

EASTPORT CITY COUNCIL

CITY COUNCIL MEETING

**WEDNESDAY, FEBRUARY 12th, 2014
6:00 P.M. - SHEAD HIGH SCHOOL - LIBRARY**

I. CALL TO ORDER

Council President, Mary Repole, called the meeting to order at 6:00 p.m.

Those present were: Councilor Colleen Dana-Cummings, Councilor Scott Emery, Councilor Gilbert Murphy, Councilor Rocky Archer, and Council President, Mary Repole. Also present were: City Manager, Larry Post; and City Clerk, Ella Kowal.

II. PUBLIC HEARING(S)

**EASTPORT CITY COUNCIL
PUBLIC HEARING
ZONING ORDINANCE AMENDMENT
(7 INDIAN ROAD)**

The hearing was called to order at 6:01 p.m. Those present: Councilor Colleen Dana-Cummings, Councilor Scott Emery, Councilor Gilbert Murphy, Councilor Rocky Archer, and Council President, Mary Repole. Also in attendance was City Manager, Larry Post; as well as City Clerk, Ella Kowal.

Council President, Mary Repole, advises that this hearing is being held to receive public input relative to a *zoning ordinance amendment* for **7 Indian Road**.

Council President opens the floor and addresses the Tax Assessor and Code Enforcement Office, Robert Scott for a briefing of this change. He informs Council that it is presently zoned industrial and that is surrounded by rural residential which is what they are requesting the change for. He notes that there is one other parcel below it that is zoned industrial which is about 3-1/2 acres and that there are two other parcels on the other end of Indian Road down by the causeway. The Council President asked if there were any responses from the abutters and he said there was not; but that there was a letter from the

current owner to the Planning Board saying that he was for it. Mr. Scott further comments to say that it is recommended for approval by the Planning Board to change it from industrial to *rural residential*. It is Mr. Scott's understanding that if the zoning were to be changed, Walt Juranty has an interest in buying it. She then asks for comments or questions from the Council as well as input from the public. There were none.

Council President, Mary Repole, declared the hearing closed at 6:02 p.m.

**EASTPORT CITY COUNCIL
PUBLIC HEARING
“NEW” PERSONNEL ORDINANCE for CITY EMPLOYEES**

The hearing was called to order at 6:03 p.m. Those present: Councilor Colleen Dana-Cummings, Councilor Scott Emery, Councilor Gilbert Murphy, Councilor Rocky Archer, and Council President, Mary Repole. Also in attendance was City Manager, Larry Post; as well as City Clerk, Ella Kowal.

Council President, Mary Repole, advises that this hearing is being held to receive public input relative to a “*New*” Personnel Ordinance for City Employees

She addresses the City Manager and asks him to update Council in this regard. He comments to say that Council has requested two changes one of which they have already received being on the sick leave and the other one is one that has to be made as it is in State statute and that is there will be “*no smoking*” in buildings or vehicles. He also notes that he has put forth questions to the City's legal attorney about overtime. Dennis Mahar, the City's legal counsel responds to say that the language looks clear to him that the City intends to pay holiday time only *after* the regular forty hours that the employee would work. He continues to say that the other question is a bit more complication as it has to do with drug testing policies and one of the things that must occur with that is that it has to be approved by the Department of Labor. He continues to say that he is awaiting information of Federal Regulations that would be applicable to other drivers. Council President asks if this would need to include volunteers at the airport. He responded to say that it would as they are using City owned property. He also comments on insurance and fringe benefits in that the draft said 32 hours and it is now 30 hours. The Council President asks the City Manager if the Police Department was added and he responded that it was.

Jon McNerney asks if the *no smoking policy* would cross over and apply to City owned/City occupied property and questions the language in the draft of the new policy. Councilor Archer responded to say that he believed this applied to City employees. Council President asks legal counsel to check the State law on this matter and to also clarify that it means *all* tobacco products.

Councilor Archer has a question with regard to the overtime and asks to go back to that for clarification. Legal Counsel, Dennis Mahar, explains that the question posed to him by the City Manager was whether or not the City paid overtime if someone got called out on Christmas whether they were already essentially getting paid for that anyway and the answer to that was “no” unless it was already above their 40 hours. The City Manager confirms that this was not the issue and that it was that the City is paying straight time for holiday pay and that the employee doesn’t use that time they are not working as overtime or as time that is considered for work. In other words, Monday you have a holiday; on Tuesday through Friday the employee works 8 hours (32+8=40). The employee would not get overtime for the hours they did not work. The City Manager and Legal Counsel will check on the wording of the language.

