

**CITY OF EASTPORT
CITY COUNCIL MEETING
WEDNESDAY, MARCH 8th, 2017
SHEAD HIGH SCHOOL - LIBRARY - 5:30 P.M.**

EXECUTIVE SESSION - 5:30 P.M. TO 6:00 P.M.

<u>_x_</u> Personnel Matters	Title 1 M.R.S.A. § 405(6)(A)
<u>_x_</u> Real Property or Economic Development	Title 1 M.R.S.A. § 405(6)(C)
<u> </u> Labor Negotiations	Title 1 M.R.S.A. § 405(6)(D)
<u>_x_</u> Consultation w/Legal Counsel	Title 1 M.R.S.A. § 495(6)(E)
<u> </u> Poverty Abatement Application	Title 36 M.R.S.A. § 841

Those in Attendance: Councilor Hailley Bradbury, Councilor Scott Emery, Councilor Shannon Emery, Councilor Mary Repole, and Council President, Gilbert Murphy. Also present were City Manager, Elaine Abbott; Legal Counsel, Dennis Mahar; and City Clerk, Ella Kowal.

Council President calls this portion of the meeting to order at 5:30 p.m.

MOTION REPOLE **SECOND** SCOTT EMERY (**PASSED 4-0**) **TIME: 5:31 P.M.**
To go into Executive Session for Personnel Matters under Title 1 M.R.S.A. §. 405(6)(A); Real Property or Economic Development under Title 1 M.R.S.A. § 405(6)(C) and for Consultation with Legal Counsel under Title 1 M.R.S.A. § 405(6)(E).

Councilor Hailley Bradbury arrived at 5:32 p.m.

MOTION SCOTT EMERY **SECOND** REPOLE (**PASSED 5-0**) **TIME: 6:06 P.M.**
To come out of Executive Session.

REGULAR COUNCIL MEETING

Those in Attendance: Councilor Hailley Bradbury, Councilor Scott Emery, Councilor Shannon Emery, Councilor Mary Repole, and Council President, Gilbert Murphy. Also present were City Manager, Elaine Abbott; Legal Counsel, Dennis Mahar; and City Clerk, Ella Kowal.

Attendees in the Audience: Michael Morse, Howard Johnson, Marged Higginson, Paul Theriault, Alex Smeaton, Melvin Hall, Anne Stanley, Walter Cummings, Inez Pastore, Colleen Dana-Cummings, Meg McGarvey, Annaleis w/Olver Associates, Tessa Ftopek, Peter Frewen, Drew Proctor, Bob Bean, David Oja, Lora Whelan, Don Dunbar, William McGarvey, Kathryn Lewis, Dana Turner, Kim Baxter, Lawrence a/k/a Brudo Baxter, and Lee Harris,

I. **CALL TO ORDER** - Council President called the meeting to order at 6:07 p.m.

II. **ACTION from EXECUTIVE SESSION**

MOTION REPOLE **SECOND** BRADBURY **(PASSED 5-0)**

To officially foreclose on 45 Third Street for non-payment of Sewer charges and Real Estate taxes and to schedule a public hearing for April 12th, 2017 for the sale city property.

MOTION REPOLE **SECOND** BRADBURY **(PASSED 4-0)**

Councilor Shannon Emery "Abstained"

To approve the return of excise paid in the amount of \$56.72 as submitted and requested referencing MVR#

III. **PUBLIC HEARING(S)**

Council President, Gilbert Murphy, opens the public hearings at 6:09 p.m.

• **Sale of City Property - 7 Hawkes Avenue (Tax Map #J7-0A1-10)**

The City Manager, Elaine Abbott, updates Council that the City made every attempt to reach the heirs of 7 Hawkes Avenue but the City received no response from any of them. To date, there is an outstanding total due for Sewer charges in the amount of \$2,034.73 and an amount due for Real Estate taxes for an amount of \$906.33. Council President, Gilbert Murphy, calls for additional comments or discussion. There was none.

