

**CITY OF EASTPORT
CITY COUNCIL MEETING
WEDNESDAY, JANUARY 14, 2015
SHEAD HIGH SCHOOL - LIBRARY - 6:00 P.M.**

REGULAR COUNCIL MEETING - 6:00 P.M.

Those in Attendance: Councilor Roscoe Archer, Councilor Michael Cummings, Councilor Colleen Dana-Cummings, Councilor Gilbert Murphy, and Council President, Mary Repole. Also present were City Manager, Elaine Abbott; Legal Counsel, Dennis Mahar; and City Clerk, Ella Kowal.

Audience Attendance: Greg Golding, Jeff Starling, Jan Finley, Peter Repole, Nan Milani, Pauline Emery, Scott Emery, Meg McGarvey, Traci Calder, Howard Johnson, Lora Whelan, Dave Morang, Chris Gardner, Linda Godfrey, Mr. & Mrs. Stanley, Elizabeth Hastings-Renner, Robert Scott, Jeff Sullivan, Dennis Mahar, Jack Reece, Ken Brown, Denise Cassidy, Lisa Stephen, Steve Glatfelter, Sherrie Metcalf, James Wolfer, Sarah Talbot, Kathryn Lewis, Chris Vizzcarando, and Ed French.

Councilor Mary Repole takes a moment to thank Scott Emery for his service and support as a Councilor and she also extends a thank you to his wife Pauline. As a token of appreciation, she presents him with a gift which is a framed picture of his boat.

- I. CALL TO ORDER** - The City Clerk, Ella Kowal, calls the meeting to order at 6:00 p.m.
- II. ELECTION OF COUNCIL PRESIDENT (Calendar Year 2015)**

The City Clerk calls for nominations of Council President for Calendars Year 2015

MOTION MURPHY **SECOND** ARCHER **PASSED** 3-1
(CUMMINGS "NO")

To nominate Mary Repole as Council President.

Council President, Mary Repole, reads the new section of the Charter with regard to the "Ethics Policy" to reaffirm the City Council's duties.

- III. PUBLIC HEARING(s)**

Council President, Mary Repole, declared the public hearings opened at 6:03 p.m.

First public hearing held is consideration to be given to a new Liquor License application; a new Special Entertainment License; and a new Victualer License for James Wolfer d/b/a Jim's Grill & Tavern. Council President opens the floor for public comment. A questions comes from Meg McGarvey in the audience of the location of said business. Mr. Wolfer responds that it is

the same location where the Liberty Cafe was. He addresses the Council and informs them that they have changed the name to “**Localz Tavern & Grill**” with their intent to promote as much as they can locally and to also help promote, Eastport, Washington County, and the State of Maine by hiring locally and by serving local products. The City Clerk brings to Mr. Wolfer's attention that the public hearing notice in the paper reflects it as being Jim's Grill & Tavern. He responded that the State advised him that as long as the d/b/a reflects the new name it would not present a problem.

Next for consideration is a *public hearing* on the renewal of a *Liquor License application* and a *Special Entertainment License* for Jeff & Leslie Starling d/b/a **Happy Crab**. Council President opens the floor for public comment. There were none.

The next item for consideration is a *public hearing* on an amendment to the **City's Use & Sale of Fireworks Ordinance**. Council President opens the floor for public comment. *Ken Brown* from the audience addresses the Council and informs them that the State Law current prohibits anything that goes up in the air and that one of the reasons for this ordinance change was for Cruise Ships. Council President responds that State Law supersedes and nothing voted on locally will change that. He feels the ordinance is useless. *Meg McGarvey* from the audience asks for a reading of the proposed change and the Council President proceeds accordingly. *Michael Morse* of the audience asks if the Fire Chief issues a permit, does the City take on liability and the response was “yes”. *Jan Finley* of the audience comments to say that she has done some research on this over the last few days and has found that Fire Chiefs and safety personnel have been vocal against fireworks in congested urban settings and that we are not equipped to handle a big fire. She states that people still set off projectile fireworks and until we are able to enforce what we have, why would we invite more. There were no further comments.