Jon McNerney from the audience asks for clarification that overtime does not happen until you have worked the 40 hours. Legal Counsel responds that it goes by the standard work week rather than days.

Councilor Archer asks a question that when the City does enact or implement this new ordinance will the employee be able to carry over what they already have accumulated and not be wiped clean. The City Manager explains that everyone will stop as of “d-day” and if one should have 42 hours of sick leave time; then you will have that 42 hours and once an employee has been with the City for 10 years and get done as the same of the current policy; that 42 hours will go with the employee and will not accumulate any further going forward. In other words, an employee would take with them what they have accumulated now to still have when they get done after 10 years, which is the current policy. The City Manager explains that this is capped, but that it is accumulated for sick time but not for buyout when an employee leaves. Councilor Archer just didn’t want to see them lose what was already accumulated.

Councilor Archer also asks a question about the workshop on the new personnel ordinance and recalls that it was spoke of that accumulation of sick and vacation time would take place while on probation. The City Manager responds that vacation time would be accumulated but that it could not be used. As for sick time, there is one day a month that can be used. Legal Counsel comments to say that if you are not accumulating it, there is a much short probationary period. Council Archer expressed that he feels Council should hold another workshop. The City Manager responds that there will not be another workshop and the Council President responded that it will be presented after it is completed and then come up for a vote by Council.

Councilor Dana-Cummings asks if this is being approved today, Legal Counsel, reminds Council that this is the public hearing but it does not mean that they have to approve it today. The City Manager reminds Council that it will come back to Council after the City’s attorney has come back with clarification of the issues raised at tonight’s meeting.

She then asks for any further comments or questions from the Council as well as input from the public. There were none.

Council President, Mary Repole, declared the hearing closed at 6:16 p.m.

III. “ACTION” on PUBLIC HEARING(s)

MOTION DANA-CUMMINGS SECOND ARCHER
To *approve* the *Zoning Ordinance Amendment* as recommended by the Planning Board to change **7 Indian Road** from Industrial to *Rural Residential*.

PASSED 5-0

MOTION MURPHY SECOND DANA-CUMMINGS
To table the “*New*” Personnel Ordinance.

PASSED 5-0

IV. OPEN PUBLIC FORUM

Richard Quint, Public Works Supervisor, addresses the Council and comments to say that Councilor Archer should remove his hat out of respect.

Jon McNerney from the audience addresses the Council and comments on behalf of hearing of a situation in the City, that somewhere outside of the chain of the City Manager, that someone is trying to influence the hiring and firing practices. He further comments that he is hearing some pretty ragged language that is being used at City Hall in describing people. He requests that the City Council look into this matter and take appropriate action. However, should he be hearing wrong; he asks to be informed of this too. Council President recommends that he discuss this matter with the City Manager.

Council President makes the last call for open forum and there were none.

V. ADJUSTMENTS TO AGENDA (*if applicable*)

MOTION MURPHY SECOND ARCHER
To *adjust the agenda and to add* to Item IX (the Scheduling of Public Hearings), the scheduling of public hearings for Basil Pottle d/b/a Seaview Campground on the *renewal* of a Liquor License application and a Special Entertainment License.

PASSED 5-0

VI. MINUTES OF PREVIOUS MEETING(S) – 1/8/2014

MOTION MURPHY SECOND EMERY

To *table* the minutes of **January 8th, 2014** until the next meeting at the request of the City Clerk.

PASSED 5-0

VII. UNFINISHED BUSINESS - NONE

VIII. NEW BUSINESS

1) Opening & Award of Bid for the Sale of 1968 Fire Truck

Bid openings were as follows:

Charles Curtis (\$320); Michael Kilby (\$505); & Keith Hallowell (\$1,063)

MOTION MURPHY SECOND EMERY

To *accept and award* the bid for the sale of the Chevrolet 1968 Fire Truck to **Keith Hallowell** in the amount of **\$1,063.00**.

