI GRINDLE.**

and wondered if there is something that might make it a different situation at that time. Sekulich noted the bid that was just requested was for the work to be completed essentially this winter and still contractors did not bid because they are booked solid.

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

RESOLVED to approve Council Order #092108, Request of the Public Works Director to remove this request without prejudice so that it can be placed out to bid at a later date.

Council Order #092109, Request of the City Assessor for the City Council to grant him the authority to appeal a decision made by the Ellsworth Appeals Board.

Larry Gardner, City Assessor stated he had an unusual request this evening. He has been an assessor for 35 years and he has never requested an appeal to a local Appeals Board, as the City Assessor. The reason he feels this is important to do now and therefore is seeking the Council's permission to appeal is because as the City Assessor he is an agent of the State of Maine and if he appeals the local Board of Appeals on an assessment matter it goes to the State Property Tax Review Board. Once at the State level if he does not have permission from the City Council they may find that he has no standing. The reason he is even requesting this is because as of April 1, 2019 the Maine Coast Mall appealed to the local Board of Appeals; the Board granted a 2 million dollar reduction in value. This reduction would have amounted to approximately \$40,000 in taxes being abated. The Maine Coast Mall found that to not be satisfactory so they appealed the local Appeals Board decision and went to the State Property Tax Review Board. A hearing has not been scheduled yet for the first appeal which was for the April 1, 2019 season. This year's appeal was for the April 1, 2020 season and the Board of Appeals again granted a 2 million dollar reduction basically the same reduction which still equates to a \$40,000 abatement in tax. The first abatement appeal at the State level has not been heard yet so if Gardner does not appeal this most recent appeal then the City would be granting a \$40,000 abatement based on the 2 million dollar reduction in assessment for the newer April 1, 2020 bill without having a decision on the older April 1, 2019 appeal at the State level. Gardner explained if following the state level hearing (no date has been set yet) the City wins and does not have to reduce the amount for the first appeal; then the City might not be able to get the \$40,000

Approved - Council Order #092109, grant the City Assessor, Larry Gardner permission to appeal to the State of Maine Property Tax Review Board.

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back in taxes for the second appeal. Assessors are not authorized to supplement something that has been abated. See attachment #9 for the complete request. The basic reason for Gardner's request is to protect the finances of the City until this is all heard at the State level. Councilor Phillips clarified it has been two years and the State Board has not heard this matter yet. Phillips inquired how this matter came before the local Board of Appeals again; Gardner confirmed the applicant appealed the assessment one more time. Phillips felt five reasonable people looked at the assessed value and felt twice in a row that the value is too high and the property should be abated. He felt there might be a possibility they are correct. Gardner explained it was the Maine Coast Mall that appealed the decision of the local Board of Appeals the first time. Gardner acknowledged, Phillips was correct that it is possible his assessment of the property might be too high; however, he did not appeal the decision made by the local Board of Appeals at that time. Chair Hamilton had one clarifying questioning regarding the 2019 appeal to the State level; he questioned if that matter was appealed by Maine Coast to the State because they felt the abatement of 2 million dollars in assessed value was not enough? Gardner confirmed that was correct. Hamilton confirmed the City did not appeal that portion of it; Gardner again confirmed that was correct. Hamilton explained all that is before the State for that action is whether it will be reduced more but it will minimally be the 2 million as that amount will stand. Gardner stated not necessarily, at the State level it will be a de nova hearing. The State Property Tax Review Board could decide there is absolutely no reason for an abatement. Hamilton questioned if they could rule in favor of no abatement even though the local Appeals Board granted one and the City did not appeal on that basis. Gardner confirmed that was correct; Hamilton clarified they are not just looking at the matter from what was appealed. Gardner again confirmed that was correct at the State level the hearing is a de nova hearing. Councilor Lyons felt the City has an Appeals Board and the City Council should trust in their decision; just as they should trust in what is decided on the City Council's Board. Lyons felt it would be almost disrespectful to go against what they say. Phillips reiterated the local Appeals Board made this decision twice. Councilor Grindle did not feel the concern addressed by Lyons was the question before the Council this evening. In her opinion, the question was the Maine Coast Mall doesn't like the 2 million dollars they want more abated so they are the ones that appealed; it is not the City that is going against the Appeals Board. Phillips stated that they granted a 2 million dollar assessment change which Gardner has not applied, that is why they are back again. Phillips stated they may feel they want more but Gardner has not granted the

