

**EASTPORT CITY COUNCIL
CITY COUNCIL MEETING
WEDNESDAY, JUNE 11th, 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; Assistant City Manager, Elaine Abbott; and Legal Counsel, Dennis Mahar.

II. PUBLIC HEARING(S)

**“RENEWAL” of a SPECIAL ENTERTAINMENT LICENSE
for JEFF & LESLIE STARLING d/b/a HAPPY CRAB**

The public hearing was called to order at 6:01 p.m. The Council President explains that the purpose of the hearing is to receive public input relative to the renewal of a Special Entertainment License for the Happy Crab. She opens the floor for comments. There were none. Council President declared this hearing closed at 6:03 p.m.

ZONING ORDINANCE AMENDMENTS
as SUBMITTED BY THE PLANNING BOARD

The public hearing was called to order at 6:04 p.m. The Council President explains that the purpose of this hearing is to give consideration to five zoning ordinance amendments as submitted by the Planning and to receive public input on them. Council President asked if anyone from the Planning Board would be willing to go over the proposed amendments. Michael Morse from the audience and with the Planning Board obliged. He confirms that there are a total of five and that the first two was to amend the definition of the dwelling and another was to add a definition of occupancy permit. The next group are about signs. He first addresses the last one which addresses about non-conforming signs and its definition and further comments to say that if it exists at the time that any other ordinance is voted on, it is good and considered to be grandfathered. He continues to say the first one on the signs was to revise the definition of signs because as it stands right now it can only be on the outside of the building. Nothing else by definition is considered a sign so it was changed so that anything that could be seen from a public way would be considered a sign whether it was inside or outside of the window. The second change was to have a new ordinance to include a *window sign* which basically covers decals, printing, or painting applied to a window. Which ultimately a sign is a sign and intended to serve the same purpose and definition and meets all the specs and regulation requirements. The next one he addresses is for what they consider to be an open sign which really addresses non-flashing signs and made a provision for it to be two square feet. He addresses a question from the audience about non-permanent signs. He responds that if it is in the window more than thirty days, it is considered a sign.

Councilor Dana-Cummings addresses Mr. Morse for clarification that everyone that has a sign now is grandfathered. He responds that they are. She further asks should someone sell their business what happens then. He comments to say that if the building or the business is sold, the current ordinance *must* be met. She asks what other reasons would that change. He explains that someone could have a business in a building that one does not own. She asks specifically about a *name change*, he responds that's perfectly fine so long as the requirements of the current ordinance is met. Clarification was made that if it is to be the same business but a change of name and they changed the sign, they would have to conform given the district they were in. Councilor Dana-Cummings uses Bay City Garage as an example and asks if they sold it, the APEX sign would have to come down. Mr. Morse confirmed that it would. She asks for confirmation that the new owner would have a 4x8

sign. The Assessor responds to say that this would be the largest they could have. She then asks if she were to change brands if the sign would have to come down and the Assessor responds to say that this was his understanding. Mr. Morse comments to say that they hadn't changed ownership or the business. The Assessor states that he asked about this and was told that it would be a legally non-conforming sign and that it would have to change. Mr. Morse then responds to say that any substantial change to the sign that was *non-conforming*. Councilor Murphy then makes a comment that the businesses aren't really grandfathered if that is the case. The Assessor responds to say that they are *until* they sell or change the name. The Assessor reads as follows: "Normal maintenance and repairs are permitted but the sign shall not be altered, enlarged, or rebuilt." The Assessor comments that this was discussed at a Planning Board meeting and addressed this specifically and asked if the name were to change, they would have to conform. Legal Counsel, Dennis Mahar advises that prices are required by Federal Law.

Council President asks for any further questions or comments. There were none and declared the hearing closed at 6:09 p.m.

III. ACTION ON PUBLIC HEARING(S)

MOTION MURPHY SECOND EMERY

To authorize and approve the *renewal* of a Special Entertainment License for Jeff and Leslie Starling d/b/a Happy Crab.

PASSED 5-0

Councilor Murphy suggests that they vote on the *proposed* Zoning Ordinance Amendments separately.

