

MEETING NOTICE

The regular monthly meeting of the Ellsworth City Council will be held on Monday, August 19, 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. *C. Hanson, T. Mote absent*
2. Pledge of Allegiance.
3. Rules of Order.
4. Adoption of the Ellsworth City Council minutes from the following meeting:
 - July 15, 2024 Regular Meeting

Motion to adopt minutes P Lyons, seconded by J Stein, passed 5-0

5. Presentation of Awards.
 - Brian Smith – 5 years of service
 - Aimee Barnes – 5 years of service
6. City Manager's Report.

Courthouse – Met with the state today to discuss their plans for a new courthouse. Discussed the community concerns about the Surry Rd property, their openness and criteria for alternative locations, and now aligning on the next steps. The workshop was very productive and would like to schedule another one for possibly mid-September to report out about the meeting with the State and their progress, timelines and additional community engagement and outlining how we would proceed with alternative options.

Election papers are available – There are two council seats open, two people have taken out papers. Two Library Trustee, one person has taken out for. One School Board, no one has taken out papers yet.

River walk – went to Belfast with some City Staff to talk to City Council, the local land conservancy and their “Heart of Ellsworth” equivalent on how they made their project a reality. It was interesting to see the level of community, council, business owner, land trust and downtown association coordination. In some ways we have all those same elements here in Ellsworth. The one other thing we have going for us to try to make this a reality is Belfast and Bucksport you can access their downtowns via boat even without the river walk there but here that isn't an option. Hopefully will have a few more meetings on it and provide updates as the months go on.

1 year infrastructure plan – Those involved in the budget process know that we held some things off, especially road construction that was felt it was more appropriate over a longer-term bonding cycle for consideration instead of a one-year taxpayer piece. Putting together the local roads

plan, that is a real big focus of this; what are the roads that really need to be maintained over the next year or repaved. Some other things that are part of it as well, we are currently spending \$75,000 a year on our Water Department lease, which is running out, also have a depreciating asset at Pump House Point, which is a city owned property. What would it mean to rehab Pump House Point or consider other options. Also, Knowlton Park splash pad and other things at the park.

Finance – 2023 audit is in; there has already been a news story about this. There were some findings that many have already been rectified, including adding staffing to the department, increasing our policies and procedures and making sure that accounts are reconciled. The 2nd Friday of every month we are having “big finance Friday” where we do an analysis of the previous month’s finances by departments and city as a whole. Looking for more ways to make it public, it is on the website and available on our YouTube channel, want to have more monthly reports that are high level on the state of the finances.

7. Committee Reports.

J Stein – Recreation commission met last month – a lot of people have been discussing Knowlton Park. Had the Gametime maintenance rep (they are the company who built the equipment) stop by to discuss broken slides. He is in Bangor and was able to come do a full inspection. Have a full itemized list of all the parts of the playground that are close to replacement and the ones that should have been replaced a while ago, and the prioritization of the list. The commission is making a plan for replacing the most immediate items. The entire replacement cost is \$5-10k range. The commission will continue to talk about building a set aside fund for maintenance of the park and possibly other parks as well. There was some maintenance and clean up done on the splash pad and it does sound like there is more to be done.

8. Citizen’s Comments.

(Terri?) – Thank you for meeting with the state and being willing to look into this for us, we greatly appreciate it and remember we are here to help if you need us.

Lisa LaRue – Also very grateful that we are talking with the state, hopefully they are listening. With all the information they had sought as a group from them; the public transcript from the public meeting, all the records they produced, it is very hard to work with no facts; did we have any luck getting from them the documents that they have denied us under the Freedom Act or if they had any intention of providing the Council with those documents.

(Manager Pearce – talked about data information and the Councilors raised concerns from residents some were able to be answered and some were referenced in other areas. It became a real focus for us as to how do we consolidate some of this information. How do we address a lot of the concerns and gather that information together in a centralized location.)