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2 million dollars yet. That assessment has not changed because Gardner has not made that change to the value. They have done this twice. Councilor Kaplan agreed with Phillips, in addition the value to the City should be considered of having the mall there. She noted functioning as it is there are still open or empty storefronts and the jobs that these storefronts that are occupied present to the City as well as the cost of maintenance. Kaplan applauded the Maine Coast Mall for maintaining the road/parking lot around the mall to a decent degree and taking \$40,000 out of that maintenance budget is not going to be beneficial to the City as a whole. Kaplan can understand Gardner's assessment and value but he should also consider that some storefronts are empty. Hamilton asked for clarification on the first appeal in 2019, did they come to the Ellsworth Appeals Board with a request to reduce it more than \$2 million dollars and the Appeals Board voted against the requested amount and authorized only \$2 million? Gardner stated yes that was correct; the Mall was requesting the entire compound which includes the pad sites and was assessed at approximately 18 million for everything be reduced to just a little below 10 million. Hamilton was approaching this request from the perspective that in order to support the decision of the Ellsworth Appeals Board who approved two years in a row a 2 million dollar reduction that if the City Council does not appeal it then the Council might not have standing to address if the Mall goes before the State Board and requests more than what the Ellsworth Appeals Board granted. Hamilton felt the City should be at the table to refute that because otherwise the City is not part of the process. Hamilton noted the Mall is not agreeing with the Appeals Board, they want more and the City should have some standing from the legal process to go forward and have that addressed. Kaplan was questioning how 18 million was determined when the entire Bangor Mall just sold for \$3.5. Gardner noted the TJ Maxx/Hannaford's/Governors mall on Broadway in Bangor sold for \$20 million. That was one of the sales Gardner used during the Appeals Board hearing. Kaplan questioned in what year that mall sold for at that price; Gardner believed it was in 2017. Blanchette stated he agreed with Hamilton in that he wants to be sure the City still has legal standing. He will let the powers that be hash out the numbers; however, he wants to ensure the City is there to hash out the final numbers and not be locked outside the room. Phillips stated the City still has standing in the first appeal and questioned whether the City was going to create a second appeal. Gardner stated the deadline to appeal to the State Board is 60 days after the Appeals Board's decision. This deadline will be on September 24, 2021; Gardner has not received any paperwork indicating the Maine Coast Mall has appealed yet. Hamilton noted the City could always withdraw the appeal at any

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point once it is filed if action is completed on the first appeal; however, if the City does not file it they will lose their opportunity to do so. Lyons inquired when the last day is for Gardner to file the appeal; Gardner reiterated it will be September 24, 2021. Lyons noted two months ago the Council could have reviewed this which would have allowed time to look at this and now they don't (3 days). Gardner indicated it is just an application that needs to be completed and sent in.

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

RESOLVED to approve Council Order #092109, grant the City Assessor, Larry Gardner permission to appeal to the State of Maine Property Tax Review Board.

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

Council Order #092110, Request of the Finance Director to amend the Alewives Harvesting Contract.

Josh McIntyre, Finance Director explained this is a housekeeping item in regards to requesting an amendment to the 2017 Alewives Harvesting Contract between the City of Ellsworth and Richard Welch. The contract should include his longtime partner Alan Atherton, this is something that apparently should have been added a few years ago. Mr. Welch would like to amend the contract at this time to ensure Atherton is added at this time. See attachment #10 for the complete request. The City attorney has been consulted on this matter and found no reason not to approve the measure at this point. Councilor Kaplan wondered if this guy had the ability to harvest alewives for the City of Ellsworth; McIntyre confirmed that was correct and added that the City shares in the proceeds from that process annually. Kaplan wondered if there was any reason the City had not chosen a resident of Ellsworth for this contract. Councilor Lyons noted Atherton is a resident of Ellsworth and he is the person who almost exclusively carries out the work associated with the contracted duties. Councilor Phillips noted Welch and Atherton have been doing this work for a while now; the harvesting is unique because they move a certain amount up and they are allowed to keep a certain amount. They have done a very good job and kept everything the same for a long time. Phillips felt it was time to make this change as Welch is aging and Atherton is already doing a lot of the work,

Approved - Council Order #092110, allow the City Manager to sign an amendment to the original contract between the City of Ellsworth and Richard Welch dated March 20, 2017 to name Alan Atherton as a secondary or successor party to the agreement.