MOTION MURPHY SECOND ARCHER

To deny the proposed definition of dwelling to the Zoning Ordinance as presented and submitted by the Planning Board.

DENIED 5-0 (ALL COUNCIL MEMBERS VOTED "NO")

Jan Finley from the audience addresses the Council and asked why they chose to deny this recommendation as it was only was a definition change of dwelling and its only purpose was for clarification of the ordinance. Councilor Murphy and other Council members responds that they do not see where it's been a problem and do not recall where it has been brought to them in the past as being one. Ms. Finley comments to say why would they come to Council and that it would come to the Planning Board or the Zoning Board. She then asks Mr. Morse how this came about. He responded that it mostly comes up when you have people living in substandard buildings and may not technically be a dwelling and further comments to say that most communities do have this.

MOTION MURPHY SECOND EMERY

To deny the proposed change relative to occupancy to the Zoning Ordinance as presented and submitted by the Planning Board.

DENIED 4-1 (ALL COUNCIL MEMBERS VOTED "NO" EXCEPT MURPHY)

Mr. Morse addresses the Council and informs them that members of the public came to them and requested that they better define what a sign was and that this is the purpose for these proposed amendments with regard to signs and that the Planning Board approved them unanimously.

MOTION ARCHER SECOND MURPHY

To deny the proposed zoning ordinance amendment to the existing definition of a sign as recommended by the Planning Board.

DENIED 3-2 (COUNCILOR ARCHER, DANA-CUMMINGS, & EMERY VOTING "NO")

MOTION MURPHY SECOND EMERY

To deny the proposed zoning ordinance amendment to the definition of a window sign as recommended by the Planning Board.

DENIED 3-2 (COUNCILOR ARCHER, DANA-CUMMINGS, & EMERY VOTING "NO")

Mr. Morse comments that this is to “allow” an open sign which does not currently exist. Councilor Dana-Cummings asks for clarification that this means they can blink and be lit. Mr. Morse confirms that they *cannot* blink or flash.

MOTION MURPHY SECOND EMERY

To deny the proposed zoning ordinance amendment to the definition of an exempted sign.

DENIED 3-2 (COUNCILOR ARCHER, DANA-CUMMINGS, & EMERY VOTING “NO”)

Mr. Morse addresses the Council and comments to say that this is just a protection. Jan Finlay from the audience addresses Councilor Dana-Cummings and suggests that she recuze herself as she has a conflict of interest and feels that a decision is being based on their business and not the whole community.

MOTION MURPHY SECOND ARCHER

To deny the proposed zoning ordinance amendment to add a new definition of non-conforming signs to the appropriate pages.

DENIED 4-1 (COUNCILOR ARCHER, DANA-CUMMINGS, EMERY, and MURPHY VOTING “NO”)

The City Manager, Larry Post, recommends that Council allow the Port Director, Chris Gardner to give his report at this time.

MOTION MURPHY SECOND EMERY

To adjust the agenda and permit the Port Director, Chris Gardner, to address the Council.

PASSED 5-0

Chris Gardner, Port Director, gives an update and explains that the mill's tonnage is down this year that is due to a number of reasons but the main one being a fire at the chipping plant. He also comments that the Port's tonnage is down due to the demands of the global needs being domestic rather than foreign. Budgeted corrections and adjustments will be addressed at the next meeting and anticipate looking at taking out somewhere between \$300,000 to \$500,000 out of Revenues for Port operations and err on the conservative side of things. He comments on being able to build up the reserves in the years past to help in matters such as these and their impact. It will hinder the Port's ability to take care of the breakwater and its rebuild in that they