John Stolley – Resident of Ellsworth, lives in Westwood Hills off Westwood Drive. Here to raise concerns about air bnbs in our residential neighborhoods. He has an air bnb right next to them that the owner is breaking the covenant of the deeds of the community. They have chosen to operate an air bnb even though the covenant says no businesses, strictly residential. The problem is that air bnbs operate as businesses. We need to have more regulation; they are acting as

unregulated mini hotels. An example of some of the issues: spill over light into other residents. Tourism being brought into the neighborhood when we already have issues with it, it is hard to get around or shop. They drive through the neighborhood too fast, 25mph in the area; they come in at all hours. It is changing the characteristic of the neighborhood; it is reducing quality of life. It is taking up the housing stock and driving up the costs of homes and families out of the neighborhood. They don't pay any taxes; they aren't under inspections, and they are unregulated.

Stephen Shea – Did not come to talk about air bnbs but the gentleman has brought up a very important topic. He hopes that the city and Council will look into it because it is a really important issue. More specific about the meeting with the state, was it held today? (Manager Pearce – 1pm for about an hour and a half) What was the purpose of the meeting? (Manager Pearce – to discuss the openness to alternative locations was the main purpose, although we got additional background on work to date and discussion of next steps) Was there records kept of the meeting? No public records. (Manager Pearce – no, except for the report out tonight and had announced previously that there would be a meeting with the state) (Chair Beal – it was exactly what Manager Pearce is saying. It was an introduction to find out the feelings for each other in this project and to talk about alternative areas for the courthouse but also, we wanted to give them our ideas and perspective of the courthouse being in that area. Was not a formal meeting, it was trying to be a conversation so that we can get discussion started). This is kind of unusual meeting, usually those things are done in public and the whole council is invited. It would really be great if there were minutes to show what was talked about.

Lewis Sirois – He and his wife purchased a home on McDonald Ave 46 years ago, raised their family there and still live there today. They have 4 grandchildren, 2 of whom live in Ellsworth. They love to go to Knowlton Park; one slide has been fixed and new wood chips have been laid down and they are thankful for that. On July 16th, attended the Rec Commission meeting to hear about the playground update and learn there was a comprehensive inspection was received. Here to ask the City Manager and staff to find \$8k in the City's \$19.5m gross budget to complete the full list of repairs as soon as possible. Playground is 19 years old, and the estimated cost of replacement would be \$150k. The playground and the splash pad are the most popular and heavily used facilities that we have, but we have not dedicated the necessary resources to clean and maintain this asset. Suggested to the Rec Commission that a community clean up day might help to spruce up the park and would be very welcomed.

9. Councilor Comments.

UNFINISHED BUSINESS

10. Continued discussion and potential action on 7 Fairgrounds Rd property regarding whether the building has been secured and exterminated.

The Code Enforcement Office provided pictures to show that the upstairs and garage have been boarded up and an email to show that the family had contacted an exterminator. The exterminator would only do work on the exterior of the building, nothing on the inside. The Code Officer spoke with the family's insurance agent and was informed that their claim was closed due to lack of action on the property and that the family was unwilling to work with them.

The City Manager stated that if you can't do infestation control on the inside that there is still going to be a rodent problem and with the number of items piled high inside it is pretty dangerous to walk into. He visited the site with Code and Planning and if there was anyone willing to take on the task to save/salvage the building it is going to be quite an undertaking. He suggested another month for the homeowners to show that they can get the insurance to pay for the project and that there are contractors willing to do it, but also said that it is in the council's purview to move forward with the dangerous building.

Councilors expressed their disappointment that nothing was done to the location until the week before the meeting. The house was supposed to have been exterminated within the 30 days, not just made contact with them by then. Councilors also asked if there had been any communication with the family and if they knew about the meeting. The son did meet with Code to show the boarded windows and the email from the exterminator and the family was aware of the meeting. It was stated that if the council were to deem it a dangerous building, the family would have 30 days to appeal to the Superior Court. Another councilor expressed concern about the nuisance to the neighbors and the family's rights to keep their property, and is there another way to approach this? Are all taxes and other bills paid?

