

**EASTPORT CITY COUNCIL
CITY COUNCIL MEETING
WEDNESDAY, APRIL 9th, 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; City Clerk, Ella Kowal; and Legal Counsel, Dennis Mahar.

Audience Attendance: Lora Whelan, Meg McGarvey, Jeanne Peacock, Nan Milani, Victor Voisine, Nancy McKim, Mary Jane Summers, Mr. Weston, Jon Mc Nerney, Jan Finley, Judy Robinson, Richard Quint, Rodney Merritt, Lisa Merritt, John Sullivan, Wayne Wilcox, Kathy Lewis, Elaine Abbott, Kerry Jackson, Danny Waggoner, Marged Higginson, Heidi Parsloe, Bob DelPapa, Ed French, Greg Biss, Shelly Griffin, Richard Netzband, Bob Kennedy, Corey Guimond, Michael Morse, Cynthia Morse, Ken Brown, Denise Cassidy, Pamela Francis,

II. PUBLIC HEARING(S)

EASTPORT CITY COUNCIL
PUBLIC HEARINGS

“RENEWAL” OF VICTUALER LICENSES d/b/a as follows:

**Dastardly Dick's - Eastport Chowder House - Happy Crab
Kilby House - Landmark 1887 Liberty Cafe - Milliken House
Moose Island Bakery - Quoddy Bay Lobster - Raye's Mustard Mill
Rose Garden - Rosie's Hot Dog Stand - Seaview Campground
Todd House - WACO Diner - Weston House**

“RENEWAL” OF LIQUOR LICENSE APPLICATIONS d/b/a as follows:

Rose Garden - Eastport Chowder House

“NEW” LIQUOR LICENSE APPLICATION d/b/a as follows:

Quoddy Bay Lobster

“RENEWAL” OF SPECIAL ENTERTAINMENT LICNESE d/b/a as follows:

Eastport Chowder House

“NEW” SPECIAL ENTERTAINMENT LICENSE d/b/a as follows:

Quoddy Bay Lobster

PROPOSED CHARTER AMENDMENTS

as submitted by the Charter Committee

The *public hearings* were 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 were City Manager, Larry Post; City Clerk, Ella Kowal; and Legal Counsel, Dennis Mahar.

Council President, Mary Repole, advises that these hearings are being held to receive public input relative to the “*renewal*” of *Victualer Licenses*; the “*renewal*” of *Liquor License applications*; as well as a “*new*” *Liquor License application*; the “*renewal*” of a *Special Entertainment License*; a “*new*” *Special Entertainment License* all referenced above; and the proposed amendments to the City Charter submitted by the Charter Committee.

Council President opens the floor for comments.

There were no comments with regard to the **renewal** of said *Victualer Licenses*.

Hollis Ferguson from the audience addresses the Council with regard to the renewal of the **Liquor License application** and the **Special Entertainment License** for the **Rose Garden** and that he opposes it for reasons of the late night music, the traffic, the disturbance, and the congested parking. He also comments to say that he has uncertainty of the zoning and notes that he has spoken with the City Manager and that it was going to be looked into. Mr. Ferguson further comments to say that he isn't opposed to having the licenses but that it should be within reason and with stipulations.

Bob Kennedy from the audience also addresses the Council with regard to the parking on Dana Street in that both sides of the street is filled up and it makes it difficult to access or exit ones driveway.

Richard Netzband from the audience addresses the Council with a concern of the noise factor during the summer specific to his area would be the WACO and the Happy Crab. He realizes that the doors and windows are open and the music is amplified but would like to see a City ordinance to address the noise factor.

Michael Morse from the Ordinance Review Committee states that there is currently no such ordinance but that it is something for them to look at given the public input presented and brought forth.

Hollis Ferguson from the audience responds to say that there is a statute in Criminal Law and references 17A, 501A which is specific to Disorderly Conduct relative to the noise level.

Jon McNerney from the audience reminds Council that when the Fireworks Ordinance was being proposed, a noise ordinance of 10:00 o'clock at night was referenced on several occasions but that he never heard a citation for it.

Mr. Ferguson responds that the State law Chapter 375 Section 10 would cover the control of noise but not a time limit and he understands that this would need to be done through a town ordinance.

