

**CITY OF EASTPORT
SPECIAL COUNCIL MEETING
MONDAY, SEPTEMBER 25th, 2017
22 WASHINGTON STREET - CITY HALL - 3:00 P.M.**

Council President, Gilbert Murphy, called this Special Council meeting for the purpose of addressing a request before the Eastport City Council which is time sensitive.

SPECIAL COUNCIL MEEETING - 3:00 P.M.

Those in Attendance: Council President, Gilbert Murphy; Councilor Scott Emery; and Councilor Shannon Emery. Also present was City Manager, Elaine Abbott, and City Clerk, Ella Kowal. **Those Absent:** Councilor Mary Repole and Councilor Hailley Bradbury.

Those present in the Audience were as follows: Port Director, Chris Gardner; Richard Mealey, and Michelle Thompson.

I. CALL TO ORDER

Council President called the meeting to order at 3:00 p.m.

**II. REQUEST FROM THE PORT AUTHORITY FOR \$50,000
TO ASSIST WITH DREDGING THE INNER BASIN**

Council President explains the purpose of the meeting and then addresses Port Director, Chris Gardner, and he in turn speaks to the request before the Eastport City Council. He updates that the breakwater is coming to a conclude. He further comments to say that what has held this up is that CPM has struggled to meet its requirements with regard to the bottom depths of the inner basin which has resulted in a delay of several weeks. CPM took several different attempts to try and fix this which resulted in them mobilizing a barge crane to dig what was needed to be dug out as it they could not do it by alternative methods. In doing so, it mobilized MMI/Gerry Morrison as he was the only one close and cost competitive that could mobilize quickly to get into the harbor and get this done. This was not something that was intended to have happen nor was it planned and that it was just that CPM

struggled to get it accomplished by alternative methods. With Gerry being in the harbor and being paid to be mobilized under the CPM contract because his mobilization and his digging of the inner basin is covered under the breakwater project and with MMI hired and in the inner basin, it has afforded a very unique opportunity. He further comments to say that there has been a great deal of discussion of dredging out the approach to the boat ramp and that it has been called the dredging of the inner harbor. He refers to a printout that illustrates what has been permitted for dredging. He comments to say that the main focus is primarily to open up the ability to make the boat ramp usable at more tidal windows. He updates Council that all records reflect the last time this had been dredged was in 1997 and that it was under the City's control at that time. He continues to say that they have been trying to get that project done and put it out to bid and there were a total of three bidders. One was from Federal Project Integrators at ~\$160,000 (the same people who built the road going into the Port), one from Thomas Diczko Company, and one from Down East Masonry at \$122,000. He affirms that the bid for dredging went to Down East Masonry for \$122,000. Even with that being the lowest bid, it was more money than what the Port could do given other expenses such as the floats and the breakwater. That being said, with the admin of Gerry's crane being in the water; it gives them the opportunity to get this done at a much cheaper rate because with the crane it can work so much faster for the dredge not to mention more efficiently and with the mobilization being paid for by another project, the cost can be lowered by as much as half. Gerry's crew can dig it out with the crane, place it in the inner tidal zone, and let it de-water during the cycle which otherwise would have had to be done with an excavator which would have required them to build a road, dig it out a bucket at a time and handle it at least twice before they could get it on to shore. He continues to say that with Gerry's estimate and talking with Jeff Morrison they believe they can get the digging done somewhere around 3-4 days at a price of \$5,000 per cost with no mobilization cost. Gerry's piece is looking to be around \$15,000-\$20,000. He states he went back to Down East Masonry as they were the low bidder and negotiated with them to see what it would be to just move the material from the place of rest in the inner tidal zone and then per permit as according to the bid process to take it to the race track and spread/loom it as specified. He continues further to say that it is based on yardage but anticipates that this can be done for somewhere between \$40,000-\$50,000. On the low side they could be looking at \$55,000 or on the high side better than \$70,000 and states that this is the range that is being dealt with. With no current activity with the MacNichols Wharf boat ramp access, the Port is before the City to see if there is an interest in partnering with the Port to help defray costs. He asks for questions.

