

MEETING NOTICE

The regular monthly meeting of the Ellsworth City Council will be held on Monday, July 15, 2024 at 6:00 PM in the Ellsworth City Hall Council Chambers

Meetings will be broadcast live on:

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

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

Spectrum Channel 1303

AGENDA

1. Call to Order.
2. Pledge of Allegiance.
3. Rules of Order.
4. Adoption of the Ellsworth City Council minutes from the following meeting:
 - ❖ June 17, 2024 Regular Meeting Minutes
 - ❖ June 26, 2024 Special Meeting

Motion to approve C. Hanson second T. Mote, passed 7-0

5. City Manager's Report.

- *Staffing – New Promotions, but will add more later in the agenda. Police Chief in second round of in person interviews, 2 extremely qualified candidates. Finalizing interview process, committee meeting next week to make recommendation to Council.*

New Hires posted – GA Specialist, Code Enforcement Administrator and HR Specialist.

- *Now that Budget is done looking toward an Infrastructure plan. Looking for a 1, 5 and 10 year plan. Look forward to getting involved with bond cycle, future taxes, Bipartisan Infrastructure Act, Inflation Reduction Act, Maine Department of Transportation, US Department of Transportation. There is a wealth of sources of funding that could align with our projects. Start with roads, wants lots of public input.*

- *Nomination papers available July 26*

- *Water Treatment Plant replacement, late August public workshop to see latest updates on the plans. Have received a \$1 million Northern Boarders Grant to offset some of the costs.*

- *High Street upgrades – bid has been awarded. Still looking for a starting date not sure if it will be late fall or summer.*

- *Frenchman's Bay Conservancy; they have been a huge help with a variety of projects. Public participation workshops scheduled for the fall, with a final report in Jan 2025. Looking into River walk project.*

- *Courthouse update – workshop on July 30 at 6pm. Also arranging a meeting with the State Judiciary on the courthouse and people that are involved with that.*

6. Presentation of Awards.

- ❖ Nathan Burckhard – 10 years of service to the City

- ❖ Cpl. Kelvin Mote – Life Saving Award

- ❖ Off. Nicholas Bagley – Life Saving Award
- ❖ Captain Tyler Kennedy – Unit Citation Award
- ❖ Firefighter Peter Leighton – Unit Citation Award
- ❖ Firefighter/EMT Brandon Leavitt – Unit Citation Award
- ❖ Firefighter/EMT-A Tyler Isherwood – Unit Citation Award
- ❖ Brandon Eugley – Civilian Life Saving Award

7. Committee Reports.

J. Stein – Broadband committee has dispersed but some Councilors received an email recently regarding Graham Way and Branch Pond area and the internet issues they have. Fidium Fiber potentially doing work in some areas. Personally did some research with help of Janna and Jason. There was a plan for internet to go into the areas but plans ended up being abandoned. Janna is looking into grants and other funding opportunities to get internet to these areas.

N. Smith – Historic Preservation Commission, there was a presentation about mapping of the Ancient Burial Grounds; and the meeting to follow the presentation had to be canceled but they are meeting Wednesday afternoon. They will bring up the funding for printing report so that it is available. Was not satisfied with minutes from presentation in describing the project; has an addendum to minutes that better describes.

8. Citizen's Comments.

Buris Jester Sr – lived in Ellsworth for 24 years, has a complaint regarding Maine Organics. Asked to wait until the agenda item.

9. Councilor Comments.

UNFINISHED BUSINESS

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.

NEW BUSINESS

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

- ❖ Maine Organic Therapy d/b/a Curaleaf Maine, 3 Myrick St Suite B, for renewal of a Medical Marijuana Dispensary License including a City Victualer License.
- ❖ Ellsworth Lodge of Elks #2743, 317 High Street, for renewal of a City Class B License (Victualer, Liquor and Amusement) and renewal for a State Club-on Premise with Catering Malt, Spirituous and Vinous (Class I) 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.

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

Motion to approve C. Hanson, second N. Smith, passed 7-0

11. Council Order #072400, Discussion and possible action against Maine Organics for violation of Ellsworth Unified Development Ordinance and the Administrative Consent Agreement signed on March 21, 2024. (Sponsored by Councilor O'Halloran)

C. Pearce – we don't have any violations of the agreement yet, but there are various complaints. Toured the facility and met with Robert and reviewed the consent agreement.