• **Sale of City Property - 147 Water Street (Tax Map #I7-0A5-03)**

The City Manager, Elaine Abbott, updates Council that notices are being signed for but no contact has been made with the City. The Sewer account is delinquent for an amount of \$1,586.75 and an amount of \$5,939.77 is due for Real Estate taxes. Council President, Gilbert Murphy, calls for additional comments or discussion. There were none.

• **WWTP \$1,000,000 State DEP CW SRF Loan – Clean Water Revolving Fund (\$786,800 Forgiveable)**

Jon McNerney from the audience asks where the money for the matching funds is going to come from. The City Manager, Elaine Abbott, responds that it will come from the Sewer account as it is an enterprise fund and is self-sufficient. She further comments to say that this is not something new to Eastport and that by the time these loan payments begin, the existing loan payment will be paid. He further asks if the money is in the account now is the Sewer going to have to borrow money to pay it back. She continues to say that USDA grant is interim financing. Annalies from Olver Associates explains that once the project is done, there will be a payment out of the budget right now that will be available from bonds that are coming due

in a couple years. There will be two different loans and two different grants (55.7% grant); one of which will be \$2,000,000 grant from Rural Development and a \$2,000,000 loan as well as a \$786,800 grant from the DEP with a \$213,000 loan.

What was trying to be explained is that there are two loans coming due that will not have to be paid anymore by the City so that will balance these payments and that there will be no expected large increase to the rate payers. Mr. McNerney asks again if the money is in the account and if the City is going to have borrow any money to support matching funds. Annalies responds that there is a payment over time of 30 years and that there is not \$2,000,000 sitting in the account. It is the borrowing of money at a rate of 1.38% to pay the loan amount back. She explains that there are two different loans; one with USDA for 30 years and the other with DEP for 20 years. He then asks if the Sewer plant bills will increase. She cannot guarantee there won't be a small increase over time giving the increase of costs going up at the treatment plant.

- **Eastport Ordinance – Authorization of Wastewater Treatment Facility & Sewer System Upgrade Project and the Issuance of a General Obligation Bond - \$2,000,000**

The City Manager, Elaine Abbott, explains that this is what Annalies just went over and the Council President asks if there are any further questions; there were none.

- **Request of Access from Dennyville Snowmobile & ATV Club**

Lawrence a/k/a Brudo Baxter addresses the Council and explains that Derek Brown is out of town and could not be at the meeting but Mr. Baxter presents a pamphlet to Council submitted by Mr. Brown. He highlights the introduction and the goals of wanting to come into town. The map was not totally completed as they still need to get landowner's permission but produces a temporary map which is reflective of Carlow Island in to Redoubt Hill and notes that they still need to get permission from Redoubt Hill in order to get in to the pit and by Butch Harris' property. He notes there is a lot to do to get the permits to go across the roads. He informs Council that the State posts all the signs and that safety is of the utmost concern. He comments to say that the trail to go into Ellsworth was finished (of two miles) and he would like to see Eastport a part of the trail with a destination. He would like to see Eastport get the revenue. He notes it is free tourism for Eastport as there is no cost to the City. Their object is not to single out just one but rather open up all of Eastport. Council is reminded it is not a teenage sport and that adults participate in the recreation. His closing statement is that it would be nice to see Eastport on the map as a destination from state park to state park and rather than push revenue away, let's bring it in town.

The City Manager, Elaine Abbott, asks how they are making out with the DOT permit. Mr. Baxter responds that they cannot get the DOT permit until the City gives access to Eastport. He makes reference to the stipulations of the application in the packet provided. He then notes that if the City were to give permission and set an ordinance, the City would be the policing authority not the game wardens.