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just not officially on the contract. Many of the Councilors confirmed Atherton is an Ellsworth resident in response to Kaplan's earlier concern. Chair Hamilton inquired if this amendment was in compliance with the City's policies concerning procurement and contracts. He wondered if the City were able to renew contracts indefinitely or does the Council have to go out to bid for certain contracts. McIntyre stated the City would need to go out to bid for certain contracts; however, this is not a contract it is already in existence. This contract was signed in 2017 for a ten year period. This is just an amendment to an existing contract.

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

RESOLVED to approve Council Order #092110, allow the City Manager to sign an amendment to the original contract between the City of Ellsworth and Richard Welch dated March 20, 2017 to name Alan Atherton as a secondary or successor party to the agreement.

Council Order #092111, Discussion and action on authorizing the possibility of adding accessible equipment to the Knowlton Park Playground. (Sponsored by Chair Hamilton)

Chair Hamilton explained there is an individual in the community who has requested that the City Council install some accessible equipment on the playground. This individual is willing to seek some funding and may already have a resource to do that; there would be no cost to the City to procure the equipment. The only issue is for the City Council to give the authority to work with City staff in terms of the logistics, placement, and any other issues that may impact the park. One of the concerns may be the green space that is required per an early agreement associated with the park. Glenn Moshier, City Manager asked Janna Richards (Economic Development Director) to address briefly the known restrictions that may impact this project at the park. Moshier explained purchasing, building, placing, and installing the senior equipment at the park was a three year process. Richards explained during the process of working on the Senior Playground project it was discovered that there is some space that was dedicated in lieu of wetlands mitigation for the Wastewater Treatment Plant. That space is to forever remain green at the Knowlton Park; this space is approximately 34,000 sq. ft. This space has already been encroached upon a bit so the City does not have a lot of room within that footprint. It is the footprint of the three buildings that used to be on that

Approved - Council Order #092111, approve the accessible equipment and work with the City on determining the logistics of adding accessible equipment at the Knowlton Park Playground.

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site; the main school building and two axillary buildings. The existing playground is outside of that footprint, the senior playground encroaches on that footprint a small amount and the pergola sort of intrudes on that area; however, if a decision was made to go out toward the amphitheater or the other corner that would also be outside of that footprint. There is still room within the park to be able to place this equipment if the plan is not to integrate it into the original playground. Richards would be happy to try to work with this individual to see if it is something that could work. Richards felt this restriction was worthy of bringing to the attention of the City Council. Councilor Kaplan struggled to understand how something with the Wastewater Treatment Plant which is located half a mile away from the park limits what the City Council can do on that property within a playground, because of green space. Members of the City Council confirmed that was correct. Richards explained this was a decision made when the Wastewater Treatment Plant was built; Richards did not believe Knowlton Park was a good trade-off for that situation. She has tried to work with the DEP recently to see if they would consider an alternative location for complying with this requirement, so that the City would be free to use this green space. At this point the DEP has not agreed to any of the alternative locations suggested by the City thus far. Unfortunately, the Knowlton Park land is acting as mitigation, for the City having to go through quite a bit of wetlands in order to build the road which accesses the Wastewater Treatment Plant property. Kaplan reiterated the action of disturbing the wetlands to build the Wastewater Treatment Plant a half mile away, now impacts the playground which does not impact a wetland. Richards indicated Kaplan was correct; Richards explained there is a trade-off system that the DEP allows so that if there is a piece of land that looks perfect for development yet you have to cross over a significant wetland to get there the DEP will allow development to fill in that wetland as long as a piece of land is dedicated and preserved as green space forever at another location. At the time this decision was made the City chose that portion of Knowlton Park to be preserved as green space in order to meet this requirement. Hamilton gleaned from this discussion that there is enough space remaining at the park to consider placement of accessible equipment; he would vote every time for the placement of equipment over a little bit of green space. Richards felt even based on not knowing what the concept plan is at this point there could be equipment integrated into the existing playground as it is; if it requires it to go outside of that footprint, she believes the City could work with this individual and try to locate a place. The proposal has not been shared with staff yet, so it was not known how much square feet would be required for the new equipment. Hamilton indicated the equipment may not have

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been scoped out yet; at this time the individual was just looking for permission from the City Council before starting to fundraise and committing to a particular piece of equipment. The goal tonight was to ensure the City Council supports this initiative. The authorization tonight would allow this individual to work with City staff to figure out all of those details. Kaplan was surprised based on ADA requirements the City had not already thought of adding this equipment.