The next *public hearing* is on the **Transfer of the Fish Pier and the Breakwater to the Port Authority**. Council President, Mary Repole, asks the Port Director, Chris Gardner, if he would like to speak to this matter. He comments to say that the City has reached out to the Port in this regard and it is something that the Board will give consideration but only when a proposal has been brought forth by the City. The Council President explains that the Fish Pier is owned by the City and is only insured for liability. The City is not in a position to insure it without raising taxes. She further comments to say that the breakwater has been leased to the Port and they are doing their very best to take care of things but they are unable to acquire insurance on the structure unless it is turned over to them and that this also applies to the Fish Pier. She asks the City Manager to comment further. She reiterates of the costly expense of what it will take to insure the pier and also comments to the cost of maintain the Fish Pier and the Breakwater and that the City does not have the resources to keep them. She expresses that what was set up by law did not take place and that it should have been transferred over to them prior to this but cannot speak to why this did not take place and feels strongly that the City cannot afford to maintain them but less insure them. The Council President informs that the Port is the one who put up the matching funds when the Fish Pier was first built. She comments to say that public access is critical to both entities and that they will be addressed.

Chris Gardner explains their dilemma of not having an insurable interest in the structure of the Fish Pier and the Breakwater. He further comments to say that should the Port take this on, they need to determine the structural baseline long-term and will continue to move forward in the best interest of everyone and give every consideration to public access as they currently have. *Michael Morse* of the audience informs Council that the Planning Board has asked him to express that any change of ownership needs to provide that public access be maintained and is very important in the Comprehensive Plan but that it also needs to be in writing whatever agreement is made between the Port Authority and the City. Chris Gardner reminds the public that it is not a private entity but that it is publicly owned. *Denise Cassidy* of the audience asks the Port Director if they want these facilities and if they can afford them. He comments to say that the mission is that they are publicly owned and is an asset of the people and the Port is willing to consider the additional burden and feels that their nature of operations is an option.

Council President declares the public hearings closed at 6:27 p.m.

IV. ACTION ON PUBLIC HEARING(S)

MOTION MURPHY **SECOND** CUMMINGS **PASSED** 5-0

To approve a *new* Liquor License application; a *new* Special Entertainment License; and a *new* Victualer License for **James Wolfer d/b/a Localz Tavern & Grill**.

MOTION MURPHY **SECOND** CUMMINGS **PASSED** 5-0

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

MOTION CUMMINGS **SECOND** MURPHY **PASSED** 3-2
(**ARCHER & MURPHY - "NO"**)

To leave the City's Use & Sale of Fireworks Ordinance as is and not approve the proposed amendment as submitted.

MOTION CUMMINGS **SECOND** NONE

To extend the process on this discussion and that we suspend to vote on it at this time and to continue discussion and possibly bring it to a referendum.

(NO VOTE AS THERE WAS NO "SECOND" TO THE MOTION)

MOTION MURPHY **SECOND** DANA-CUMMINGS **PASSED** 4-1
(**CUMMINGS "NO"**)

To propose the transfer of ownership of the Fish Pier and the Breakwater from the City to the Port Authority Board for consideration.

V. DEPARTMENT REPORTS (Financial Report; Code Enforcement Report; Police Department Report; Public Works Report; Sewer Report; and Port Report)

The Assessor, Robert Scott, takes the liberty to reaffirm and clarify that the Port Authority does pay taxes and chose to make this statement as he is hearing otherwise within the community.

MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0

To approve and accept all of the City's department reports as submitted as presented for the month of December, 2014.

VI. OPEN PUBLIC FORUM

The Council President opens the floor at 6:48 p.m. for public comments.

Steve Glatfelter from the audience asks of the status of the income survey on the breakwater. The City Manager, Elaine Abbott, responds that the results just came in today and that the City has been qualified with a status of low-to-moderate coming in at 59.6 with a requirement of 51%.

Meg McGarvey of the audience reminds Council that the certification is good for five years and allows the City to be eligible for other CDBG grants.

Chris Vizzcarando of the audience addresses the Council in that she has left numerous messages for the Police Chief and is not getting a response and she also wishes to express a complaint against Officer Leighton of his rudeness to her and her son. Council President recommends that she meet with the City Manager to discuss these matters further.

Council President closes open forum at 6:49 p.m.

VII. ADJUSTMENTS TO AGENDA

MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0

To *add* letter **(n) Adoption of Income Survey re: Breakwater under Item X – New Business; reword “the Public Hearing Notice to be scheduled – re: Personnel Ordinance under Item XI; add “the Scheduling of a Public Hearing on the CDBG \$1,000,000 grant for the Breakwater under Item XI; and to *add* letter (o) Re-scheduling of the February, 2015 Council meeting to accommodate the City Manager's vacation schedule.**

VIII. MINUTES OF PREVIOUS MEETING(S)

MOTION ARCHER **SECOND** MURPHY **PASSED** 5-0

To approve and accept the Council minutes of 12/10/2014 and 12/22/2014 as submitted.