PASSED 5-0

2) Opening & Award of Bid – 23-24 Mitchell Street (Tax Map #H7-0C3-8B & H7-0C3-08/8A)

The City Manager updates Council that the City did not receive any bids.

The City Clerk addresses the City Manager and the Council as to whether or not they will be putting this back out to bid and for advertisement.

Council was informed that this is the third time around and that the minimum was \$5,000 and that the amount due for Taxes and Sewer was \$6,500.

Roger Segien from the audience addresses the Council on behalf of his daughter, Sarah Segien, in that she initially submitted a bid for 40 Sullivan Street but should she not get it; would the Council consider accepting them putting \$4,000 down on 23-24 Mitchell Street and ask for an additional 60 days to meet the difference of the minimum bid where there were no bids received at all.

MOTION MURPHY SECOND ARCHER

To table Item #2 under VIII New Business.

PASSED 5-0

4) **Opening & Award of Bid – 40 Sullivan Street (Tax Map #I7-0B2-11)**

Bid openings were as follows:

Sarah Segien Bid of (\$4,010) With Deposit of \$401

David Sweeney Bid of (\$6,710) With Deposit of \$672

Will Bradbury Bid of (\$3,702) With Deposit of \$380

Chris Gardner Bid of (\$5,890) With Deposit of \$589

MOTION MURPHY SECOND DANA-CUMMINGS
To accept and award the bid for the sale of **40 Sullivan Street** to **David Sweeney** for an amount of **\$6,710.00**.

PASSED 5-0

4) **Opening & Award of Bid – 1 Byrd Street (Tax Map #E3-0A1-02)**

The City Manager informs Council that there were no bids received.

MOTION ARCHER SECOND DANA-CUMMINGS
To table until Spring.

PASSED 5-0

Council President goes back to the 23-24 Mitchell Street property and addresses Legal Counsel. He recaps that the City did advertise and received no bids. We have met our obligation and now have received an offer which meets the minimum bid requirement but not the *time frame*. He reminds Council that the City's Charter specifies that the Council reserves the right to accept or reject any offers and that there should be no legal issues.

Roger Segien clarifies that his daughter would have the balance of the \$4,000 within 30 days and the remainder of \$1,000 within 60 days.

MOTION MURPHY SECOND EMERY
To rescind the motion to table Item #2 under New Business.

PASSED 5-0

Council President asks that Sarah Segien provide the Council with something in writing before the end of the meeting with regard to her offer for 23-24 Mitchell Street.

MOTION MURPHY SECOND DANA-CUMMINGS
To *accept* the offer of **\$5,000.00** for the sale of **23-24 Mitchell Street** with a deposit of \$401.00 and *award* the bid to Sarah Segien with the understanding that \$4,000.00 is to be paid within 30 days and the remaining balance of \$1,000.00 to be paid within 60 days or sooner.

PASSED 5-0

Denise Cassidy addresses the Council in that they may want to consider putting the City's tax sales on the website.

5) Tax Acquired Property – 2 Byram Street (Tax Map #I7-0C2-17 & I7-0C2-22A)

City Clerk informs Council that information has come about where it requires the Council take this matter up in Executive Session.

6) Waiver on Sewer Fee for Port Authority's New Office Building

The City Manager informs Council that the Port Director was unable to attend tonight's meeting and briefs the Council with regard to the Port's new project of the purchase of a building to house the Port Authority offices as well as the Chamber of Commerce and to also implement public bathrooms and that the request has come forth for consideration to waive the sewer fee for the new building.

Jon McNerney from the audience addresses the Council in that he has been following the public bathrooms for the last two years and would like to know more of what the Chamber of Commerce has to offer in the way of financial support and would also like a clearer definition of what they say is to be the *public benefit* as well as the cost of the operation and where that will be coming from. Questions came with regard to concerns of the Chamber's participation. Councilor Murphy comments to say that whether the Chamber is part of this or not, the City is in need of public restrooms. He further reminds everyone that the request is a waiver of the Sewer fee not for the cleaning or maintenance of the public bathrooms. Mr. McNerney expresses that he would like to see some type of a plan. Council President notes that she understands the concern of these matters, but the issue at hand is for the waiver of the Sewer fee.

Councilor Dana-Cummings asks that should they decide to do this, could they put two water meters in the building and have one for public bathrooms and the other one for the Port so that the only fee being waived is for the public bathroom portion.