Council President responds to Mr. McNerney in that what she believes he is speaking of was what was discussed to be after a certain hour in that 10 o'clock was referenced.

Mr. McNerney informs Council that he previously lived at the Berman Mall and from September 4th to December 1st he had called the Police Department eight times with regard to the noise. He has spoken with another taxpayer of that area who resides downtown and expresses that this problem still exists. It is not a matter that the Police did not respond, but that the complaint of noise still continues.

Councilor Murphy asks for clarification that what Mr. McNerney speaks to is not reflective of the Rose Garden and he confirmed that it was not.

Bob DelPapa addresses the Council and comments to say that he has had functions on the deck outside at the WACO but that they have been over by 10:00 or 11:00 p.m. and that they were not a band but rather a one person entertainer and objects to the previous comments made.

Mr. Weston from the audience asks if a Special Entertainment License exempt the business from the noise ordinances. Council President responds that it does not.

Jon McNerney refers back to the last meeting and asks if there is anything to report back on information with regard to law enforcement and the Rose Garden. The City Manager responds that there is an incident report that Council has received in their packet since then, but nothing further to that. Mr. McNerney asks of how many incidents have taken place at the Rose Garden within the last year. Officer Rodney Merritt responds to say that he believed there were four separate calls that came through radio dispatch plus the most recent one. He emphasizes that data such as this is tracked when it is called in, however, they do respond to verbal complaints as well.

There were no further questions or comments with regard to the **renewal** of a *Special Entertainment License* for the **Eastport Chowder House** nor a **new** *Special Entertainment License* for **Quoddy Bay Lobster**.

Council President continues forward with the public hearings and asks for questions or comments with regard to the *proposed Charter amendments*.

Chairman, Ed French, of the Charter Review Committee addresses the Council on the committee's behalf and expresses that they are requesting that Council put these amendments out to referendum at the June 10th, 2014 election and the people have some understanding of the process that has been ongoing for fifteen years and is not being undertaken lightly. He further comments to say that all the proposed changes have been brought forth to the Maine Municipal Association and the City's legal counsel for review as recommended. The amendments being proposed this evening are only reflective of one-half (1 through 15). The other half is to be considered to be placed on the November ballot. With consent of the Council, he offers to go over the amendments and reviews them accordingly.

Jon McNerney addresses Council and requests that any reference to Assistant City Manager in the Charter be removed at this time. He clarifies that the language that identifies an Assistant City Manager be removed from the changes that is being brought forth by the Charter Committee. Council President asks for what purpose, and Mr. McNerney responds that we do not have one right now. He continues further to say that we are a declining population and also asked what the City's benefit would be in having one. Ken Brown responds to say that this person would act in the absence of the City Manager so that the City's business is tended to and does not come to a halt.

Greg Biss from the audience addresses Council with concern to the language and makes reference to objecting to the wording of Section 205(d) to read: "reasonable expectation". Ed French and Jan Finley both respond to say that there is no anticipation of anything. Mr. Biss expresses that he strongly objects to this entire section as he feels the existing Charter addresses this sufficiently and is specific to the process should the Charter be violated.

Jan Finley comments to say that a great deal of research has been put into this and that it was not taken up lightly and that Council asked that they look at the Charter because of past issues and that they have no ability to police their own. It was only intended to give them guidance.

Ed French comments to say that it has to be very specific to be in violation of the City Charter or a policy of the City. Mr. Biss responds to say that it is already in the existing Charter. Mr. French continues to say that this would give a process of what is to be done.

Danny Waggoner from the audience expresses that he does not see a need for #7 and objects to the entire section. He also asks if this would take place in an open meeting of Executive Session. Council President responds that it would depend on the nature of the infraction as some matters cannot take place in an open meeting but that the person could request one but it would have to be prior to anything being done.

The City's legal counsel, Dennis Mahar, responds to say that the reason for provisions such as this go into Charters is that sometimes the misconduct is not going to be public.

Ken Brown of the Charter Committee comments to say that other Charters for various towns throughout the State of Maine have implemented the same provision.