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

RESOLVED to approve Council Order #092111, approve the accessible equipment and work with the City on determining the logistics of adding accessible equipment at the Knowlton Park Playground.

Request by the Frenchman Bay Conservancy for an easement on a portion of the trail that runs behind the Library.

Aaron Dority, Executive Director of Frenchman Bay Conservancy explained they hold a conservation easement on the Branch Lake City Forest, which is a City-owned property. The Conservancy also owns the Jordan Homestead Preserve and the Indian Point Preserve. The Conservancy is a 35 year old land trust nonprofit organization and their mission area includes Ellsworth to the Hancock/Washington county line. In this particular instance they are considering a trail easement not a land conservation project per se but really an access easement. See attachment #11 for the complete proposal. This would be a pretty streamlined document compared to the conservation easements that they have completed on other properties. Dority and his staff have discussed this request in detail with City staff including Glenn Moshier (City Manager) and they are supportive of the project. Once the trail easements are secured they will begin rehabilitating the trail to make it more passable for walkers to enjoy the waterfront. The Frenchman Bay Conservancy and partners will maintain the trail over time. They have all the funds needed to complete the work, they have raised grant funds to do that, and have selected a contractor. They are in the process of securing a DEP permit and once all of the trail easements are in place the trail work will begin. This work could begin as early as next month. Dority explained the first slide in attachment #11 is a map showing that the trail currently starts behind the Library and it continues north toward the dam along the Union River following the rough location of the existing path. The next map shows the parcels involved, so in addition to requesting a trail

Approved/granted - Permanent easement to the Frenchman's Bay Conservancy for the purpose of rehabbing and maintaining a portion of the river walk behind the Library and heading along the Shore Road.

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easement from the City they are also requesting an easement from the County. There have been a number of conversations with them, they are also supportive; however, they wanted to see the City take the first step. Brookfield is the other landowner; they have already agreed to sign the trail easement and they are financially supporting the project. In addition, there is at least one other landowner and because of some ambiguity around ownership by abutting landowners, Frenchman Bay Conservancy is speaking with another abutter about securing an easement. There is a possibility that landowner may have access to the river, currently there is a lack of clarity in the deeds going back to the 19th century. Just to be safe they are researching some of the other abutters as well. The remaining slides in attachment #11 are photos, the trail will continue to accommodate elver fishermen and allow walking access to the water including different vantage points such as the ones shown in the pictures. The trail will be moved whenever feasible out of the 25' setback because it is in the Shoreland Zone; Maine DEP has asked where it is possible for it to be moved 25' away from the river. That will be a little bit up hill and they will be doing the tread work and stone work at that point. The trail easements are the first steps for the Frenchman Bay Conservancy, once the landowners grant these access easements, the work can begin, and the work is primarily focused on making trails a little more accessible and ensuring any stormwater doesn't wash out the trail by handling it correctly. Councilor Lyons inquired if this project would be privately funded and is already taken care of. Dority confirmed it is and they are not asking for funding. Councilor Kaplan inquired if the elver fishermen would be able to access the water by using that trail; Dority confirmed they can. Chair Hamilton thanked Dority for bringing this project to Ellsworth. That is definitely a trail that needs improvement and by doing that through more accessibility along the river, it will be very nice to have an additional walkway along the Shore Road.

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

RESOLVED to approve/grant a permanent easement to the Frenchman's Bay Conservancy for the purpose of rehabbing and maintaining a portion of the river walk behind the Library and heading along the Shore Road.

Discussion and action on adopt the provisions of 5 M.R.S.A §18252-C as enacted by PL 2021, Chapter 286 as allowed by MainePERS Rule Chapter 803 for its non-participating employees with optional membership who previously declined to

Approved - Adopting the provisions of 5 M.R.S.A §18252-C as

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participate in MainePERS and to authorize Glenn Moshier, City Manager to sign the Amended Agreement between the Employer and the Maine Public Employees Retirement System.