CEO Grant stated that we have a land ordinance against a "messy yard" that they would fail, he would send a letter and after several letters it would go to court. He isn't worried about that issue because if we were to demolish the home, it would take care of the land use violation and clean up the whole property.

Councilors stated that this is something that has been going on for 18 months and nothing has happened with the property. The facts we have tonight are: this is a safety issue for the neighborhood, the insurance claim has been closed so there is no money for the repair, the extermination has been partially done and if the motion is made tonight, they would still have 30 days to prove that something in the list of facts has changed. According to legal counsel at last month's meeting we could have more than 30 days, there is a pretty wide view. This step is necessary to move forward with what may need to be done after this amount of time.

Move to deem the property at 7 Fairground a dangerous building pursuant to 17 M.R.S. § 2851 and instruct the City Manager and Code Enforcement Officer to oversee the demolition of the building and removal of related debris by P Lyons, second by N Smith, passed 4-1 (Councilor O'Halloran opposed)

11. Continued discussion and potential action on Maine Organics; Code Office complaints report and Planning Office report on Planning Board discussions at time of approval/DEP role.

The Code Office reported that there were 15 complaints in the last month, most of them were the smell on rt 180, 5 were off the property that could be smelled at another property, but there were no violations. Per the consent agreement, once the smell is confirmed it is from Maine Organics, they have a reasonable amount of time, usually an hour or two, to make sure that the smell goes away. Maine Organics has brought in a second load operator to help turn piles and get everything turned within their allotted time and to make sure that all piles are mixed. DEP was there Friday, and we have a detailed report of their findings.

The Planning Board had many discussions about smell, and they had discussed the city trying to create performance standards but through review of the information and from information provided from the DEP, they determined that the DEP had a solid enough standard to regulate the type of industrial compost that

is at the site. They have asked Dep to step up and be more active in this issue as they are the licensing agent.

Per DEP report, the windrows have gotten too close to their stormwater system, so when we get the heavy rain like we have had lately, leeches come out of the piles with the rainwater and get into their stormwater ditch. They also have a pond to retain their stormwater and that isn't composting correctly. The recommendation is to have a 50ft clear buffer between the windrows and the ditch. Create an erosion control barrier with the finished product compost to catch the leeches, making a row parallel to the ditch to catch it. The water will pass through the finished product the leeches will get stuck in the product and hopefully mostly clean water will make it to the ditch. To have all windrows run perpendicular to the slope of the compost pad, they can be butted up to the newly positioned erosion control barrier. DEP has instructed Maine Organics to have their engineer look more closely at their licensed stormwater and leech control measures and come up with a plan to prevent any future leeches from escaping their compost pad, creating something more permanent. They need to cover up any of the decomposing lobster bodies with compost amendment, meaning the woodchips that they are using now. The last recommendation was to continue to monitor the windrows for proper temperature, CN ratios, porosity and moisture content.

Councilors asked if the complaints were trending differently than in recent months, they are down from the last two months. They also asked if it was the CEO's impression whether the DEP seemed engaged in this issue and that there will be some sincere follow up; the CEO believes that they will. Another councilor thought that we would be hearing from the attorney about what flexibility we have to renegotiate the consent agreement. The Planner stated that last meeting the attorney did say that there is flexibility to amend the consent agreement, but that both parties must agree otherwise there would have to be a potential action moving forward from the consent agreement.

The City Manager suggested a workshop to discuss options.

The Public Works Director, because of his expertise with smell, stated that the way Maine Organics is set up that it will never be a zero-smell facility. There are things they can do to become zero, but it would cost a lot of money. What they would need to do is put a building around the piles and install an odor control scrubber. The process with the DEP will end up being a prolonged process because they will keep giving them time to correct items.

Tim Stone – Please look at the consent agreement, there are seven steps. To actually be in violation it would take 4.5 hours of constant smell. The actual problem is an intermittent smell, one that comes and goes and is pretty vile. Please watch the Planning Board meetings, it was said in the meetings repeatedly that there would be little to no smell. It was pushed off to the DEP to enforce it, they have stopped at his property one time in the last 2 years and was told that they shouldn't have bought the property. If the city is looking for more complaints he can show us more complaints. People don't want to come talk at a meeting, they go to him instead.