Meg McGarvey comments to say that sometimes behavior takes place at meeting whereby this would give the Council tools should something like this take place.

Councilor Murphy suggests making a change to the wording. Ed French comments to say that the proposed wording was suggested by lawyers but that change in the language could be considered.

Greg Biss comments to say that democracy isn't always efficient but that he feels there are a lot of good reasons to stay with the existing Charter.

Council President then asks if there are any further comments or questions from the Council as well as input from the public. There were none.

Council President, Mary Repole, declared the hearings closed at 6:35 p.m.

III. ACTION on PUBLIC HEARINGS

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the *renewal of Victualer Licenses* for **Dastardly Dick's; Eastport Chowder House; Happy Crab; Kilby House; Landmark 1887; Liberty Cafe; Milliken House; Moose Island Bakery; Quoddy Bay Lobster; Raye's Mustard Mill; Rose Garden; Rosie's Hot Dog Stand; Seaview Campground; Todd House; WACO Diner; and the Weston House.**

PASSED 5-0

MOTION MURPHY SECOND DANA-CUMMINGS

To **approve** the *renewal of a Liquor License application* for Al & Linda Salleroli d/b/a the Rose Garden.

PASSED 5-0

MOTION MURPHY SECOND EMERY

To **approve** the *renewal of a Liquor License application* for Bob DelPapa d/b/a Eastport Chowder House.

PASSED 5-0

MOTION EMERY SECOND MURPHY

To **approve** a *new Liquor License application* for Quoddy Bay Lobster.

PASSED 5-0

MOTION MURPHY SECOND ARCHER

To **approve** the *renewal* of a *Special Entertainment License* for Bob DelPapa d/b/a Eastport Chowder House.

PASSED 5-0

MOTION MURPHY SECOND EMERY

To **approve** a *new Special Entertainment License* for Quoddy Bay Lobster.

PASSED 5-0

MOTION MURPHY SECOND EMERY

To **approve** putting the proposed *Charter Amendments (1 through 15)* as submitted by the Charter Committee out to Referendum and placing them on the ballot for a Special Municipal Election to be held on June 10th, 2014.

with amending #7 in Section 2.05(d) to change the word “expectation” to “**understanding**”.

PASSED 3-2 (COUNCILOR DANA-CUMMINGS & COUNCILOR ARCHER VOTING “NO”)

IV. OPEN PUBLIC FORUM

Jon McNerney addresses Council and reminds them that some 12-18 months ago there was a wildlife biologist that came to one of the Council meetings and understood that they were going to work with the City on issues with the deer population and would like to know the current status. He also comments to say that he would like to know if there is an update on Cate Street. He reminds Council that at the March meeting he asked for a list of all the cases that had been forwarded from the Eastport Police Department to the Court system and the disposition. Council President asks Officer Rodney Merritt if he would be able to go through the data of the cases that have gone forward and do some research on this. The City Manager reminds the Council President that he believed Mr. McNerney was instructed that he could get this information directly from the Court system. Mr. McNerney responds that this is what he was told. However, he updates Council that this is not the case.

Officer Merritt further comments to say that he met with the biologist as well as the head of Inland Fisheries and Wildlife along with the local rep of IF&W which assisted the City in establishing a new ordinance on the archery safety that was passed. They said after a successful year in the numbers of hunters going down, they want us to come back and discuss a control plan with community involvement. Last year was the first step in the process, now we need to go back and meet with them to see what our options are to move forward.

The City Manager responds with regard to the update on Cate Street in that he did attempt to see the Port Director, Chris Gardner but that he was unavailable as he was in Augusta. However, he comments to say that it is his understanding that Mr. Gardner will be in attendance of the next Council meeting and will be able to give a more accurate status update.

Jon Calame addresses the Council with a comment relative to the proposed Charter changes in that there may be some information or insight in our community with people who primarily do not sit on the Council or a committee. He expresses that he listened to reasonable objections but feels that the responses could have been in a more positive light. He further comments to say that he walks his two children to school and has some concerns about the pedestrian walkway in that they are barely visible and there is a need for them to be repainted with reflective paint and makes this request to Council. Cynthia Morse comments to say that most places have a crosswalk person when school is let out and this may be something to be considered as an option. Mr. Calame further comments to say that he is only requesting that the crosswalks be well maintained whether it be with paint, reflectors, and/or signs or possibly all. It is a small price to pay for not just the safety of the children but all pedestrians. The City Manager suggests that this conversation continue at City Hall with him and the Public Works Director. He responds that he has no reason to meet further on this but that he feels it is the City's obligation to resolve this issue.