Chair Hamilton explained there has been a change in State law that will allow certain employees to choose where they direct their retirement and the accessibility to the Maine State Retirement Plan. Toni Dyer, HR Director presented her memo (see attachment #12). Dyer stated previously retirement options were elected within the first 30 days of employment with regard to opting into Maine State Retirement; if an employee did not enroll during that window of time they were never given another opportunity to do so. They recognize this practice prohibits a lot of people from enrolling and making the decision on what works best for them. Two laws have recently passed allowing an annual open enrollment period for this particular retirement system; however, the City has to opt in to allow it. Dyer is requesting the City opt in and this will allow employees with five or more years of service every year from September to November to switch their retirement plan to Maine State. Hamilton questioned whether this was just an employee choice; there would be no expense for the City. Maine State Retirement has opened up the option to choose their retirement account at a time other than only upon 30 days of initial employment. Dyer stated that was correct, the City already offers two retirement options. An employee can choose the Maine State Retirement System, ICMA, or neither. This request just provides the option for an employee to drop ICMA and switch to Maine State Retirement; the City would then pay for Maine State Retirement instead. The City would be paying for one or the other; however, not both for each person.

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

RESOLVED to approve adopting the provisions of 5 M.R.S.A §18252-C as requested by the City of Ellsworth HR Director Toni Dyer as written (attachment #12) and to authorize the City Manager, Glenn Moshier to sign any and all documents from MEPERS to finalize such action.

Council Order #092112, Discussion and action on authorizing city staff to develop an ordinance that restricts the overnight mooring/anchoring of boats, floats, houseboats, or other floating structures to landowners and/or individuals who have received written permission from a landowner. (Sponsored by Chair Hamilton)

requested by the City of Ellsworth HR Director Toni Dyer as written (attachment #12) and to authorize the City Manager, Glenn Moshier to sign any and all documents from MEPERS to finalize such action.

Approved - Council Order #092112, Authorize city staff to develop an

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Chair Hamilton stated before he opened it up for public comment he reminded everyone that a workshop has been held specifically on this item. This topic was also discussed in a previous Council meeting. A lot of public comments have been heard on this matter. Hamilton stated the public was welcome to comment this evening however he provided a few ground rules. All comments were limited to 3 minutes and were to be directed to the Council only.

Terry Pinkham, Ellsworth resident at 458 Bangor Road and property owner of 586 Nicolin Road explained he has already spoken at the previous meetings. At the end of the day this discussion is concerning a house built on pontoons. This structure is a 24' pontoon boat located on Green Lake in Ellsworth. In the winter time, many of the same people present this evening have a number of ice shacks on the same lake. The ice shacks remain on the lake all winter without any issue or concerns being raised any anyone associated with the lake. The summer seems to be the only issue. Pinkham noted there is no enforcement in place for this type of Ordinance. He did not feel like his rights should be infringed to do so (recreate on the lake in the summer) because one person has an issue with it. Pinkham noted the property was purchased in the State of Maine on the lake knowing they do not own the water in front of it; now those residents want to regulate 200' out in front. He did not think this was fair to anyone in the State of Maine or the City of Ellsworth.

Dale Jellison, resident of 8003 Green Lake Road in Dedham, refuted comments made by Pinkham. Hamilton restated there will not be a debate this evening on this topic. Jellison stated the majority of people in this room are in favor of an Ordinance.

Andrew Hamilton, owner of a second residence at 493 Scott's Neck Way on Green Lake in Ellsworth making him a property taxpayer in the City. He advised the City Council that he is fine with the proposed agenda item. He has heard from several people that they would prefer the Rangeley style Ordinance because it is straightforward to enforce. He also believes it will use the least resources of the City and its staff. Hamilton has researched and located firms which are available to haul boats if they are attached to an unregistered mooring.

John Linnehan, Ellsworth resident at 157 Shore Road addressed his two concerns with the issue. 1) He believes that all residents are over regulated and that there are

ordinance that restricts the overnight mooring/anchoring of boats, floats, houseboats, or other floating structures to landowners and/or individuals who have received written permission from a landowner.

**RECORD OF REGULAR MEETING
ELLSWORTH CITY COUNCIL**

DATE: SEPTEMBER 20, 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, REGGIE
WINSLOW, LISA SEKULICH, JANNA RICHARDS, SUE MCLEAN, JOSH
MCINTYRE, ELENA PIEKUT, AMANDA KUCHARSKI, TONI DYER, ADAM
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too many Ordinances in place right now. He is a strict constitutionalist whether it is the United States or the Maine Constitution. Linnehan believes the many Ordinances and regulations are hindering some of the original freedoms that the founding fathers originally intended for residents to have. 2) Linnehan is concerned with taxes in the City of Ellsworth. When he considers the enforcement side of this proposed Ordinance as well as other Ordinances those requirements are increasing the tax base more than it should be within the City. He does not care about the valuation or the mil-rate all he considers is whether the taxes are going up or down. Based on both of his concerns, the proposed Ordinance should not be voted on/approved.