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

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

- Margs Mex Ellsworth LLC d/b/a Margaritas Ellsworth, 191 Main Street, for renewal of a City Class B License (Amusement, Liquor, Victualer) and renewal of a State Class A Restaurant/Lounge Malt Liquor, Wine, Spirits (Class XI) Liquor License.
- Jennifer Wing Goodrich d/b/a Pepper's Pub, 20 Water Street for renewal of a City Class B License (Amusement, Liquor, Victualer) and renewal of a State Class A Restaurant/Lounge Liquor License.
- Da Butler Did It, LLC d/b/a Dragonfire, 248 State Street, for a renewal of a City Class B License (Arcade, Victualer, Liquor) and renewal of a State Malt Liquor license.

Motion for to approve licenses for Peppers Pub and Dragonfire by J Stein, seconded by N Smith, passed 5-0

Motion for a 30-day extension for Margs Mex Ellsworth's business license, by N Smith, seconded by P Lyons, passed 5-0

*****New Below*****

- Aargh Inc d/b/a Pat's Pizza, 396 High Street for a new City Class B License (Amusement, Victualer and Liquor) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous and Vinous Liquor License. (Currently has Class C changing to Class B)
- The Fuzion Buffet, 200 High Street for a new City Class C License (Victualer and Liquor) and a new State Liquor License.

Motion to approve both Aargh Inc and the Fuzion Buffet by J Stein, seconded by N Smith, passed 5-0

13. Council Order #082400, Presentation from Ellsworth Rotary Club on DeMeyer field project. (Sponsored by Manager Pearce)

A brief history, in 1960, the Rotary Club of Ellsworth purchased 10 acres of land now known as the Demeyer Field. They built little league fields and in 1974 turned the land over to the City of Ellsworth. This year the Rotary is celebrating its 75th anniversary and to celebrate that milestone they wanted to do something to give back to the city. Last year they met with the Recreation Commission, business leaders, YMCA, Little League, Challenger Little League and individuals who use the fields to try to identify a need in the city and they were drawn to the Demeyer Fields. They brought their partners, the YMCA, Little League, Challenger Little League, the Recreation Commission together in October to brainstorm the needs at the field. They decided that the locations biggest concerns were safety and spectator expectations. Plans for a playground and Bocce courts as well as a path behind the second field and redesign of the third field were created. Rotary held a fundraiser in May and as a result of the event they were able to raise over \$150,000 for capital improvements at the fields. The first phase of the project is the playground and Bocce courts and the safety path that goes behind the second ball field. Phase one will potentially start in October, and it will start with the groundwork and the finishing work in the spring. They will have to continue to raise money and would like to have a fund in the Rotary Foundation to be there for sustainability. There will be a fence around the playground, and it will be a donor fence, with names of businesses who have

donated to the project. Once they know the cost of phase one and everything has been completed for the first part, they will start working on phase 2 which is the realignment of the third field, which will also add parking.

14. Council Order #082401, Approval of City Manager's appointments.

- Promotions

Motion to approve City Manager's appointments by N Smith, seconded by P Lyons, passed 5-0

15. Council Order #082402, Appointment of City Officials by the City Council.

- Reappointments – Arbor Commission *

Motion to approve Arbor Commission reappointments by P Lyons, seconded by N Smith, passed 5-0

16. Council Order #082403, Request of the Public Works Director to award the bid for the Surry Road Water Main Replacement.