A request came from the audience that maps be made available at City Hall. Council President noted that the City had just received what was presented today. Mr. Baxter comments to say that the route is outlined in the pamphlet and reminds everyone that it is the route to get into town. The route referenced are roads in Quoddy Village. From Vanesse Road to Barron Street, take Arnold Street to Toll Bridge Road, then to Route 190 and that would give all of Quoddy Village access to the trail. They have discussed about crossing the road at Gates or the old woolen mill but they feel it is too dangerous but it is an access down to Toll Bridge Road. Mr. Lawrence also notes that it would be a walking/recreation trail. He notes that they wanted to go into Redoubt Hill but they wanted to come down the Indian trail or also known as Indian Road which is adjacent to the railroad tracks opposite side of the mill which will bring them down to Walter & Colleen Cummings' property and noted that they would talk to them about giving permission to cross on their property and then they would go through that pit. He states it gets a little complicated after coming out of the pit where they will have to go across the road on Route 190 and go by the Eastport sign and they will have to build a little bridge over the culvert. Before they do all these steps, they would like to know if they can come in town. Council Shannon Emery what the speed limit would be and Mr. Baxter states that we would set and post the speed limit. However, he notes that residential areas it is 15 mph. A member of the audience asks for clarification of an ATV (all terrain vehicle) does it apply to 4-wheelers. The response was that 4-wheelers can as they are registered.

Councilor Repole asks how long it would be before they would have the permission they need along with a good map from them. Mr. Baxter said that depends on Council. Council President and Councilor Repole both spoke with regard to the permission from the landowners. Mr. Baxter responds that 90% of that is already taken care of. Councilor Scott Emery comments to say once they have the permission slips from the landowners Council can address it then. Mr. Baxter said that they can work on that. Councilor Shannon Emery makes reference to clarification that Derek said that we could use the road and that they would not have to go on the landowner's land. Questions came to opening all streets and legal counsel confirms that the City can limit the streets. An audience member asks how a pedestrian, a dog, and an ATV would work on a trail. Mr. Baxter reminds everyone that most everyone on the trail are adults who generally show common courtesy. Access roads are normally marked at 25 mph. Mrs. Baxter speaks to say that they are part of the ATV club and they are just asking to bring this recreation to Eastport and to bring revenue into the City. Skip McGarvey speaks in support of the request and informs Council that the pedestrian and the bicycles have the right of way and they have traveled all over the states with their ATV's. Gordon Smith of the audience asks if the trail could incorporate the ball field. Council President responds with permission of the landowners. Alex Smeaton speaks to a concern of impaired people on ATV'S and the safety issue. A member of the audience asks about numbers/data in terms of usage of the trail relative to expectation. Bob Bean from the audience responds that the projection is that if you build it, they will come and suggests checking with the

New Friendly Restaurant to see just how many come. Mike Morse asks if there is an age limit on who can operate an ATV. Mr. Baxter responds that 10-16 years olds can operate an ATV but they must pass a State test but they cannot drive it on a public way. For the access route they must be 18 years or older or a mandate could be put on it that they hold a driver's license. For those under 16 years of age, they must have an adult with them. Mr. Morse asks if they would be taking parking spaces that cars normally use and Mr. Baxter responds possibly. Kathryn Lewis asks who would be responsible for damage to pets or lawns, etc. A member of the audience raises concern about her walking and having to jump aside for ATV's and also comments to say that for such an expensive machine they are in the poorest county and it's about them coming to eat, have a few beers, and then leave – that is not tourism to her.