Elaine Rowe, resident of 477 Scott's Neck Way was not in favor of having an overabundance of Ordinances; however, when common sense and common courtesy doesn't occur they are needed. She was not concerned if someone came for a day and hung out in front of a camp that would be fine. Rowe was concerned with an activity that had many people camping out day in and day out; it is a concern when they come off from their float and onto private property to defecate, urinate, or leave trash. This is no longer happening in Ellsworth because they have moved to Dedham; however, now it is happening on the property in front of her friend's house in Dedham. Rowe agreed with Hamilton this request was not brought lightly or with the intent to force on anyone.

Audrey Tunney, Ellsworth resident at 35 Grant Street explained ice shacks by Maine State law are identified by the owner's name and telephone number. There is a certain level of regulation where ice shacks are concerned; this provides a level of security to camp owners on the Lake. She noted there is a lack of regulation around this type of craft compared to what exists with ice shacks.

Jason Spinney, Ellsworth resident at 88 Beechland Road stated he is a half owner to the float that is being discussed this evening. He corrected the record by stating they have never left trash or defecated on anybody's property or beach. They never personally did; however, other people may have. The property they are moored in front of now has multiple cameras so that they can watch the activities on the float 24/7; they have absolutely no privacy and have never stepped foot on their property. Spinney stated they would put their name and address on it to help with the enforcement piece; they have complied with all the other requests such as lights, reflectors, and location. According to Spinney, they have done everything they can

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to comply and be as un-abrasive as possible to the property owners and people on the water. He feels it is their right to have it there and doesn't think there should be an ordinance.

Harry Moore, resident of Green Lake in Ellsworth made the point that it is not between two individuals, it is the way of the times that there is not a lot of available real estate for people to buy. Due to these limitations with available property, people are reverting to using the Lake for houseboats which enables them to stay there full time including overnight. Moore stated houseboats and flotation devices are the up and coming thing; Lake Sebago has lots of houseboats already and people stay on them all summer long. Houseboats are popular because they are inexpensive to own, do not have a tax obligation, or any of the other issues facing land owners. Moore mentioned the aspect of anchoring in front of someone's property must also be considered as far as requiring permission from that person. Even with permission from the land owner, Moore stated the loud music as well as other activities associated with the float impacts properties located 500 feet on each side of the property who provided permission as well as properties on the other side of the Lake. Noise carries on the Lake.

Patty Hamilton, resident of 493 Scott's Neck Way was in favor of the Ordinance. Many lakes have Ordinances to address issues mentioned by Moore. She felt this was a good middle ground and she appreciated the effort of the Council to consider it.

Glenn Moshier, City Manager stated there is no Ordinance being proposed this evening. Tonight is simply a conversation for the Council to make a decision and direct staff to either begin working toward putting together an ordinance to bring forward to the Council for a vote in the future or not. It appeared there was some confusion on whether an ordinance already existed or not; there is not an ordinance being voted on this evening. Councilor Kaplan noted as a shorefront owner she recognized the fact she does not own the water; anything past the water she does not own. She noted even if she does not like the view of a boat parked in front of her property it is not permanent. Kaplan felt people have the right to recreate on the Lake especially where they pay excise tax for their boat; she stated the excise tax pays for the boat launch, and helps maintain the Lake. Kaplan noted this benefits her because then she knows the water is clean. No body owns the water; it is a resource that is available to all people in the State of Maine. Kaplan is not a fan of