M. Harris – will pay for the 8k for the playground, he will work with the required parties to have it taken care of.

Looking to replace a section of water main on the Surry Rd, it is a combination of two different things. It is replacing some water main and adding some new water main. Starting at the fork of Surry Rd and Main St and would be replacing some water main and up toward Westwood Hills putting in a new water main along the Surry Rd to replace the concrete asbestos line that runs behind the first row of houses cross country. The project was put out to bid, they had 5 people bid and the low bid came in from Sargent Corporation at \$2,990,000.00. The project is funded through the State Drinking Water revolving fund. Bid alternates are items that you would like to have pricing on so in case the project comes in under budget you can incorporate them and get those done as well. Things like the difference between HTPE pipe and duct wire pipe, HTPE is significantly cheaper. Adding a section at the top of Mountain View Dr and Hillside Dr where there is currently no main.

Move to approve the request of the Public Works Director to award the Surry Rd Water Main replacement to Sargent Corporation in the amount of \$2,990,000.00 and authorize the City Manager to sign the notice of intent to award the bid by J Stein, second by P Lyons, passed 5-0

17. Council Order #082404, Request of the Public Works Director to extend the current winter sand and road gravel contract.

The contract was put out to bid previously and the contractor that was awarded the bid, KJ Dugas, was at \$4.85 a yard and the other was at \$6.00 a yard. The current contractor reached out and said they would hold that price for this year. KJ Dugas has been very good to us and very responsive whenever we've had any issues.

Move to approve the request of the Public Works Director to award the FY2025 Mineral Screening contract and extend the contract with KJ Dugas, the amount to be funded from the Highway Department operating budget by J Stein, seconded by P Lyons, passed 5-0

18. Council Order #082405, Request of the Public Works Director and Safety Officer to purchase additional safety equipment for safe working conditions.

Since becoming Public Works Director, he has been able to take part in several water leaks. After seeing the processes and working with the new Risk Management Officer, Adam and Reggie they have sat down after the breaks and discussed what went right, what went wrong and what needs to be changed. One thing that came out of the discussion, is that they need to keep themselves safe when working in active traffic patterns. Things like proper signage and light stands for working at night. The Water Department has an enclosed trailer that they use for equipment. It should be equipped with everything needed for a water break or any other incident so they can just hook onto it and go to the site. The breakdown is: light stands are \$3,000 each, the Jersey barriers are \$378 a piece (requested 8), 48 signs and 24 stands total \$9,600, the tools total \$1,820 and two portable traffic lights are \$46,000. The big piece is that Water and Highway Departments didn't budget money for this, but Wastewater has a significant amount of money aside that they can purchase everything and then the other two departments can pay back 1/3 of the cost to Wastewater.

Move to approve the request of the Public Works Director and Safety Officer to purchase additional safety equipment for safe working conditions in the amount of \$64,000.00, purchased initially from the Wastewater Reserve account with the agreement that 1/3 of the cost will be reimbursed each from the Highway Department and Water Department FY26 budgets by J Stein, seconded by P Lyons, passed 5-0

19. Council Order #082406, Discussion and possible action for extension of the Moore Center lease. (Sponsored by Councilor Lyons)

A lease extension was signed last week for the Moore Community Center, which was originally negotiated by Chair Beal when she was working for the city. Councilor Lyons will take the lead on continued negotiations that should finish by the end of the year.

Move to ratify the extension of the Moore Center lease as signed by Manager Pearce to run through December 31, 2024, as signed on August 2, 2024 by P Lyons, seconded by N Smith, passed 5-0

20. Council Order #082407, Request of the City Assessor to create a Senior Tax Stabilization Program for FY2025.

The City Assessor is proposing a tax stabilization tax club because last year we had 620 seniors who had enrolled in the state's stabilization program, which froze the tax bills based on the tax bill of the previous year. The state did not have enough money to pay for the program, they were reimbursing every municipality for the difference in the property tax bills. The program was repealed, and they were trying to come up with another option. There is a special law in the state of Maine that allows municipalities to have tax clubs and allow people to pay their property taxes over time. This proposal would waive the interest for almost the entire fiscal year for only the stabilization program participants.

The Tax Collector was trying to get liens to be registered in June because if any of them were to go to foreclosure it would get them done before Christmas. Before it was working out that people would get their foreclosure notice to be due on Christmas. They could be pushed out a month and that would make them due in November.