Ed French responds to Mr. Calame's comment that they have been very welcoming to community input as possible with regard to the proposed Charter amendments. They strive to encourage people to come to the meetings.

Council President reminds everyone that it has been strongly emphasized by MMA and other sources that we give the public the option to give their input.

Due to the wording of Amendment #7 with regard to the proposed Charter amendments, legal counsel recommends that Council rescind their previous vote to reflect that they change the *language* from “reasonable expectation” to “***reasonable understanding***” and that this be made part of the motion in its entirety to put it out to referendum. Council President suggests addressing this matter under Boards & Committee (Charter Review).

Mr. Weston and Mr. Wilcox both of the audience express concern of drainage issues on Hawkes Avenue. Mr. Wilcox provides the Council with a picture of some of the drainage problems that are being experienced in that area which is also resulting in sewer issues. His yard as well as his driveway is washed out. Plant Operator, Jeff Sullivan, clarifies that it is not Sewer but that it is a storm drain. Mr. Wilcox responds that the cover is clearly marked that it is Sewer. Mr. Sullivan further comments to say that this is a cover that they put on it but that it is not Sewer. Irregardless, Mr. Wilcox would like to see it fixed. The City Manager responds to say that as soon as the ground thaws enough and when they can get to it, they intend to address it. The City Manager updates Council that have been down and cleaned out the drain pipe and it helped some but not in its entirety and that it will be fixed.

Council President makes the last call for comments or questions in Open Forum and there were none. Council President declared Open Forum closed at 7:08 p.m.

V. ADJUSTMENTS TO AGENDA (if applicsble)

MOTION MURPHY SECOND EMERY

To approve an adjustment to **add** the “*Award of Sewer Project Bid*” under Item VIII – New Business.

PASSED 5-0

VI. MINUTES OF PREVIOUS MEETINGS(S) - 3/12/2014

MOTION EMERY SECOND MURPHY

To **approve** the *minutes of March 12th, 2014* as presented by the City Clerk.

PASSED 5-0

VII. UNFINISHED BUSINESS - NONE

MOTION MURPHY SECOND EMERY

To authorize the City Manager, Larry Post, to put out to bid the property at 1 Byrd Street, Tax Map #E3-0A-02 with a minimum bid to cover what is owed the City for Sewer and Taxes and costs.

PASSED 5-0

MOTION DANA-CUMMINGS SECOND MURPHY

To permit Dan MacNaughton to make payment in full for the Sewer and Taxes to reclaim back the property located at 2 Byram Street referencing Tax Map #I7-0C2-17 and I7-0C2-22A that was acquired by the City.

PASSED 5-0

MOTION MURPHY SECOND ARCHER

To table the "New" Personnel Ordinance until the next Council meeting of April 9th, 2014.

PASSED 5-0

VIII. NEW BUSINESS

- 1) Commitment of Sewer Fees to City Treasurer, 3rd Quarter FY2014

MOTION MURPHY SECOND DANA-CUMMINGS

To approve the commitment of Sewer Fees to the Treasurer, Traci Jamieson, in the amount of **\$88,619.00** for the 3rd Quarter of FY2014.

PASSED 5-0

- 2) Appointment of Jan Finley to the Ordinance Review Committee

MOTION MURPHY SECOND EMERY

To approve the appointment of Jan Finley to the Ordinance Review Committee.

PASSED 5-0

- 3) Appointment of Election Workers as submitted by the City Clerk/Registrar

MOTION DANA-CUMMINGS SECOND ARCHER

To approve the appointment of Jacqueline Davis, Sharon Cannon, Rita Norton, Leasa Garvin, Judy Ampungan, Mary Squibb, Cindy Mitchell, Paula Bouchard, Vicki Morang, Judy Turner, Inez Pastore, Susan Watts, and Marie Holmes as Election Workers as submitted by the City Clerk/Registrar of Voters.