R. Grant – Memo detailing all complaints received since consent agreement was signed, there are 10 or 11 complaints; two days in particular June 11 & 28. On the 11th smell was gone before 10am, and everywhere but the Industrial Rd by 9am. On 28th persistent smell on route 180 but nowhere else. Smell throughout the day on the road but not a violation because it is just on the road, it isn't damaging property value. Allowed to "smell" from 6-8am, Monday – Friday because it is mixing time. In order for violation to begin, consistent smell for 1 hour after or any time during the day. Has to go to the site of complaint to verify and then go to Maine Organics to determine it is the same smell and then they are given an amount of time to get rid of the smell.

Buris Jester Sr – been here since 1965 for clean air, how would you like to sit on your deck and smell it. Why was it approved to begin with? Whoever approved it needs to do something about it now. Would like to see a solution to the problem.

Tim Stone – 30 Old Mill Rd. Putting in 16 unit luxury tree house, well over \$8 million into Ellsworth. There were lots of options but Ellsworth was the best place to do it, lots of potential. Smell 4 times on the property in the last 3 weeks. Consent agreement is unenforceable. Smell doesn't last all day but that isn't the problem, it is because it is so often. Will destroy the business, can't have the smell.

S. O'Halloran – been in the seat for 3 years and it doesn't look like we are any further ahead. From the beginning it has gotten push back from city and previous Council. Maine Organics has done a better job each year in the last 3 years. There have been efforts and improvements. Ordinance says you are not permitted to produce an odor beyond the lot lines. If this is going to be overlooked, Ellsworth could become a fair city and give everyone a pass to not follow the rules. Voted against the consent agreement.

N. Smith – her understanding is the consent agreement was to address the issue to make everyone happy. Do we have flexibility with the consent agreement? What are the options to correct it? Still support the goal but this tool doesn't seem to be working so what can be done to adjust or amend.

City Attorney Hamor – the consent agreement signed is an administrative agreement, did not go to court. It is a contractual matter to try to resolve the situation before if went to court. Possibility to amend by working with Maine Organics. Would need to look more into it if unilateral changes need to be made.

P. Lyons – Grew up on the coast and Maine doesn't always smell good. Would like to find a balance businesses and people. Hope that Council can find a way to make it work, don't want to have anyone go out of business.

S. O'Halloran – lived here 60 years. Sometimes visual aids are the best way to show what others are feeling. Issue not Council or Ellsworth's problem, it is Maine Organics, they need to figure out how to keep the smell on their property.

C. Hanson – Is curious if the business had lived up to the original agreement, if they are doing what they are supposed to be then she agrees with Councilor Smith to amend and make something work.

N. Smith – Arbor Camp at least a mile away, they did their part so this is a big deal because it isn't just in the neighborhood.

J. Stein – it is our problem and responsibility. Council steps in when needed. Unenforceable, but previous version was just us trying to figure out the ordinance and how we can fine them and could we do anything with their license since they are licensed through the DEP. When agreement was signed did recommend that we sit back down in 6 months when it started to get warmer. We have a good baseline, now we should sit down with them and make changes.

S. O'Halloran – Was soft with the contractor from the start, he doesn't want them to not thrive. The process is taking too long by not addressing it. Don't want to fine anyone. Watched video from planning board and contractor said if done right it won't smell. Enough is enough, if the neighbors can't rely on the city then neighbors should be filing for tax evadement.

M. Beal – Haven't watched the video, would like to have it sent to everyone or minutes so that they can review it.

P. Lyons – What would we like the result to be? Proposal?

S. O'Halloran – Enforce the ordinance.

C. Pearce – Let's review the minutes and consent agreement, what other action items are. What the council's intent/direction is. Did not find violations with the way the consent agreement is written so what can we change.

N. Smith – Not sure how people contact code, hopes we can work on this between council meetings.

R. Grant – easiest way is to email city email, does get 24hours a day. Call office during business hours. Will have a City cell any day and will make the number available for people. June 28th was there 4-5 hours after hours. Purchasing equipment to measure smell, contacted DEP gave name of company and have emailed them but haven't heard back from them.

12. Update/discussion with potential action on Juniper Cemetery. (Sponsored by Councilor Smith)

N. Smith – Juniper Cemetery came to the council in November of last year, she offered to take the lead into what is next. There has been a lot of work put into it so far to determine the best path forward to ensure care of the cemetery and respect for those who are buried there. She is pleased with the plan that C. Pearce has come up with.

