

**EASTPORIT CITY COUNCIL
COUNCIL WORKSHOP & CITY COUNCIL MEETING
WEDNESDAY, SEPTEMBER 11, 2013
5:30 P.M. - SHEAD HIGH SCHOOL - BAND ROOM**

(Ref. #WS700098)

WORKSHOP - 5:30 P.M. "PROPOSED" FIREWORKS ORDINANCE

Council President, Mary Repole, declared the workshop open at 5:30 p.m.

Council President asked the City Manager to go over the Fireworks Ordinance that is being proposed and submitted to Council for consideration. He explains to Council that he has provided the Council with a copy of the State statute; a single page Ordinance which essentially bans fireworks all together; and a copy of the proposed Ordinance with zoning that was presented and submitted to Council last year by his predecessor.

Council President clarifies that this is a *workshop* and not a public hearing. She further continues with the reading of letters submitted to the City with regard to their concern regarding this matter and express that there is a need to regulate the use of fireworks. Council recognizes letters received by Thomas Logue, Carolyn Lowe, and Bernard Grazulwich.

Various members of the audience address the Council and also express the discontent of the use of fireworks.

Police Chief, Mark Emery, comments to say that the State Law permits fireworks up to 10:00 p.m. on private property and should someone call with a complaint prior to that time; it makes it difficult to enforce.

Councilor Cummings comments to say that his concern is that the recent complaints are coming from a certain area when they are being asked to make a decision which is to ultimately affect the entire town.

Fire Chief, Richard Clark, assures that he will enforce whatever the decision of the Council is but expresses concern that he feels this regulation being proposed may make matters worse as it is difficult to catch one in the act of setting off fireworks.

Councilor Emery disagrees and reminds him that before the City allowed them, the City didn't have any problem with fireworks in town and we didn't hear them.

Carolyn Lowe addresses the Council and explains that all she is asking for is a *bumper* of some sort in her area. Councilor Cummings reminds her that it is being proposed that they be banned completely. She comments to say that this is Council's decision and clarifies that what *she* is asking for is only pertinent to her as she is trying to run a kennel business and that fireworks are bothersome to her and the dogs. And as a result, she may have to close because of it.

Other members from the audience express their concerns of safety, especially in congested areas.

Council President states that Council will discuss this matter further later on in their regular meeting of this evening for consideration of scheduling a public hearing.

Council President, Mary Repole, declared the workshop closed at 5:50 p.m.

A few moments was given for the setting up of a projector for the upcoming presentations.

I. CALL TO ORDER

The meeting was called to order at **6:00 p.m.** by Council President, Mary Repole. Those in attendance and present were: Councilor Michael Cummings, Councilor Colleen Dana-Cummings, Councilor Scott Emery, and Council President, Mary Repole. Also present, were the City Manager, Larry Post; City Clerk, Ella Kowal; and Legal Counsel, Dennis Mahar.

(Ref. #WS700099)

II. BICYCLE/PEDESTRIAN ASSESSMENT - *Presentation by WCCOG*

Council President turns this portion of the meeting over to Crystal with WCCOG. She explains that a bicycle/pedestrian assessment was completed and done in Eastport and that it is funded by DOT. She continues further to share the results of the assessment and informs the Council that this data may be beneficial to the City with the knowledge of what we have as resources that can be utilized. She updates Council that the Eastport Sprocket Society is working with the Elementary and the High School programs such as permanent bike maintenance facilities, bike training, safety programs, riding incentive programs, bike riding events, etc. WCCOG was approached to assist the kids with an alternative and safe route to get to school and to increase bicycle use and to utilize the support of the trail system and its development. She reviews the assessment report and makes Council aware of the opportunities available to the community. She also provides data with regard to accessibility and reviews mapping. She comments on a grading system by the Department of Transportation and also notes that the sidewalks were surveyed as well as taken into consideration. She gave a slide presentation to better understand obstructions, vegetation, drainage etc. of these routes. An overall assessment was given of the bicycle//pedestrian trail along with the recommended routes. She further comments to say that the Sprocket Society is working towards the placement of bicycle racks. Other issues such as maintaining sidewalks to ensure safety for both the bicycler and the walker were discussed along with surface repairs. She updates Council of the opportunities for grant funding and the importance of the City being able to maintain the upkeep of the recommended site locations. She notes that the programs would not only facilitate the bicyclers, but the walkers as well; which ultimately benefits the local community and its tourists. Feedback and comments came from the audience with regard to the clearing of sidewalks in the winter as well as the clearing of brush that overhangs into the sidewalk. A copy of the final report/survey will be available to the City for consideration of the program and alternative resources for funding can be explored. The City Manager appreciates the work put into the assessment and comments to say that he, too, is looking at these problem areas.