PASSED 5-0

4) Staffing Structure

MOTION MURPHY SECOND EMERY

To **approve** the creation and position of *Assistant City Manager* along with the job description as submitted with the understanding that should the job description change; it will come back to Council and that said position is to be filled by the City Manager.

PASSED 4-1 (COUNCILOR ARCHER "NO")

5) Breakwater Lease

MOTION MURPHY SECOND EMERY

To approve leasing the breakwater to the Eastport Port Authority for a period of twenty-five years.

PASSED 5-0

6) Award of Sewer Project Bid

MOTION MURPHY SECOND EMERY

To accept and award the Sewer Project bid to T-Buck Construction in the amount of \$711,000.00 as recommended by the Engineers, Oliver & Associates.

PASSED 5-0

IX. **SCHEDULING** of PUBLIC HEARING(S) - ***THERE WERE NONE***

Council President introduces Corey Guimond of Millenium Marine and he thanks the Council and the community for their cooperation and welcoming. He updates us that he is currently interviewing and things are progressing forward and extends an invite should anyone wish to visit the facility.

X. **REPORTS**

1) **City Manager**

MOTION ARCHER SECOND MURHY

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

PASSED 5-0

2. Department Reports

Councilor Dana-Cummings addresses the City Manager about the airport sales not being reflected on the financial report.

Discussion also took place amongst Council and the City Manager about making the Financial Reports available on the website. The City Manager will work on this.

MOTION EMERY SECOND ARCHER

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

PASSED 5-0

3. Boards & Committees

Planning Board	-	NO REPORT
Zoning Board of Appeals	-	NO REPORT
Historic Review Board	-	NO REPORT
Airport	-	Already Covered
Harbor	-	NO REPORT
Downtown	-	NO REPORT

Charter Committee

MOTION EMERY SECOND MURPHY

To rescind the previous vote under “action on public hearing” for the proposed Charter amendments to reconsider and amend the language in #7 referencing section 2.05(d) for the purpose of clarification with the understanding that there is no change in the intent.

(PASSED 5-0)

MOTION EMERY SECOND ARCHER

To **approve** putting the proposed **Charter Amendments (1 through 15)** as submitted by the Charter Committee out to Referendum and placing them on the ballot for a Special Municipal Election to be held on June 10th, 2014 with amending #7 in Section 2.05(d) to change the words “reasonable expectation” to “**reasonable understanding**”.

PASSED 4-1 (DANA-CUMMINGS “NO”)

- Port Report - NO REPORT**
- Energy Committee - Jon Calame gives a brief update**
- Ordinance Rev Comm - They will be meeting next week**
- Park & Recreation Committee - They are moving forward**
- Recycling Committee - City Manager working on this**
- Recreation Committee -**

4. Council (Ambulance & Marion Transfer)

MOTION EMERY SECOND MURPHY

To accept the *Boards & Committee* reports as referenced above to also include the Ambulance and the Marion Transfer reports as submitted and presented.

XI. COUNCIL ISSUES - There were none brought forth.

XII. EXECUTIVE SESSION (*if applicable*)

MOTION MURPHY SECOND EMERY

To go into Executive Session under Title 1 M.R.S.A. § 405(6)(C) to discuss real property or Economic Development with regard to 28 Washington Street, Referencing Tax Map # I7-0B4-18 regarding Sewer Foreclosure; and also under Title 1 M.R.S.A. § 405(6)(E) to Consult with Legal Counsel.

PASSED 5-0 (TIME: 8:03 P.M.)

MOTION EMERY SECOND MURPHY

To come out of Executive Session.

PASSED 5-0 (TIME: 9:30 P.M.)

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

MOTION EMERY SECOND MURPHY

To rescind Council's previous motion at the Council meeting of March 12th, 2014 with regard to the foreclosure of 28 Washington Street and to grant an extension and authorize the City Manager to work with the taxpayer as the property is up for sale.

PASSED 5-0

XIV. ADJOURN

MOTION MURPHY SECOND ARCHER

To adjourn.

PASSED 5-0 (TIME: 9:30 P.M.)