Council President reminds Council that the Port is providing the City with a great deal of help i.e. up to \$1 million dollars of expense to the breakwater and looking in to helping with the boat school possibly. She has no issues with offering this to the Port. The City will have no other responsibilities to this other than the waiver of the Sewer fee.

Councilor Dana-Cummings expresses her concern that today this is their only request and down the road it may be something else.

Councilor Archer expresses his concern of how the City is going to be looked upon for the placement of liens for taxpayers property when we are giving it to the Port for free.

MOTION MURPHY SECOND EMERY
To waive the Sewer fee for the new office building for the *public bathrooms* as long they are utilized for public use.

Councilor Dana Cummings is willing to support it if they put in two separate water meters.

Councilor Murphy expresses that it is not up to the Council to tell him what to do.

PASSED 5-0

7) “Draft” Budget Presentation - FY2015

The City Manager addresses the Council and comments to say that the budget he is presenting this evening is the beginning of the process and that it is in *draft* form. It will next go to the Budget Committee and they will hold their meetings which probably will not take place sometime until near the end of March as we don’t anticipate to have a school budget towards the middle or the end of May. He continues forward by reviewing the line items of the draft budget in comparison of the last few years. To date, we are still unsure of the Revenue Sharing but hopeful. Another area of concern is the impact of the School Budget and the State reimbursement We’re hoping to keep the same tax rate but uncertain of this until we receive the figures. He goes over the expenditure summaries. Overall, he is proposing a Municipal Budget of \$1,958,791. He makes reference that the County Tax went from \$196,000 to \$201,000. He may propose in this budget to have the Sewer Budget pay back money that was given by

the City out of the Economic Development fund for a match for the Sewer grant. In the budget is Revenue from the Sewer account and \$75,000 has been put in to reduce taxes or to use as a Revenue so that the tax rate does not go up as opposed to putting it back into the Economic Development fund. Unfortunately, it has been discovered that Revenue has been put in twice over the last few years. He has just begin on the 5-year Capital Improvement Plan and it still needs to be looked at in more detail.

IX. “SCHEDULING” of PUBLIC HEARING(S) - *if applicable*

MOTION MURPHY SECOND ARCHER
To schedule public hearings for **March 12, 2014** for the *renewal* of Liquor License applications and the *renewal* of Special Entertainment Licenses for Al & Linda Salleroli d/b/a Rose Garden and Basil Pottle d/b/a Seaview Campground.

PASSED 5-0

X. REPORTS

1. City Manager

The City Manager addresses Council and highlights that work is still ongoing on the Personnel Ordinance and the FY2015 Budget. He further comments to say that the City received word that we have received a \$90,000 SHIP grant. He also updates Council that he has been communicating with Todd Coffin and Brian Beneski and that they have requested to address Council at their next meeting with regard to a Landfill Feasibility Study. He continues further to say that the City is now accepting credit card payments. He informs Council that the boiler at the Public Works garage needed to be replaced and that the City and the Port worked together and that the Port supplied the labor and the boiler was purchased at a wholesale rate, which resulted in a significant cost savings. He notes that he attended the hearing in August on Revenue Sharing. He further comments to say that work is ongoing at the mill. Audit work and review is ongoing. Work on the pump stations is ongoing and it is anticipated that this will be wrapped up sometime next month. They are preparing to put out the bids for the next phase of the project which is the Quoddy Village station. The City is working through water issues that are being brought to our attention. He notes that the Code Enforcement Officer will update them on the violations with regard to Charlie Curtis and the matter of a junkyard issue. He touches on the conservation easement in that the airport committee proposed that we consider selling the property to the trust. After discussing this with Jack Reece, he went

MOTION MURPHY SECOND ARCHER
To accept the *Financial Report, Code Enforcement Report, Police Department Report, Public Works Report, and the Sewer Report* for **January, 2014** as presented and submitted.

PASSED 5-0

3. Boards & Committees

Planning Board (NO REPORT)

Zoning Board of Appeals – Workshop held on Survey for Home Occupancy

Historic Review Board (NO REPORT)

Airport (NO REPORT)

Harbor (NO REPORT)

Downtown (NO REPORT)

Charter Committee – Still moving forward will make a presentation to Council soon

Port Report - Council President notes forwarding report to Council

Energy Committee - Council President reviews a report of a proposed grant

MOTION MURPHY SECOND ARCHER
To authorize the Energy Committee to move forward with the submission of a grant in the amount of \$3,000.00 and that the City will be the administrator of the funds.