Councilor Shannon Emery comments with supportive remarks to the revenue and the recreation it will bring not to mention the word of mouth to their friends about access the area. She is encouraged to see all the parking spots filled and as for the walking concern, cars go a lot faster. The bigger picture is what it would do for our community. Dana Turner speaks that a trail would be a benefit as they would utilize that instead of someone's property. He also comments to say that he spoke with a former selectman of the Town of Perry just before tonight's meeting who was hesitant and now he expresses the utmost respect with no regrets. Marged Higginson speaks to concern about Route 190 and that the shoulder is very narrow. Paul Theriault makes a comment that it is not fair to characterize all ATVer's as beer drinkers. He notes that most places he has visited has access trails and are embracing the recreation. Noise is not a factor today as it is different today and they are much quieter than they use to be. Walter Cummings speaks to the more traffic that would be coming in than going out and is reflective of the revenue it would bring. Howard Johnson reminds everyone that the trails are also policed by the wardens. Colleen Dana-Cummings comments to say that as a business owner she would like to see the bikes come in which may help her to be open more on the weekends. She further comments to say that the Sunrise Trail has rules and regulations. Lora Whelan asks if this would be daylight only. Mr. Baxter responds that it doesn't make sense to put such a stipulation on that as they may leave in the daylight and how would they get back if they return during dark hours. Councilor Bradbury notes that an Ordinance could stipulate if the City so chooses. Ms. Whelan then asks who is liable for the trail. system Mr. Baxter notes that there is some resistance with those that have acquires railroad property and all they can do is open up an ATV access road that would allow them to come into Eastport and this is what they are trying to do. If they were able to get an access route to come into Eastport then they would be looking at some recreational trails and would be looking to expand. Councilor Shannon Emery notes that Derek Brown spoke to the liability and that there is a law in place with the State whereby it takes away the liability from the landowners and the municipality. Mr. Baxter responds that if the landowner puts up a gate and it is not marked then they are liable and the same liability would be if they dug a big hole and it was not marked. Council President asks for the showing of hands in favor of the ATV's and the same for those that are opposed.

Council President, Gilbert Murphy, declares the public hearings closed at 6:52 p.m.

IV. ACTION on PUBLIC HEARING(s)

Sale of City Property - 7 Hawkes Avenue (Tax Map #J7-0A1-10)

MOTION REPOLE **SECOND** SCOTT EMERY **(PASSED 5-0)**

To authorize advertising and putting out to bid the sale of 7 Hawkes Avenue with a minimum bid of \$10,000.00.

Sale of City Property - 147 Water Street (Tax Map #I7-0A5-03)

MOTION REPOLE **SECOND** EMERY **(PASSED 5-0)**

To authorize advertising and putting out to bid the sale of 147 Water Street with a minimum bid of \$45,000.00.

WWTP \$1,000,000 State DEP CW SRF Loan – Clean Water Revolving Fund (\$786,800 Forgivable)

MOTION BRADBURY **SECOND** REPOLE **(PASSED 5-0)**

To authorize the WWTP \$1,000,000 State DEP CR SRF Loan – Clean Water Revolving Fund with \$786,800 Foregiveable.

Eastport Ordinance – Authorization of Wastewater Treatment Facility & Sewer System Upgrade Project and the Issuance of a General Obligation Bond - \$2,000,000

The Council President, Gilbert Murphy, calls upon the Eastport City Council with regard to their desire of a motion to be brought forth relative to the above-entitled matters.

The Eastport City Council gave consideration to the adoption of the Loan Resolution (RUS Bulletin 1780-27) in the form presented to this meeting and otherwise required by the United States of America acting through its Rural Utilities Service in connection with a loan not to exceed \$2,000,000 and a grant in the amount of \$2,000,000.

MOTION SHANNON EMERY **SECOND** BRADBURY **(PASSED 5-0)**

Resolved, the Eastport City Council hereby approves and adopts the Loan Resolution (RUS Bulletin 1780-27) presented at this meeting pertaining to a loan from the United States of America acting through its Rural Utilities Service in connection with a loan not to exceed \$2,000,000 at an interest rate not to exceed 1.372% for a period not to exceed twenty-eight (28) years, and a grant in the amount of \$2,000,000 for the purpose of financing all or a portion of the cost of any or all acquisition, design, construction, rehabilitation, upgrading and equipping of the City's waste water treatment facility, sewer system pump station facilities in the City and other improvements functionally related and subordinate to the foregoing.

Further, resolve, the Eastport City Council hereby authorizes its President of the City Council and its City Clerk to execute and deliver on behalf of the City of Eastport all documents, and to take any and all actions necessary to carry into effect such

financing and grant, including, but not limited to, Form RD 400-1, Equal Opportunity Agreement, and Form RD 400-4, Assurance Agreement, each substantially in the form presented to this meeting with such changes and additions as they in their discretion may deem necessary or appropriate; and

Further, resolved, that the Eastport City Council, acting through its appropriate officers as designated in its organizational documents, take all necessary and appropriate steps to carry out the transactions contemplated by the foregoing resolution.