Councilors stated that the liability of this program, if everyone were to default, that TAN would cover the total amount.

The Assessor and Tax Collector both said there are other options for those who don't qualify for this program but might need help. Anyone who reached out gets applications for everything so they can choose what help they ask for. Anyone who qualified for the stabilization program can qualify for this, but this is only a one-year program.

Move to approve the request of the City Assessor to create a senior tax stabilization club program for FY2025 as outlined in the memo by J Stein, seconded by P Lyons, passed 5-0

21. Council Order #082408, Request of the Facilities Manager to authorize the City Manager to enter into a contract for lead paint abatement in the Fire Department bunk rooms as part of a Capital Improvement.

The Facilities Manager had put in a Capital Improvement request during budget season for some work to be done to the bunk rooms and office space in the Fire Department for moisture issues. Step one of the process is getting the identified lead paint remediated. There are not a lot of lead abatement companies in Maine, most of them are in Portland or south of there, was able to contact six companies and three of them submitted bids. All three companies that submitted bids, did come and walk the facility and take measurements. The project will be broken up into two parts, so the Fire Personnel still have somewhere to use while the work is being done.

Move to approve the request of the Facilities Manager to authorize the City Manager to enter into a contract for lead paint abatement in the Fire Department bunk rooms as part of the Capital Improvement project and award the bid to Lakeside Concrete Cutting & Abatement Professionals in the amount of \$42,450.00 by J Stein, seconded by P Lyons, passed 5-0

22. Council Order #082409, Discussion and possible action on sending the question of opting into adult recreational marijuana and medical use marijuana to referendum. (Sponsored by Councilor Stein)

In July, it was decided to form a working group consisting of committee, commission and staff, to discuss what wording would look like to have a referendum question. To discuss safety concerns and what an ordinance could look like, they brought in the City Manager and Fire Chief.

The City Planner worked with the Director of Social Services to get wording together for two referendum questions; they address two the specific uses of adult use and medical use. Under each one there are four uses that municipalities can opt into. Wording had to be simple and condensed because the company that prints our ballots wouldn't be able to get all four uses as one question and make it so the machines can read it, the staff would end up having to hand count everything. After voting if the answer was yes, there would be a discussion of the ordinance, how many allowed and where for each specific item voted on. It would go through Planning Board for the original drafting and recommendation of the ordinance and then go to council for the final vote.

Councilors would like to focus on the one-use to help begin the education process and to get a feel for what the voters/residents want.

There are four workshop dates: first August 28th, which will discuss with the Fire and Police Departments the effect on emergency services provided by the city by allowing the uses. September 12th, which is the land use and Code Enforcement workshop. September 17th, with the Clerk's Department to go over the

election process, what the ballot will look like and the extra information for voters on the subject. October 10th, which will be more of an open listening session if there are any concerns that citizens still have.

Councilors asked for some clarification of what we are focusing on; we are only focusing on the sale side of cannabis, no grow, no manufacturing, no testing but if it was passed it is something that could be visited later.

There is already a dispensary in Ellsworth and the reason for that is because the State of Maine put out to referendum in 2016 whether or not to legalize, even though some places may have already been operating; when the referendum passed municipalities were opted in and had to choose to opt out. In 2019, the State changed it that you had to opt in and were automatically opted out. In those three years, businesses opened and are now grandfathered and don't have to wait for their municipality to opt in.

Move to place one article on the November 2024 election ballot asking “Shall the City of Ellsworth vote to authorize within the municipality the operation of adult use cannabis stores provided they operate in compliance with all applicable state and local requirements” by J Stein, seconded by P Lyons, passed 5-0

23. Adjournment.

Jim McLean – the price to fix the playground is not accurate. The \$6,000-\$8,000 was for the labor only. He has an email out to the parent company of Game Time and is waiting for a price. The Game Time representative estimates that it could be \$15,000 for materials. The splash pad has been pressure washed twice this year, and the bathrooms are cleaned every day.

Motion to adjourn by N Smith seconded by P Lyons, passed 5-0