C. Pearce – The city is proposing to outline what our responsibilities will be to ensure the site is maintained. Financial administration, currently holds a TD Bank checking and savings, Clerk will be signer on accounts. Will outline detailed public financial reporting structures and auditing procedures for if and when money is used for maintenance of the grounds as well as how much money we take in for burials. Rudman and Winchell will be revising the bylaws to reflect the City's ongoing control of the property; specific policies and procedures for the city to maintain compliance and high standards of care. A new governance structure which could include the formation of a new city committee to oversee cemeteries. Jennifer Sala has been assisting with burials and acting as an Interim Sexton and may look to formalize her role as

Sexton, also would look to have her train additional Sexton's so we have backups. Records and maps are currently in the Clerk's Office and making sure we have policies and procedures in place for those. Have an informal agreement with the previous maintenance person to continue taking care of it, and will formalize the role and potentially put it out to bid. Highway department will regularly check on the grounds to make sure that it is being taken care of. Upon completion of the new bylaws, they will be presented to the Council for approval. At the year mark, we will reevaluate how well it is going with the City holding it and potential non-profits who could take over ownership of the grounds. If we do take it over, there would be increased reporting to Council and budgeting to make sure that it is adequately accounted for and audited appropriately.

P. Lyons – The understanding was when we took it on was to help with transition and find new folks to operate it, not the city. Circumstances change and we need to do what is best but hopefully the goal is to find an organization that can run the cemetery. If it isn't possible the City needs to do what is necessary to respect the cemeteries and burial grounds. Would encourage former path of a non-profit running it but if it isn't feasible we look into whatever options are left.

C. Pearce – Knowing where we are at we would like to tighten up the policies and procedures so we can operate in good faith and then look into other non-profits for operation.

M. Beal – There is a board that has been put together that is interested in running the cemetery, so would encourage us to get things in order and then look toward passing it along.

13. Council Appointments – Discussion and action to appoint:

- ❖ Nathaniel Moore as Finance Director
- ❖ Suzanne McLean as City Clerk
- ❖ KaTina Vanadestine as Director of Social Services
- ❖ Michael Harris as Public Works Director

Motion to approve C. Hanson, second T. Mote, passed 7-0

14. Council Order #072401, Determination of whether the residential building located at 7 Fairgrounds Rd, on land owned by Sandra L. Kazlaskas, (MAP 137, LOT 113) of the current Tax Maps of Ellsworth, Maine, described in BOOK 2901, PAGE 308 at the Hancock County Registry of Deeds, is a nuisance or dangerous within the meaning of 17 M.R.S. § 2851.

The Code Office reports that in February 2023 the home caught fire in the upstairs and was partially burned and has been uninhabitable since. We have received numerous complaints from the neighborhood about rodent infestations coming from the property. We have not seen any sign from the owners of any progress being made on rectifying the damage done to the structure or cleaning up any debris surrounding it. That is the reason for the Public Hearing request to deem it a dangerous building, unsafe structure and ask that the City demolish it so there are no issues. If the building was demolished the property still belongs to the owner.

The City Lawyer stated what typically happens in a dangerous building condemnation is that Council would issue an order which would specify what happens next. Order would go to the landowner saying you have 30 days to rehabilitate and make the property safe again, and if you don't then you would be required to demolish the building within 30 days, and if you don't then the City can go in and demolish it for you and charge you for the cost; which would be put on the property through a special assessment. Timeline would be up to the Council, but where it has been sitting for such a long period of time a shorter time period would be appropriate.

The homeowner and her son were present at the meeting. She stated that less than a week before the fire her husband had been released from the hospital after a lower limb double amputee surgery and is still not back on his feet and she has multiple health issues. Hilary Fernald, with the legal aid for the elderly, has been helping them and had been working with Lori. They are in the process of having people coming in to work on the house. Bill Crawford Jr is coming to seal off the building from the elements, they have a contract coordinator lining up plumbers, electricians, etc.

Council has concerns regarding timeframes for completion. They also have concerns regarding the safety of the building and whether it could be secured in the short term.

The Director of Social Services was working with Lori regarding this situation. Lori needed proof that the insurance was going to move forward with the rebuild. We need proof that they were going to pay to have the work completed and proof that the permitting was going forward. Code has not received anything yet for proof.

The Lawyer would suggest if the Council can give him an idea of what they are looking for regarding an order, if the matter could be postponed until the next meeting, that he can prepare draft findings including timelines and then if it was acceptable then the order could be issued. It would allow the homeowner a little extra time to work with Code on the necessary paperwork.

Councilors had concerns regarding the insurance company and their non-responsiveness, which has created the problem that we are in. Can, and would it be effective if, the City were to reach out to them to follow up about the property. Is there insurance money that has been sent to pay for repairs?

The Tax Collector stated that when there is a mortgage and claims are made, the check always has to go to the mortgage holder for their signature and then it will come back. They give the initial amount to help get the project going and then when the work gets started the invoices from the contractors go to the insurance company and they will pay them. With replacement cost, the insurance will pay to build the house to brand new, not just try and fix it. If they don't build back then the insurance will pay based on the actual cash value of what the house was at the time of the loss. That can be a big difference.