The Eastport City Council gave consideration for approval of the Water and Waste System Grant Agreement between the City and the United States of America acting through its Rural Utilities Service in the form presented to this meeting and otherwise required by the United States of America acting through its Rural Utilities Service in connection with a grant in the amount of \$2,000,000.

MOTION SHANNON EMERY SECOND BRADBURY (PASSED 5-0)

Resolved, the Eastport City Council hereby approves the Water and Waste System Agreement presented at this meeting pertaining to a grant from the United States of America acting through its Rural Utilities Service in the amount of \$2,000,000 for the purpose of financing all or a portion of the cost of any or all acquisition, design, construction, rehabilitation, upgrading and equipping of City's waste water treatment facility, sewer system pump station facilities in the City and other improvements functionally related and subordinate to the foregoing; and

Further, resolved, the Eastport City Council hereby authorizes its President of the City Council and its City Clerk to execute and deliver a RUS Bulletin 1780-12, "Water and Waste System Grant Agreement", on behalf of the City of Eastport substantially in the form presented to this meeting with such changes and additions as they in their discretion may deem necessary or appropriate; and

Further, resolved, that the Eastport City Council, acting through its appropriate officers as designated in its organizational documents, take all necessary and appropriate steps to carry out the transactions contemplated by the Water and Waste System Grant Agreement approved at this meeting.

Request of Access from Dennysville Snowmobile & ATV Club

Council President comments to say that Council needs to talk about this and digest the information they've just received. Councilor Shannon Emery wanted to know why the City couldn't just request access and then make the bylaws after. Councilor Repole and Councilor Bradbury would rather have more time to review the packet before rendering any type of decision. Legal Counsel, Dennis Mahar, reminds Council it would have to go through an Ordinance process and that no action could be taken today. He further comments to say that to develop access, it requires an Ordinance.

MOTION REPOLE **SECOND** BRADBURY **(PASSED 5-0)**

To table this matter until the next meeting in April and to schedule a workshop before then.

V. ADJUSTMENTS to AGENDA - THERE WERE NONE

VI. UNFINISHED BUSINESS - THERE WAS NONE

VII. NEW BUSINESS

a) Council Approval of Update to the 2013 General Assistance Ordinance

MOTION REPOLE **SECOND** SCOTT EMERY **(PASSED 5-0)**

To approve the 2013 General Assistance Ordinance update as submitted and recommended by the Department of Health & Human Services.

b) Scheduling of Public Hearing for 4/12/17 – Re: Marijuana Moratorium

The City Manager, Elaine Abbott, updates Council that she, Robert Scott, and Ella Kowal along with Councilor Repole attended a workshop on this matter with two attorneys who are known to be leading experts on the law. What we came away with is how unprepared we are relative to zoning and licensing. It was impressed upon us that medical marijuana does not in any way shape or form really involve anything they were talking about and it comes down to the point where we don't even know where we are going from here. It comes down to whether or not or how it is that people want Eastport zoned. Councilor Repole comments to say that there is a State moratorium right now until next February, and it was highly recommended by the attorneys that we do the same and that is have a moratorium because we are not even sure what the State is going to require and we are unsure as to what we are going to do here in Eastport. They highly suggested that we do a moratorium for now. It would be for six months and renewable in another six months. That would take us to the point of what the State says and what their rules are going to be. She reminds everyone that this is relative to recreational not medical. The City Manager states it is coming down to what we want Eastport to be or not to be. Some towns are on board and others may be dry. We need to know where we are going from here and that it be carefully considered.

Danny Marshall and Brandy Smith address the Council and that they are newcomers into town. They have owned and operated an herb company and the outlet farm and gallery since 2009. They work closely with the State and hold maximum licensing for medical marijuana providers in the State. They pay their sales tax as well as their income tax and have not experienced any problems thus far. Their goal here in Eastport is to move out of their home and create a secure private barrier for their current clients and not to expand existing business until Eastport figures out what they want to do. He comments to say that a moratorium last time took a large investment that was directed at Eastport and just the talk of that took it out of their hands. He urges

the Council not to follow up on a moratorium because there is already a State moratorium in place. Recreational marijuana will not come to town until the State allows it. Councilor Repole asks how a moratorium would impact what they want to do. He responds to say that he just wanted to clear the air that they are a medical provider and that they are looking to professionalize the whole industry and not keep it in the dark and the laws have allowed people access to medicine and they want to legitimize the business.