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limiting the rights of the few because “we” are a constitutional republic and in the constitutional republic the rights of the individual supersede the rights of the collective. Councilor Lyons is against pushing for this because he does use three quarters of the lakes in this State and wants to keep the right to use those lakes for whatever he wants to do on the lake. He does not step foot on anyone’s property. He has in the past been approached by people screaming and hollering because they think he cast his fishing lure too near their dock. Lyons would not be willing to support any time spent on creating an ordinance. Hamilton agrees with the law that exists stating lakes are accessible to all; that is not what is being debated tonight. He stated there will never be an ordinance that a municipality could pass that would prevent that from happening because it would not comply with State Law and therefore the courts would overturn the violations imposed by the local ordinance very easily. The State law states the lakes are accessible. Hamilton did not feel that situation is what the Council is discussing tonight; from his perspective there is a balance that exists in terms of how lakes are utilized. Hamilton feels as a member of the Council he has the responsibility to look at all sides of the issue, how it impacts all citizens, all taxpayers, to try and find some sort of balance when there is a problem. Hamilton felt this was clearly an issue the City Council needed to address; he has not seen this many people in workshops and Council meetings on a topic in a long time. The balance he is considering is how to have the respect to allow for the law and access to the lakes while also the rights of the property owners who are paying quite a bit of tax for that type of property and maintaining that balance. Hamilton stated he had asked in an earlier discussion on this topic about the possibility of taking the float in and out of the lake once they are finished using the lake for the day. He thought an ordinance that defines the activity in that manner is a reasonable expectation and moves it beyond a situation where this could just become a worse scenario for the City considering the number of lakes within the City. Other communities have created similar ordinances which have complied with State Law and the court systems. Hamilton is not advocating for and would not vote in favor of any ordinance that would prevent access to the lakes; however, he did think a fair ordinance that required structures to be taken out is reasonable. Hamilton thought there was a difference when considering ice shacks; at that time most camps are not year-round camps. There are not the same number of people residing on the lakes during that time. He could not compare the ice shacks and floats evenly. Kaplan felt the complaints were not so much about night time activities but rather the fact that people are enjoying the lake in front of their house during the day. After watching the videos of the fun being had, Kaplan felt

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some people are being territorial and complaining about that activity taking place in front of their house. She maintained her opinion that it is a lake and people have the right to use the lake and it is during the day that people are complaining. Hamilton agreed if someone is using the lake or fishing wherever on the lake they have the right to do that; an ordinance that gets created cannot prevent access and use of the lake. That is not what he is advocating for. Hamilton thinks the restriction around overnight is definitely a real issue and the bigger issue in terms of getting out in front of something in terms of what if somebody did put a house boat in. He described the situation that occurred in Rangeley; based on that practice he is suggesting the requirement of taking the structure in and out, not restricting the use of it. Lyons was concerned if an ordinance requires boats to be taken out daily at some point in the summer there will be 20 boats pulled up in front of the camps and every single day they take them off and relocate to the boat landing and then return them just because they are irritated they are losing privileges of any sort to the lake. Lyons felt this might lead to no regulation because they can stay there from the time they pull it out in the morning until they take it out at night. The other concern he had with the removal requirement was if one person is required to take their pontoon boat out every day then everyone should be required to take their boats out daily. If the dock is anchored into the water and not just onto the property, those anchors should be taken out every day as well. Lyons felt an ordinance could create bigger problems than could ever be imagined this evening. Lyons noted he has put some work and effort into this topic over the summer trying to make this a non-issue and he thought it had kind of gone away. He was hoping it would not become a bigger issue that it really is. Councilor Grindle read the wording on the agenda this evening out loud and then stated she thought the overnight piece of the request is key. She also thought the written permission is essential. She believed the owners of the float stated in the workshop they have written permission to be located where they are at this time. They are located in Dedham so this request really doesn't affect them currently.

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

RESOLVED to approve Council Order #092112, Authorize city staff to develop an ordinance that restricts the overnight mooring/anchoring of boats, floats, houseboats, or other floating structures to landowners and/or individuals who have received written permission from a landowner.

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Prior to a vote being taken Kaplan noted this motion will leave out the average joe that doesn't know somebody who can give them permission or is not a landowner. She gave an example of somebody being from Dedham and doesn't have permission and wondered if that meant they could not put their boat on that lake. Grindle clarified they would not be able to leave their boat overnight. Councilor Phillips noted the motion was to direct staff to develop the ordinance, then it will be vetted several times with more public hearings, where that point can be argued; at this point the above motion will just move this concept along for further discussion so that staff can develop something. The ordinance, once created must still go before the Council for adoption. Hamilton agreed this vote will only indicate from the Council's perspective whether they want the staff to invest their time to propose an ordinance or not.