IX. UNFINISHED BUSINESS

- a) **Appointment of Health Officer**
MOTION MURPHY **SECOND** CUMMINGS **PASSED** 5-0
To appoint Danny Waggoner as the City's Health Officer.

- b) **21 Middle Street**
MOTION MURPHY **SECOND** DANA-CUMMINGS **PASSED** 5-0
To table this until the next meeting as the City is awaiting receipt of the contract.

- c) **Appointment of Auditor**
MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
To approve the appointment of Roy Associates as the City's auditors and to acceptance their proposal of \$12,800 to include both the *School and the City* and that they will meet the 120-day turn around.

- d) **Micro Loan Program**
The City Manager updates the Council that she has spoken with Terry Ann Holden in the Augusta office and they reaffirm that the paperwork is still in place for such a program. She also informs Council that she and Traci will be meeting with Committee members to go over the paperwork to proceed forward with starting the program back up and will update the Council accordingly.

Council President brings to Council's attention that there is a scheduled Elected Officials Workshop and that this information is available to them for consideration. She also reminds Council that new terms requirements be done within 120 days as per the Charter.

X. NEW BUSINESS

- a) **City Council Appointments for Signing of Warrants**
MOTION MURPHY **SECOND** CUMMINGS **PASSED** 5-0
To allow all five members of Council to sign the warrants but recognizing the need for only three signatures.

- b) **Establish Time & Place for Regular City Council Meetings**
MOTION ARCHER **SECOND** MURPHY **PASSED** 5-0
That monthly Council meetings be held the second Wednesday of each month at 6:00 p.m. at Shead High School in the Library.

- c) **Establish Depository Banks for City Funds (The First & Bangor Savings)**
MOTION CUMMINGS **SECOND** MURPHY **PASSED** 5-0
That *The First* and the *Bangor Savings Bank* be the depositing banks for City Funds.

- d) **Establish a 0% Discount Rate for Pre-Payment of Taxes**
MOTION CUMMINGS **SECOND** ARCHER **PASSED** 5-0
That there is a zero % interest rate for pre-payment of taxes.

- e) **Approve City Treasurer, Traci Calder, to Negotiate Quit Claim Deeds for Council**
MOTION DANA-CUMMINGS **SECOND** CUMMINGS **PASSED** 5-0
 To authorize the City Treasurer, Traci Calder, to execute Quit Claim Deeds on behalf of the City Council.
- f) **Approve Tax Collector, Ella Kowal, to Collect Pre-Payment of FY2016 Property Taxes**
MOTION ARCHER **SECOND** MURPHY **PASSED** 5-0
 To approve the Tax Collector, Ella Kowal, to collect on pre-payments of the FY2016 property taxes.
- g) **Staff Appointments**
MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
 To approve the staff appointments as read and submitted .
- h) **Council Liaison Appointments**
MOTION MURPHY **SECOND** DANA-CUMMINGS **PASSED** 5-0
 To approve the Council Liaison Appointments as read and submitted with a change that Councilor Archer being appointed to the Airport; and with Council President, Mary Repole, being appointed to the Zoning Board of Appeals; with Councilor Cummings being appointed to the Planning Board; and with former Councilor Scott Emery being appointed to the Harbor Committee.
- i) **Boards & Committee Appointments**
MOTION ARCHER **SECOND** MURPHY **PASSED** 5-0
 To approve the *Downtown Committee* appointments as submitted with Lisa Stephen replacing Meg McGarvey and appointing Denise Cassidy and Jenie Smith as alternates.
- MOTION** MURPHY **SECOND** ARCHER **PASSED** 5-0
 To approve the *re-appointment* of the *Harbor Committee* members as submitted.
- MOTION** MURPHY **SECOND** ARCHER **PASSED** 5-0
 To *re-appoint* Ed French to the Historic Review Board.
- MOTION** ARCHER **SECOND** MURPHY **PASSED** 5-0
 To *appoint* John Elwell as a Full-Time member to the Planning Board.
- j) **Commit Sewer Fees to the City Treasurer for 3rd Quarter of FY2015**
MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
 To approve the Sewer commitment for the 3rd Quarter of FY2015 in the amount of \$93,095.75.
- k) **Amendment of Personnel Ordinance**
MOTION DANA-CUMMINGS **SECOND** MURPHY **PASSED** 5-0
 To table as we will be scheduling a Public Hearing.

- l) **Council Approval on the Revised By-Laws of the Downtown Committee**
MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
 To approve the revised by-laws of the Downtown Committee as submitted.