Al Salleroli addresses the Council and reminds Council that the moratorium has been set by the State and the medical end of it is not changing and questions why Eastport would need a moratorium. Eastport should address what they want to do when they know what the State laws are. The City Manager explains this is why it was expressed to us to consider it as no one knows what those are going to be and to be very careful. Once this opens up, there is nothing to stop anything from happening. The State will issue licenses and medical marijuana will be under review. She further comments to say this is more about zoning issues. Councilor Repole comments to say that the lawyers informed that once the State has come up with their recommendations and we would have nothing in place. Council President reminds everyone that this item of the agenda is to set and schedule a public hearing.

MOTION REPOLE SECOND BRADBURY (PASSED 5-0)

To approve the scheduling of a public hearing for April 12th, 2017 regarding a recreational marijuana.

c) Shed High School Proposal – Re: Former City Hall Building at 78 High Street

Jon Calame addresses the Council and formally presents the proposal from the school and the arts center relative to finding a new use for the former City Hall building at 78 High Street. He continues further with the vision of a long term partnership between two Eastport organizations. He expounds that they would like to create a series of workshops of fabrications and art making inside the building and is sometimes referred to as a maker's space and it would be a series of rooms such as ceramics, woodworking, textiles, etc. Given the proposal, plan, and agreement; they are asking that the City bequeath the building to the school. Paul Theriault updates Council that they have both long term and short term plans. What is before the Council now is a short term plan but part of the long term plan. From the high school side they are looking to attract more tuition students to the school and they believe it is partnership that could help do that and maybe down the road look at building dormitory space as part of the long term plan. They look to give the kids more access to creative outlets. They anticipate multiple functions with a five-year plan.

Lora Whelan asks what the implications are for taxpayers and who will be paying for the maintenance of the building. Jon Calame speaks to a cost shared budget and produces a copy to the Council. He further comments to say that they would not be asking the City to put any money into the project and they anticipate

\$41,000 in start up costs. He states that the Arts Center Board signed off on the agreement with the commitment to do its best to raise those funds. The budget is there but it is a major undertaking and will use existing line items. A question came from the audience about the current industrial arts building and Mr. Theriault responds that it is in pretty rough shape and needs a lot of work. Councilor Bradbury voices her support of the project and emphasizes the opportunity it brings for the community and the school to come together. Mike Morse speaks to successful programs in other states. Alex Smeaton in support of the project and notes that it may be harder to find a buyer for the building.

MOTION _____ **REPOLE** **SECOND** _____ **BRADBURY (PASSED 4-1)**
Councilor Scott Emery Voted "NO"

To offer up the building at 78 High Street to the school.

d) Council Liaison/Manager Updates

The City Manager, Elaine Abbott, gives an update and informs Council that there will be a memorial of an honor case for those Maine men and women that will be on display at City Hall until mid May. She also makes note of a potential USDA grant in correlation with the school and suggests they try and reach Charles Rutelidge to discuss this further. She also notes the City's Rabies Clinic that was held recently.

e) Council Approval of Consent Agenda

MOTION _____ **REPOLE** **SECOND** _____ **EMERY** **(PASSED 5-0)**
To approve the consent agenda as submitted.

VIII. COUNCIL ISSUES

Councilor Repole updates that they are working on the Comprehensive Plan and are now doing the age friendly City as well and there will be a committee that will be implementing some of the suggestions that come to us to make it more age friendly. Anyone interested in serving on the committee can contact Councilor Repole she will bring forward the names as they come forth for appointment.

IX. ADJOURN

MOTION _____ **REPOLE** **SECOND** _____ **BRADBURY (PASSED 5-0) TIME: 7:38 P.M.**
To adjourn.