Motion to declare the property a dangerous property pursuant to 17 M.R.S. § 2851 and within 30 days be secured and exterminated. Resume conversation at August meeting with updated information about insurance and a proposed plan for moving forward by C. Hanson, second P. Lyons, passed 7-0

15. Council Order #072402, Request of the Waste Water Superintendent to approve the expenditure of \$322,324.00 for the materials and labor associated with the Maine DOT High Street paving project. The funding would come from the reallocated bond money from the 2023 General Obligation Bond.

M. Harris – amendment given, dollar figure a couple thousand higher. DOT hoping to start in August but no confirmation yet. City is required to fund labor to adjust manhole covers and rims and also water boxes. Contract was \$2,900 each for rims and covers and \$950 each for water valves and covers. We are required to supply the materials, new manhole rims and covers where appropriate, and new water box gate valves where appropriate. Separate item, 3 insertion valves in the project area that need replacement, that price is included in the total. Would contract with EJP to come down and replace. Requesting to expend \$330,962 to pay for labor, manhole rims and covers, water gate boxes and covers and 3 insertion valves and labor to replace them funded from the bond money from the 2023 General Obligation bond.

Motion to approve request to expend \$330,962 for materials and labor associated with Maine DOT High Street Paving Project funding to come from the reallocated bond money from the 2023 General Obligation Bond by P. Lyons, second C. Hanson, passed 7-0.

16. Council Order #072403, Request of the Interim Police Chief to approve the purchase of body/cruiser camera system from Motorola Solutions in the amount of \$25,000.00 for the first year payment and to sign a 5-year contract for service. The total 5-year contract price is \$249,009.35.

T. Bires – 20 body cameras, 11 cruisers, 2 recorders for interview rooms. Thursday night incident, with a barricaded suspect in a trailer threatening with a gun, after several hours they found did not have a weapon. This is another situation that if they had the body cameras it would help.

C. Pearce – there is a grant opportunity available for the cameras, if awarded Motorola would work with us to transition the contract to be funded from the grant.

Move to approve the purchase of body/cruiser camera system from Motorola Solutions in the amount of \$25,000.00 for the first year and to sign a 5-year contract price of \$249,009.35 from budget by C. Hanson, second N. Smith, passed 7-0

17. Council Order #072404, Request of the Interim Police Chief to approve the purchase of Tasers from AXON in the amount of \$19,360.45 for the first year payment and to sign a 5-year contract for service. The total 5-year contract price is \$104,862.40.

T. Bires – replace entire supply of tasers and in 5 years we would own them. Purchase includes everything – tasers, instructions, training cartridges, live rounds and holsters as well as software.

Motion to approve the purchase of Tasers from Axon in the amount of \$19,360.45 for the first year payment and sign 5-year contract for service total price \$104,862.40 from budget C. Hanson, second N. Smith, passed 7-0

18. Council Order #072405, Discussion on the formation of an internal City Working Group to hold educational workshops on the opportunities and challenges related to Ellsworth opting in to allow cannabis businesses within certain areas of the City. (Sponsored by Councilor Stein)

J. Stein – Create a working group, an assignment of internal city people such as board, commission, committee and/or staff. Recommendation would be that it is comprised of Planning Board, City Councilor(s), Officer (PD), Economic Development, Manager and City Planner. The

idea is to look into opting in to the use of medical cannabis usage in the City. To start to determine what would be the best way to design an ordinance for Ellsworth. It should go to referendum in November for public to vote on.

M. Beal – Appreciates this effort, this is great for the people so they can understand instead of just a simple do you approve.

P. Lyons – Appreciate proposal to put it out to the public to vote, the council could make the decision but this is a great opportunity to let the people speak. They can make an informed decision.

N. Smith – If understanding the flow chart correctly, by vote in November the draft ordinance would be available?

J. Stein – The hope is the recommendations would be published.

M. Williams – Group would collect information and do a lot of the leg work for Planning Board and Council. If voters were to approve, recommendation would be for Council to put out a moratorium for 6 months to get ordinances drafted, then go through the Planning Board process and to the Council.

C. Pearce – won't need extra meeting due to printing time, will be able to put it on the August agenda.

J. Stein – would cost estimated \$10,000-\$20,000 of staffing/research time and City could get reimbursed for the cost, so potentially there would be no cost to the City.

S. O'Halloran – closest towns who are doing it?

M. Williams – SWH, Surry, Franklin, Trenton, Bucksport

Patrick will serve on the committee

19. Adjournment.

Motion to adjourn by N. Smith, second C. Hanson, passed 7-0