will need to come up with \$2,000,000 to ensure that it will shield itself from the taxpayers and does not become their burden. He updates that the Port will begin to start export operations to Ireland with a target date of the end of July. He further comments to ongoing projects and speaks to Warehouse 3 (the newest warehouse being the fifth one) will be completed in the coming weeks. They are looking to an import deal that will utilize this warehouse space. He continues forward with an update to the other construction project at the head of the breakwater which will assist with public bathrooms as well as office space. Due to the weather and the rains, they are behind schedule. However, they are aggressive in that they hope to be back on schedule and are looking to have this project completed by September 1st. He closes with moving forward that they are entering their final agreement with Federal Marine Terminals which has been ongoing since 1991 with a series of 5-year extensions that have been negotiated into that. All of them were negotiated prior to his arrival, but this is the last 5-year extension that will be signed up on and runs through 2019. Although the Port and Federal Marine have proved to be great business partners, the Port's first obligation and responsibility is to the people of this community and has their best interests in mind. His final close is with a brief update on the breakwater project in that there are small stipulations to be met to bring them in compliance with the Federal government. With the time line of the Federal constraints, they are looking at being under construction by the end of this year and into the next. Their main goal is to have the least amount of impact to the users of the facility but also recognizing that the commercial fishermen come first as they are a huge part of the economy in the community. He ends by saying that they will do their very best to keep the inconvenience and displacement to a minimum. He opens the floor for questions and there were none.

IV. OPEN PUBLIC FORUM

Jan Finlay from the audience addresses the City Manager with regard what is going to be done about the deer population and that this has been ongoing for some time now with no results and the potential problem for deer ticks. He responds he will look into this further.

Council President makes the last call for comments or questions in Open Forum and there were none.

V. ADJUSTMENTS TO AGENDA

MOTION MURPHY SECOND EMERY

To adjust the agenda to schedule a workshop and a public hearing on the FY2015 Budget and to also schedule a public hearing on CDBG Grant for Facade Improvements under Item IX and to also add (h) – *VFW Building Proposals* to Item VIII under New Business.

PASSED 5-0

VI. MINUTES OF PREVIOUS MEETINGS(S) - 5/14/2014

MOTION MURPHY SECOND ARCHER

To table the minutes of May 14, 2014 as requested by the City Clerk.

PASSED 5-0

VII. UNFINISHED BUSINESS

Councilor Dana-Cummings addresses the Council with a request to the status of the sidewalk on Shackford Street. The City Manager responds that the City has had a conversation with the homeowner and that they have agreed to leave the trees if we prune them. Between Richard Camick and our Public Works crew, we anticipate to complete this by next month.

Councilor Dana-Cummings also asks for a status on the boat ramp project. The City Manager reminds her that he has been providing this in his weekly update to Council. She responds by saying that people have been asking her and she would prefer that he respond to this. He comments on the boat ramp that is known as MacNichol's wharf and further continues to say that we do not own the whole peninsula that is part of the wharf and continues on to say that we own a little bit into and up to it on the City side. Attempts were made to get a boat ramp grant in the amount of \$90,000 of which we would have to match. In addition, attempts have been ongoing to acquire the rest of the property which involves the City, the Tides Institute, and CPM Constructors. To date, we are not at a point where we have come to a resolution that works for all of us. Bottom line is that last Fall he was instructed to apply for the grant and we received the grant. Presently, the State is requiring that we get the ramp built within the time frame. He is still working on a land swap deal and it may be that we will be using what we have and making the best of it. Councilor Dana-Cummings asks if the grant is site specific. The City Manager responds that he believes that the City could negotiate with the State to do a change. She asks if we have pursued building it over on Broad Cove as an option. The City Manager responds that there may be an issue with the shallowness in that area and that we would have to build 800 feet long to accommodate.

Councilor Dana-Cummings also asks about the listing of the easements that was brought up at the previous meeting and also inquires of one in South End. Council President responds that she doesn't have a map but that she received a listing from the Assessor quite awhile ago from Robert but that it is really difficult to read. The Assessor comments to say that he been going down through the deeds for the City property and the streets as most of them we have are at the end of the street. Three of them are out on Clark Street right down to low water. Warren Street is down by the old Was factory by the Port Authority and that goes down to low water. Another reference he makes to low water is on Customs Street. Most of the locations being considered present issues with parking. Council makes a request of the Assessor to put together some type of mapping that is in correlation with the listing of easements.

Council President asks the City Manager to look into checking with Gerry Morrison with regard to the wharf downtown as she sees no activity relative to any work being done. The City Manager comments to say that he needs to speak with him on other matters and will address this also.

VIII. NEW BUSINESS

**a) Extension of Permit Application for Jeff & Leslie Starling d/b/a Happy Crab
(for July 4th and Pirate Days in September)**

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the extension of permit application for Jeff & Leslie Starling d/b/a Happy Crab as submitted.