PASSED 5-0

Ordinance Review Committee (NO REPORT)

Park Committee - Already covered earlier in the meeting by the City Manager

Eastport Recreational Marine Facilities Committee (NO REPORT)

**Recycling Committee - Already covered earlier in the meeting by the City Manager
Jan Finley asks about the disposing of household batteries and the City Manager said that he would look into this and contact Lubec to see how they are handling this.**

Recreation Committee - Council President makes the request for the City Manager to put something in the paper to have parents come together with Regard to working with the City on the fix up of the Sullivan Street Park in the Spring with the contact person to be Jack Reece.

Council President updates that WCCOG informs the City that the SHIP grants are now annual. Councilor Dana-Cummings extends congratulations out to Elaine Abbott on her first grant on behalf of the City.

MOTION MURPHY SECOND EMERY
To accept the *Boards & Committees Reports* as submitted and presented.

PASSED 5-0

4. Council (Ambulance & Marion Transfer)

Councilor Murphy informs Council that they have met with the bank and that the paperwork is being drawn up for the refinancing. He also updates the Council that the ambulance has a preliminary report for the year end of December, 2013 with a profit of \$217,000.

Jon McNerney from the audience asks Councilor Murphy what their intent is with the old ambulances. Councilor Murphy responds that they are currently at the base in Woodland and that Audotronics of Bangor has expressed an interest to purchase them.

Councilor Dana-Cummings asks about the Line of Credit. Councilor Murphy responds that once the refinancing is complete, the Line of Credit of \$100,000.00 will be paid off. She further asks if all the towns are current with their stipends. Councilor Murphy responds that Eastport and Lubec pay monthly and that the other towns are annual payments. She asks if data for the next meeting could provide what is owed to the ambulance.

City Manager, Larry Post, updates Council with regard to Marion Transfer and informs that they recently met and are focusing on recycling options

MOTION DANA-CUMMINGS SECOND MURPHY
To accept the *Ambulance Report* presented and given by Councilor Murphy and the *Marion Transfer Report* presented and given by the City Manager, Larry Post.

PASSED 5-0

XI. COUNCIL ISSUES

Council President, Mary Repole, addressed the City Manager with regard to the timely issue of putting public hearing notices in the paper and the concern that not everyone is seeing them locally. The City Manager responded that it does not happen often but maybe once or twice a year and that when it does happen it usually is more a matter of when the paper comes out and that it may not always coincide with that schedule. However, that being said; he has spoken with Mr. French of the Quoddy Tides and they both feel that the City can move forward to work on this given the requirement of notice.

XII. EXECUTIVE SESSION *(if applicable)*

MOTION MURPHY SECOND ARCHER
To go into Executive Session under Title 1 M.R.S.A. § 405(6)(C) for Real Property or Economic Development matter; for Consultation with Legal Counsel under Title 1 M.R.S.A. § 405(6)(E); and also under Title 36 M.R.S.A. § 841 with regard to a poverty abatement application.

PASSED 5-0 (TIME: 7:45 P.M.)

MOTION MURPHY SECOND EMERY
To come out of Executive Session.

PASSED 5-0 (TIME: 8:05 P.M.)

XIII. ACTION FROM EXECUTIVE SESSION *(if any)*

MOTION MURPHY SECOND ARCHER
To approve an abatement of \$8,000.00 for Taxes and Sewer provided that the taxpayer has the financial means to make the payments hereon forward and that the City Manager will meet on this with the taxpayer to ensure that this is the case before proceeding with the abatement.

PASSED 5-0

MOTION MURPHY SECOND ARCHER
To have the City Manager continue forward with the foreclosure of property at 2 Byram Street.

PASSED 5-0

MOTION MURPHY SECOND EMERY
To deny the FOAA request of 1/20/2014 received from Jon McNerney
due to *attorney/client* privilege.

PASSED 5-0

XIV. ADJOURN

MOTION ARCHER SECOND MURPHY
To adjourn.

PASSED 5-0 (TIME: 8:15 P.M.)