Council President thanks WCCOG for bringing the presentation to us and providing us with the knowledge of awareness with regard to the programs out there.

Council President asks for a moment of silence for those that lost their lives in 9/11.

(Ref. #WS700100)

III. ORPC - Glenn Marquis

Council President addresses the representative from ORPC and turns this portion of the meeting over to him. *John Furland* introduces himself to the Council as Vice President of Project Development with Ocean Renewable Power Company. He gives recognition the attendance of his colleagues; Jamie Mitchell, Glenn Marquis, and Bob Lewis. He continues on to say they are here this evening to give a report to the Council of their projects and to also extend this to the community as well. In addition, he thanks the City Council as well as the City itself for allowing them to do business here and are appreciative of the guidance, direction, and help they receive from the entire community and all facets of people and that it is an integral part of what they do. They have been able to provide a great deal of information with regard to the marine environment and how it affects tidal power project as well as learning of the ocean locally in addition to the scientific and environmental measures also. He updates Council that they have been able to host people from all around the world and that they have a visiting delegation coming from Japan next week and will be hosting them and that Council will be receiving an invitation to join them.

Glenn Marquis with ORPC, the Project Development Manager, addresses the Council and gives the Council a status update of the projects and where they are headed in terms of priorities over the next year. He summarizes the statuses of the projects and the milestones reached. He closes by offering up a copy of the report/update presented at this evening's meeting. A question and answer period took place.

IV. PUBLIC HEARING(S)

Zoning Ordinance Amendment - Sections 3.5.4, 7.7.6, 7.7.7, 8.2.4.2, 8.2.4.5.1, & 8.2.4.6.3

Council President opens the public hearing at 6:48 p.m.

Robert Scott addresses the Council and explains that this public hearing is to consider the raising of fees from \$25.00 to \$75.00 which will help defray the costs of publication as well as postage to abutters. His research has found that an ad generally runs between \$30 & \$35 and the cost of postage is \$9.00. He comments further to say that Lubec charges by the hour, per person. Booth Bay Harbor charges \$50.00 for the Board of Appeals; St. George charges \$200.00 for the Planning Board; \$150.00 for the Board of Appeals; and Saco does the same.

Council President calls for any other questions or comments. There were none.

Council President declares public hearing closed at 6:49 p.m.

Dangerous Property/Building - 181 Water Street/Tax Map #H7-0C-07/Sabean Property

Council President opens the public hearing at 6:50 p.m.

Mr. Sabean addresses the Council. He comments to say that this has been a long standing problem in that the house is being undermined because of a 50-70 year old culvert. All the water that comes down goes into the two catch basins in front of the house and nothing comes out towards Beardsley. The house is sinking. He can fix the house but doesn't know how to fix the water damage. Council informs him that many efforts have been made to reach him with regard to the loose siding and the safety issue it poses. Mr. Sabean responds to say that he is unable to get to the mail for the certified mailers as the post office is closed when he gets off work and that the most recent delivery of notice was done through the Sherriff's Department the day of the meeting.

Discussion took place between Mr. Sabean and Council as to what he is willing to do to correct the problem. Council asks if he is willing to meet with the City Manager tomorrow morning to discuss a resolution and work on a plan to stabilize the exterior of the building. Council provides Mr. Sabean with Mr. Post's phone number at City Hall and also informs him that he is available at 7:00 a.m. The City Manager reassures Mr. Sabean and the Council that he will be available to meet with Mr. Sabean the morning of September 12th.

Council President asks if there are any further questions or comments. There were none.

Council President declares the hearing closed at 7:02 p.m.

Amendment to Personnel Policy

Council President opens the public hearing at 7:03 p.m.

The City Manager reminds Council that the purpose of the hearing is to consider an amendment to the Personnel Policy under Retirement. Presently, the City has individual IRA accounts and the City matches up to 3% of the employee's contribution. He is proposing that it should read as follows under Section IX. EMPLOYEE BENEFITS A. Retirement System of the policy.
The City shall provide full and regular part-time employees with participation in a retirement plan with a carrier of the City's choice. The City shall pay 3% of salary, which may be increased by Council, on regular wages (excluding overtime) with employees having an opportunity to contribute up to 15% of salary into the plan. The employee is vested 20% per year worked and 100% at five years of employment.