PASSED 5-0

**b) Application for Coastal Communities Grant - \$50,000
(through the Maine Dept. of Agriculture and Conservation)**

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the submission of a grant application for a Coastal Communities Grant in the amount of \$50,000 to the Maine Department of Agriculture and Conservation with preference to storm water management and erosion control.

Assistant City Manager, Elaine Abbott, gives an update that locations such as the WACO, the Tides Institute were looked at but are out of the scope of the amount of money for what is being offered. Another area looked at was Customs Street down to Dawson and the recommendation is to give this location consideration. The grant would help to pay for engineering design work and some of the materials. She also notes that there is a 25% non-federal match. The City Manager informs Council that it does not pay for all of the manpower and that we would be looking at our crew and the possibility of the potential that it would be out of the scope of what we are able to do. That being said, they ask to move forward with the application. Council President asks if they would consider as matching in-kind and the City Manager confirms that they do.

PASSED 5-0

c) Fuel Tanks - Public Works

MOTION ARCHER SECOND MURPHY

To table this at this time and to request that the City Manager bring back to Council more information relative to the total cost related to the installation of diesel tanks.

PASSED 5-0

d) Project Development Phase for Workforce Development Funds - Millenium Marine

Assistant City Manager, Elaine Abbott, advises Council that the project is in Phase II and that the City is now required to sign the Federal documents as required for a CDBG grant.

e) Eastport Public Bicycling Program

Jon Calame addresses the Council and reminds them of the request brought forth to them at the April 9th meeting and asks if there are any questions of anyone. Jan Finley from the audience asks if there are any liability issues to the City should they implement such a program and with whom does the responsibility rely with. Council President comments that she raised this question to the City's Legal attorney. His response is that this matter is to be

taken up with the insurance company/broker if there is coverage or is there a rider. Council requested that the City Manager look into this. Councilor Dana-Cummings asks if this would conflict with the “no skateboards downtown” scenerio. Councilor Archer and the Assessor responds that the path of Water Street prohibits skateboards and bikes on Water Street, the Breakwater, and Overlook Park. Jon Calame responds that the map they are looking at is a recommended safe route for kids to get to school. The honor system of the availability of bikes are to encourage visitors and the locals to ride bikes and another source of being able to get around Eastport and the map is just another gesture to coincide with the program.

f) Award of Insurance Coverage for FY2015

The City Manager addresses the Council and reviews the two quotes received one from our current provider, Varney Agency and the second being with Maine Municipal Association and referencing that the underwriter, Glatfelter through the Varney Agency came in at \$42,401.00 with Maine Municipal Association coming in at \$34,377.00; a cost savings of \$8,024.00. Councilor Dana-Cummings raises a concern that we are not duplicating insurance coverage on the pier. The City Manager responds that in speaking with the Port, they are covering the liability and the City is covering the structure. Thus, it is his recommendation that we go with Maine Municipal Association for the City's insurance coverage.

MOTION MURPHY SECOND ARCHER

To enter into MMA Public Self-Funded Pool Contract Agreement and to authorize the City Manager to sign.

PASSED 5-0

g) FY2015 Budget

The City Manager provides Council with the City Manager's recommendation and the Budget Committee's recommendation and also notes that the Budget Committee requested that the School find the difference of \$103,000 and that this request has been brought forth to Jim Underwood. The City Manager reminds Council that they will need to set up a workshop and a public hearing. Council President asks if there are any comments or questions. Mr. McNerney asks if they will be addressing an increase. Council President responds to say that they have just received this and that they still need to hold a workshop before the Public Hearing.

h) VFW Building Proposals

The City Manager speaks to the property at 21 Middle Street at the corner of Middle and Key Street. He requests that we put it out to bid for the *purchase and renovation with the stipulation to be brought up to code with a specified time line* and to consult with Legal Counsel in this regard.

Comments come from the audience about the condition of the building. The Assessor responds that although it is not on the Historic Register that the new owner could apply for such a status.

MOTION DANA-CUMMINGS SECOND MURPHY

To request proposals for the purchase and renovation of the old VFW hall located at 21 Middle Street with the stipulation that it is to be renovated and brought up to code within a time line to be established.