- m) **Council Approval to Charger for Notary Services**
MOTION DANA-CUMMINGS **SECOND** MURPHY **PASSED** 5-0
 To *adopt* a fee of \$2.00 *per signature* for Notary Services.

- n) **Adoption of Income Survey – Re: Breakwater**
MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
 To adopt the income survey on the breakwater as submitted.

- o) **Re-scheduling of the February 2015 Council Meeting**
MOTION MURPHY **SECOND** CUMMINGS **PASSED** 5-0
 To reschedule the February Council meeting to take place on February 4th, 2015 to accommodate the City Manager's schedule.

- XI. SCHEDULING of PUBLIC HEARINGS(s) – if applicable**
- MOTION** DANA-CUMMINGS **SECOND** MURPHY **PASSED** 5-0
 To schedule a public hearing for February 4th, 2015 at 6:00 p.m. on the Repeal of the City's Personnel Ordinance and Council Approval to Enact and Adopt it as a Personnel Policy.
 - MOTION** CUMMINGS **SECOND** MURPHY **PASSED** 5-0
 To schedule a public hearing for February 4th, 2015 at 6:00 p.m. for a CDBG Grant on the Breakwater in the amount of \$1,000,000.
 - MOTION** ARCHER **SECOND** DANA-CUMMINGS **PASSED** 5-0
 To schedule a Council Workshop for February 4th, 2015 at 5:00 p.m. for the City Council, Charter Committee, and the Department Heads for review of the Charter changes that were passed by referendum on June 10th, 2014 and November 4, 2014.

XII. REPORTS

- 1) **City Manager**

MOTION ARCHER **SECOND** MURPHY **PASSED** 5-0
 To approve and accept the City Manager's report for December, 2014.

- 2) **Boards & Committees (Planning Board; Zoning Board; Historic Review; Airport; Harbor; Downtown; Charter Committee; Port; Energy Committee; Ordinance Review; Park & Recreation; Recycling Committee, & FY16 Budget)**

MOTION MURPHY **SECOND** ARCHER **PASSED** 5-0
 To approve and accept the Boards and Committee Reports as presented by their respective Chair members.

3) **Council • Ambulance • Marion Transfer Station**

MOTION ARCHER **SECOND** MURPHY **PASSED** **5-0**

To approve and accept the Ambulance and Marion Transfer Station reports as presented by Councilor Murphy.

XII. COUNCIL ISSUES

Councilor Cummings addresses the Council and informs them that Chief Moore of the Tribal Government would like to meet with the City Manager, Elaine Abbott as well as the City Council members.

Councilor Cummings also addresses that we do not have enough property out at Morrison landing and suggests that the City try to obtain it through eminent domain and start the process. Council President recommends that the City Manager and City's Legal Counsel try and negotiate something and bring it back to Council. The City Manager reminds Council that the boat ramp grant was written for recreational and a decision will need to be made so as not to lose the grant money. Council President asks Legal Counsel to gather the information on eminent domain and Council will revisit where to go with this and Council President will call a Special meeting once the information is together.

XII. EXECUTIVE SESSION

MOTION ARCHER **SECOND** MURPHY **PASSED 5-0 TIME: 8:00 PM**

To *go into* Executive Session under Title 1 M.R.S.A. § 405(6)(A) to discuss Personnel Matters and also under Title 1 M.R.S.A. § 405(6)(C) for discussion of Real Property or Economic Development and under Title 1 M.R.S.A. § 405(6)(E) on Consultation with Legal Counsel as well as under Title 36 M.R.S.A. § 841 for discussion of a Poverty Abatement application.

MOTION ARCHER **SECOND** MURPHY **PASSED 5-0 TIME: 9:08 PM**

To *come out* of Executive Session.

XIII. ACTION from EXECUTIVE SESSION (if any)

MOTION MURPHY **SECOND** ARCHER **PASSED** **5-0**

To extend time to Elaine and Traci to look into the Airport and Sewer accounts and come back to Council with the information.

MOTION MURPHY **SECOND** ARCHER **PASSED** **4-1**
(CUMMINGS - "NO")

To deny the poverty abatement request as submitted.

MOTION ARCHER **SECOND** MURPHY **PASSED 5-0**

To authorize the taxpayer of 54 High Street to meet and work City Hall staff on a payment agreement to reclaim his property which resulted in foreclosure on the 2013 real estate taxes.

XIV. ADJOURN

MOTION MURPHY **SECOND** ARCHER **PASSED 5-0 TIME: 9:14 PM**

To adjourn.