City Manager asks the Council to consider VALIC as the carrier of choice when they vote on this matter.

A question came from the audience whether or not this is currently funded and in the budget. The City Manager responded that it was.

Council President calls for any further questions or comments. There were none.

Council President declares the Public Hearing closed at 7:04 p.m.

Bow Ordinance

Council President declares the Public Hearing open at 7:09 p.m.

Officer Rodney Merritt addresses the Council and updates them that he has met with the Assistant Commissioner of Inland Fisheries & Wildlife as well as the local Game Warden; Washington County Sargeant; the Lieutenant of Eastern Maine; and the Biologist. They have reviewed the proposed ordinance and feel that it would be in the City's best interest to move forward with it and that it addressed the safety issues. Officer Merritt reassured them that we did not want to regulate the deer and that we understood that this is the responsibility of the biologist and that our concern is safety within the community. They are 100% supportive and have reviewed the ordinance thoroughly and agree that this would cover the City for this hunting season until something is passed through legislation. Hunting will remain the same this implementation of safety puts us in line with what the State is preparing for legislation and this will protect us during the hunting season until such time that the legislation has passed. A question came from the audience relative to enforcement of the ordinance and it was confirmed that it would be the Eastport Police Department as is any City ordinance. Another question comes from the audience where there is a deer/hunter issue as to whether the Maine State Warden is to be called, officer Merritt responded that it is not required. Another question comes from the audience about this ordinance increasing the safety measures for children whether they are playing outside at school or at home and the response was positively.

Council President calls for any further questions or comments. There were none.

Council President declared the Public Hearing closed.

V. ACTION PUBLIC HEARING(S) - *if applicable*

Zoning Ordinance Amendement

MOTION CUMMINGS SECOND DANA-CUMMINGS
To approve a Zoning Ordinance Amendement for an increase in fee to \$75.00.

PASSED 5-0

Dangerous Property/Buildng - 181 Water Street/Tax Map #H7-0C4-07/Sabean Property

MOTION MURPHY SECOND EMERY

To authorize the City Manager to meet with Richard Sabean to come up with a plan to stabilize the property to address and resolve the safety concerns and that he report back to Council at the next regular meeting with the understanding that Council has the option to *reopen* the Public Hearing at the next meeting to take action, should it be necessary.

PASSED 5-0

Amendment to Personnel Policy

MOTION CUMMINGS SECOND EMERY

To approve and amend the Personnel Policy/Ordinance under SECTION IX. EMPLOYEE BENEFITS (A) to read as follows: *The City shall provide full and regular part-time employees with participation in a retirement plan with a carrier of the City's choice. The City shall pay 3% of salary, which may be increased by Council, on regular wages (excluding overtime) with employees having an opportunity to contribute up to 15% of salary into the plan. The employee is vested 20% per year worked and 100% at five years of employment.*

PASSED 5-0

Bow Ordinance

MOTION CUMMINGS SECOND MURPHY

To approve the Bow Ordinance as written and submitted.

PASSED 5-0

VI. ADJUSTMENTS TO AGENDA

MOTION MURPHY SECOND EMERY

To adjust agenda to add "Boat Ramp" under New Busines as Item #8.

PASSED 5-0

VII. MINUTES OF PREVIOUS MEETINGS(S) - 8/14/2013

MOTION MURPHY SECOND EMERY

To table the minutes of August 14, 2013 until the next Council meeting.

PASSED 5-0

VIII. UNFINISHED BUSINESS - NONE

IX. NEW BUSINESS

1) PERPETUAL CARE LOT - HILLSIDE WEST, SECTION E-NEW LOTS, #7A,B,&C (for William & Diana Boone)

MOTION MURPHY SECOND EMERY
To accept perpetual care for William & Daina Boone in the amount of \$750.00 as Presented for lots #7A,B,& C, Section E-New Lots, in Hillside West.

PASSED 5-0

2) CHAMBER KIOSK

Mike Morse from the audience updates the Council that they are working on a design for a kiosk in the downtown area.

3) APPLICATION of SEWER PAYMENTS

MOTION CUMMINGS SECOND MURPHY
To approve the application of Sewer payments to delinquent or outstanding Sewer charges, effective immediately.

PASSED 5-0

4) AWARD SAND BID

MOTION CUMMINGS SECOND EMERY
To accept and award the sand bid to *Hallowell Construction* in Pembroke at *\$10.85 a yard*.