PASSED 5-0

IX. SCHEDULING of PUBLIC HEARING(S)

1. Zoning Ordinance Change to Section 5.2.2 & 5.3.2

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the scheduling of a public hearing for July 9th, 2014 on a Zoning Ordinance Change to Section 5.2.2. and 5.3.2.

PASSED 5-0

2. Liquor License Application for the Salmon Festival

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the scheduling of a public hearing for July 9th, 2014 on a Liquor License application for the Salmon Festival.

PASSED 5-0

3. CDBG Micro Enterprise Facade Program

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the scheduling of a public hearing for July 9th, 2014 on a CDBG Micro Enterprise grant for the Facade Program.

PASSED 5-0

MOTION DANA-CUMMINGS SECOND ARCHER

To approve the scheduling of a Council Workshop for Tuesday, June 17th, 2014 at 6:00 p.m. on the FY2015 Budget.

PASSED 5-0

MOTION ARCHER SECOND MURPHY

To schedule a Public Hearing on the FY2015 Budget at the next City Council meeting of July 9th, 2014 at 6:00 p.m.

PASSED 5-0

Councilor Dana-Cummings asks the Charter Committee if the City is in compliance with the Charter with regard to the budget. They responded that it reflects by July 1st and the City Manager responds that there is no way with the 14-day notice and that they also need a vote from the School Board for their portion of the budget. The City will be in a better position next year to stay in compliance with the Charter on this.

X. REPORTS

1) CITY MANAGER

MOTION MURPHY SECOND EMERY

To accept the City Manager's report as presented and submitted.

PASSED 4-1 (COUNCILOR ARCHER VOTING "NO")

2. DEPARTMENT REPORTS

MOTION MURPHY SECOND DANA-CUMMINGS

To accept and approve the Financial Report, the Code Enforcement Report, the Police Department Report, the Public Works Report, and the Sewer Report for May, 2014 as submitted and presented.

PASSED 5-0

3. BOARDS & COMMITTEES

- Planning Board** - Mr. Morse gave a brief update
- Zoning Board of Appeals** - Ms. Finley gave an update to the review of the good neighbor policy
- Historic Review Board** - No report
- Airport** - No report
- Harbor** - No report
- Downtown** - No report
- Charter Committee** - Still working on the next round of Charter amendments
- Port Report** - Already covered earlier by the Port Director

- Energy Committee** - Jon Calame gave an update and results of heat audits
- Ordinance Rev Comm** - Working on another recommendation to the Planning Bd
- Park & Recreation Committee** - Mary Repole requests Council approval to purchase paint, two regular swings with the chains and the seats, two baby swings, a picnic table, two benches, a sign for the park itself, a no-smoking sign, enter at your own risk sign, and a sign with the park rules.
- Recycling Committee** - A brief update was presented and given
- Recreation Committee** - Already covered

MOTION MURPHY SECOND EMERY

To accept the *Boards & Committee* reports for May, 2014 as presented and submitted..

PASSED 5-0

4. Council (Ambulance & Marion Transfer)

MOTION EMERY SECOND ARCHER

To accept and approve the ambulance report as presented by Councilor Murphy and to also accept and approve the Marion Transfer update as given by the Councilor Murphy.

PASSED 5-0

XI. COUNCIL ISSUES

Councilor Murphy makes reference that select persons in Lubec and Calais are paid and maybe Eastport should consider putting it in the budget.

XII. EXECUTIVE SESSION (*if applicable*)

MOTION ARCHER SECOND EMERY

To go into Executive Session under Title 1 M.R.S.A. § 405(6)(A) to discuss a Personnel Matter which was the City Manager's evaluation.

PASSED 5-0 (TIME: 8:00 P.M.)

MOTION MURPHY SECOND EMERY

To come out of Executive Session.

PASSED 5-0 (TIME: 8:25 P.M.)

XIII ACTION from EXECUTIVE SESSION (if any) - NO ACTION TAKEN

XIV. ADJOURN

MOTION ARCHER SECOND MURPHY

To adjourn.

PASSED 5-0 (TIME: 8:27 P.M.)