A final vote was taken on the above motion with 5 members voting in favor (Blanchette, Grindle, Hamilton, Miller, and Phillips) and 2 members voting in opposition (Kaplan and Lyons).

Following the vote Hamilton instructed Moshier he could work with his staff in terms of creating that document and whenever that time arises to bring it back to the Council, it will be reviewed.

Executive session for consultations between a body or agency and its attorney in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E.

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

RESOLVED to approve entering executive session for the purpose of consultations between a body or agency and its attorney in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:40 PM.

Glenn Moshier (City Manager), Janna Richards (Economic Services Development Director), Elena Piekut (City Planner), Ed Bearor (Legal Counsel), and Rachel E.S. Thompson (Legal Counsel staff) were all invited to remain in the executive session.

The Council will report out following the executive session this evening.

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

Approved - Entering executive session for the purpose of consultations between a body or agency and its attorney in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:40 PM.

Approved -

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CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, REGGIE
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**RESOLVED to approve adjourning from executive session in accordance with
MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:56 PM.**

*Council Order #092113, Discussion and action on matters from the executive
session aforementioned in the previous agenda item.*

Chair Hamilton explained currently the City has interests in developing solar farms within the City and there are several projects in front of the Planning Board at this time. If you look around and across the State of Maine there are many projects being proposed and the potential is for there to be a big increase in proposals. As a City, Hamilton was not sure we are in a position yet to really understand all the consequences of that kind of rapid growth within that industry for the City. He is not sure what that means both short and long term and so Hamilton would like to see the City staff develop a moratorium for solar development that would be for a term of 180 days. This would give time for the City to look at the issue, understand it a little bit better, and define it. That way as the City moves forward they have a plan rather than just reacting to proposals. Hamilton would not support or propose that the City impact the existing proposals, this would be a moratorium from the date that it is presented to the City Council moving forward.

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

**RESOLVED to approve Council Order #092113, authorize City staff to develop a
moratorium for solar development that would be for a term of 180 days.**

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

Ed Bearor, City Legal Counsel noted his office can work with City staff to prepare the appropriate short ordinance that the City Council can use to adopt a moratorium if the Council decides to do that. He encouraged the City Council to schedule a public hearing, the same meeting at which the Council will consider whether to

Adjourning from executive session per MRSA Title 1, Chapter 13, Section 405, Paragraph 6E at 8:56 PM.

Approved - Council Order #092113, authorize City staff to develop a moratorium for solar development that would be for a term of 180 days.

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CITY COUNCIL ABSENT:

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adopt it.

Executive Session to discuss labor negotiations between the City of Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New England Laborer's District Council Local 327 in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6D.

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

RESOLVED to approve entering executive session for the purpose of discussing labor negotiations between the City of Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New England Laborer's District Council Local 327 in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6D at 9:00 PM.

Glenn Moshier, City Manager remained in the executive session. The City Council will report out following the executive session this evening.

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

RESOLVED to approve adjourning from executive session in accordance with MRSA Title 1, Chapter 13, Section 405, Paragraph 6D at 9:12 PM.

Council Order #092114, Action on labor negotiations between the City of Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New England Laborer's District Council Local 327.

There was no public discussion on this item, prior to a vote being taken.

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

RESOLVED to approve Council Order #092114, contract between the City of

Approved - Entering executive session to discuss labor negotiations between the City of Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New England Laborer's District Council Local 327 per MRSA Title 1, Chapter 13, Section 405, Paragraph 6D at 9:00 PM.

Approved - Adjourning from executive session per MRSA Title 1, Chapter 13, Section 405, Paragraph 6D at 9:12 PM.

Approved - Council Order #092114, contract between the City of Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New England Laborer's District Council

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KAPLAN, LYONS, MILLER, AND PHILLIPS.**

CITY COUNCIL ABSENT:

**KEY SPEAKERS PRESENT: CITY MANAGER GLENN MOSHIER, REGGIE
WINSLOW, LISA SEKULICH, JANNA RICHARDS, SUE MCLEAN, JOSH
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*Ellsworth and Ellsworth's Highway Unit Massachusetts and Northern New
England Laborer's District Council Local 327 as proposed (attachment #13).*

**Local 327 as
proposed
(attachment #13).**

Adjournment.

**Approved -
Adjournment at 9:14
PM.**

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

RESOLVED to approve adjournment at 9:14 PM.

A TRUE COPY

**ATTEST: _____
HEIDI-NOËL GRINDLE**