5) AWARD PUMP STATION BID

MOTION MURPHY SECOND CUMMINGS
To award the Sewer bid for the upgrade to pump stations to *APEX Construction* of Rochester, NH in the amount of *\$628,700.00*.

PASSED 5-0

6) TRIAL EXTENSION & GRANT

MOTION MURPHY SECOND EMERY
To authorize the City Manager to proceed forward and work on a potential Trail Extension Grant.

PASSED 4-1 (CUMMINGS – “NO”)

7) **23-24 MITCHELL STREET**

MOTION MURPHY SECOND CUMMINGS
To authorize the City Manager to put 23-24 Mitchell Street back out to bid.

PASSED 5-0

8) **BOAT RAMP**

MOTION CUMMINGS SECOND DANA-CUMMINGS
To pursue collaboration with the Port Authority to work on the new boat ramp on Broad Cove Road.

PASSED 4-1 (MURPHY “NO”)

X. **SCHEDULING of PUBLIC HEARING(S) - if applicable**

MOTION CUMMINGS SECOND DANA-CUMMINGS
To approve the scheduling of the following public hearings as listed below:
Liquor License Application (N) requested by Pamela Francis (32 Water) for 10/9/13
Special Entertainment License (N) requested by Pamela Francis (32 Water) for 10/9/13
Victualer License (N) requested by Pamela Francis (32 Water) for 10/9/13
Liquor License(R) – Robert DelPapa/Sweet Dough d/b/a WACO Diner for 10/9/13
Liquor License(R) – Tyra Baker d/b/a Liberty Cafe for 10/9/13
Special Entertainment License(R) – Tyra Baker d/b/a Liberty Cafe for 10/9/13
Zoning Ordinance Amendment(#1) – Change to Ordinance – Re: Wording for 10/9/13
Zoning Ordinance Amendment(#2) – Addition of Maps & Appendices for 10/9/13

PASSED 5-0

“Proposed” Charter Amendments

Council President updates Council and the audience that MMA has stressed and Emphasized the importance of the City’s legal counsel participation and involvement Through this process. Charter Committee member, Jan Finley, addresses Council and Reassures that there are no issues with the wording and feels confident that the review of these changes will be accurate. She further comments to say that because of the time restraints, it may be in the City’s interest to wait and hold a referendum on it in June, 2014. Ms. Finley informs Council that she will forward a copy of the “*proposed*” Amendments to the City’s legal counsel, Dennis Mahar, as well as the Council. A Question came from the audience with regard to public review of the proposed amendments. The Council President responded to say that it would be prior to the Public Hearing.

XI. REPORTS

1) City Manager

Larry Post submits and reads his report as submitted.

Councilor Cummings asks for clarification of whom is administering the EDA grant for the mill building. The City Manager confirms that it is being administered by the County.

Councilor Dana-Cummings addresses the City Manager and asks if the City is currently reviewing options to being able to do motor vehicle registrations online. The City Manager responds “not presently” but that he will look into that to be sure that the City would not loose the excise. He also comments that the City is looking into accepting credit cards. He continues to say that there are 2-3 vendors in the State but needs clarification of the charge to the customer as well as the City.

MOTION MURPHY SECOND CUMMINGS
To accept the City Manager’s report as given.

PASSED 5-0

2) Departments

- A) Financial Report
- B) Code Enforcement Report
- C) Police Department Report
- D) Public Works Report
- E) Sewer Report

MOTION MURPHY SECOND EMERY
To accept the Department Reports (Financial Report, Code Enforcement Report, Police Department Report, Public Works Report, and the Sewer Report) for August, 2013 as submitted.

PASSED 5-0

3) Boards & Committees

- Planning Board - They will be addressing zoning issues
- Zoning Board - They have held (2) public hearings
- Historic Review Board - NO REPORT

- Airport - NO REPORT
- Harbor - NO REPORT
- Downtown - NO REPORT
- Charter Committee - Already Covered Previously
- Port Report - NO REPORT
- Energy Committee - Jon Calame updates Council of the heating costs of the City's municipal buildings
- Ordinance Review Comm - Forwarded Zoning Ordinance Changes
- Dog Park Committee - Mr. Reece updates that they are presently communicating with an organization that has opened discussion to a multi-use park
- Eastport Recreational Marine Facilities Committee - NO REPORT
- Recycling Committee - City Manager is exploring options

MOTION MURPHY SECOND EMERY
 To accept the Boards and Committee reports as given.

4) Council

A) Ambulance

Councilor Murphy updates the Council that they have just purchased (3) ambulances from the former facility in Camden one of which will remain in Eastport. They continue to move ahead with the re-financing and are still waiting on Lubec and the County. He continues further to say that the 6 liter vehicles were replaced with the Camden ones and they are in hopes to sell them and utilized that revenue towards accounts payable or another truck.

B) Marion Transfer Station - Already covered by the City Manager

MOTION CUMMINGS SECOND EMERY
 To accept the Ambulance Report and Marion Transfer Station report as given.

PASSED 5-0

XII. PUBLIC FORUM (Will be held at 8:00 p.m. when meetings extend beyond)

Meg McGarvey thanks the Council and the City for their participation, support, and help with their efforts to assist in the event of the Salmon Festival.

Jon McNerney addresses the Council with an issue of the Police Chief taking the cruiser back and forth to his home, which is in Perry and is outside the City limits. He feels that the City should not be funding this. Councilor Cummings responds that the former Police Chief lived in Edmunds and that was granted to him. Councilor Murphy reminds Council that the Police Chief is always on call. The City Manager informs Council that the Police Chief did come to him prior to making his personal move to discuss this matter and gave his blessing and authorized it. Councilor Cummings expresses his support. Jon McNerney expresses to the Council that he is not in agreement with this decision. Councilor Murphy and Council President both are in agreement with the City Manager's decision and feel that it has been handled properly. Jon Calame further comments to say that it is certainly a fair question but because it has always been permitted or given its blessing; doesn't validate it and expresses that it should be discussed rationally rather than be dismissive of Mr. McNerney's point. Council President reminds everyone that this would be interference of administration as outlined in the City Charter. Council President recommends that Mr. McNerney schedule to meet with the City Manager to discuss this further.

A question comes from the audience with regard to the "Morrison" dock and notes that they did put a fence around the property but comments that it is not structurally sound and even though they put a fence up people still venture out on it. The concern too is that people do not see the underpinnings of the dock and its deterioration which is a safety issue. The City Manager informs Council that he will address this with Mr. Morrison when he meets with him.

Mr. Weston from the audience asks the Council's position with regard to the proposal that was given earlier to the bicycle/pedestrian presentation. Council President comments that they will need more information but that they will be receiving a final report of the study and will give this consideration prior to making any decisions.

A member from the audience speaks in support of Mr. Morrison's dock and hopes that Council will give him every consideration to repair the iconic structure as it is one of the last things from the old Port that symbolizes the old fishing community and their buildings. Council President reminds that it is a safety issue.

Jan Finley addresses the Council and asks for an update of the storm drainage issue on Capen Avenue and Water as we are coming into storm season. City Manager asks Ms. Finley to meet with him to discuss this matter further. Another comment comes from the audience that sidewalks help divert water.

A question comes from the audience with regard to the status of the "proposed" charter amendments. Jan Finley responds that they are done but that they need to be reviewed by legal counsel before they move forward with the scheduling of a public hearing. Council President comments to say that they will have it out to the public and available for review at least one week prior to the public hearing and that it will also be on the website as well.

XIII. COUNCIL ISSUES - THERE WERE NONE

(Ref. #WS700100 & WS700101)

XIV. EXECUTIVE SESSION *(if applicable)*

MOTION DANA-CUMMINGS SECOND CUMMINGS

To go into Executive Session for Personnel Matters under Title 1 M.R.S.A. § 405(6)(A); for Real Property or Economic Development under Title 1 M.R.S.A. § 405(6)(C); for Consultation w/Legal Counsel under Title 1 M.R.S.A. 405(6)(E); and for Poverty Abatement Application under Title 36 M.R.S.A. § 841.

PASSED 5-0 TIME:8:47 P.M.

(Ref. #WS700102)

MOTION MURPHY SECOND EMERY

To come out of Executive Session.

PASSED 5-0

XV. ACTION ON EXECUTIVE SESSION *(if applicable)*

MOTION CUMMINGS SECOND EMERY

To authorize the City Manager, Larry Post, to generate the appropriate paperwork for ORPC’s rent to reflect a monthly payment of **\$2,000.00** in addition to payment of the heat, plus half the light bill; plus half the water bill; and should there be a Sewer bill – this would be half as well to be effective immediately for a period of one year.

PASSED 5-0

XVI. ADJOURN

MOTION MURPHY SECOND EMERY

To adjourn.

PASSED 5-0 (TIME: 9:26 P.M.)