Michelle Thompson asks for clarification that this is just for the dredging and not the CPM job. He responds that is correct and that was paid for by CPM. She understands that if this money is used they won't have the other boat ramp and that would mean they would have two boat ramps. Mr. Gardner responds that this is a question for the City. Council President responds probably not as the chances of putting a boat ramp out to MacNichols Wharf is very slim as the City does not

have the land and we have been negotiating with them for three years now. Ms. Thompson states that she does not understand the hold up. City Manager, Elaine Abbott, responds to say that when the City sold all of the boat school property the Council and the City Manager at that time thought that they were getting far more land than what they actually acquired. She further explains the shape of the property in that it is wide up by the road and narrows down to the water and it does not allow for putting anything in then – at the most a pickup truck might get in there and that would be questionable.

Council President asks Mr. Mealey if he had any questions. He responded he liked what he was hearing and likes the fact that the work would be done by someone local. Council President then asks if there are questions from the Council. Councilor Shannon Emery responds to say that she has lots of questions. First, she does not understand why CPM is not finishing their job. Christ Gardner responds to say that CPM has hired Gerry to dig out the portion in the inner basin that they can't get as they thought they would be able to grade it off. Mr. Gardner and Council President both clarify for Council Shannon Emery that this is not the boat ramp part and that is a separate project. Councilor Shannon Emery then asks how much are they getting to do that and asks if they are getting extra. Mr. Gardner responds that he doesn't know what the all-in costs are going to be but believes CPM is paying Gerry and he understands it to be in excess of \$10,000 for the digging of three rock piles but reiterates that this is paid by CPM not the Port. Councilor Shannon Emery asks why this needs to be dredged right now. Council President responds that it is saving money and further comments to say that Gerry is all set up with the barge there the crane will be on it and that the set up fee is being paid by CPM. If we wait to have it done later, we would have to pay someone else to come in with a barge and a crane for another set up and it would be more in cost. Councilor Shannon Emery comments to say that it has worked since 1997. Mr. Gardner responds to say that it has effectively failed since 1997. He shares that at the time the City owned the dredge permit and they should have refiled for one in 2004 but did not do so and it lapsed. He continues further to say that when the City turned the harbor over to the Port in 2005/2006 they assumed it came with a dredge permit but it did not and it required the Port to start from ground zero with an expense to them of \$40,000. Councilor Shannon Emery asks if a boat can get in and out right now. Councilor Scott Emery responds no, not on low water and he states you can walk out to the floats.

Michelle Thompson asks who is responsible for the inner basin – the Port Authority or the City. Mr. Gardner responds that the inner basin itself was turned over to the Port in 2005 but the boat ramp has never been turned over to the Port and that belongs to the City. He further comments to say that this is what the dredging project is about. This is about fixing the channel so that the boat ramp is usable. She asks if they would be able to put in more finger piers. Mr. Gardner responds that they are actually shrinking the finger piers up because of the lack of dredging. She then asks if it is dredged they could put more floats in. Mr. Gardner responds that they could but they are not.

Councilor Shannon Emery speaks to that she was not done and has more questions. She asks if anyone else has contacted the Port or the City about doing the dredging of the boat ramp. Mr. Gardner responds that it was put out to bid in the paper and those were the only three bids received who replied. She then asks if Gerry applied, Mr. Gardner responded no he did not. She says he's getting a bid because he is already there. Mr. Gardner responds that they would never be able to entertain frame costs without someone else paying for it. If this were to be done separately, we would be looking in excess of an additional \$20,000. Ms. Thompson asks for clarification that the Port wants the City to pay out \$50,000 so that the Port can save \$20,000. Mr. Gardner responds that is not the case and further continues to say that if it doesn't get done and it is left to the \$122,000 dredging cost, the Port will not do it as they do not have the funds to do it. He also notes that the Port has put work and money into the boat ramp that was not their responsibility and they also did some extra paving with the breakwater construction and thought it to be the right thing to do as the City was not in the position to do so. Because it was tied to the breakwater construction, it was able to be done a lot cheaper.

Councilor Shannon Emery asks how long ago it was advertised to do the boat ramp. Mr. Gardner responds that it was this summer. She asks if it was described as the dredging of the boat ramp only. Mr. Gardner responds that it was referred to as the proposed dredging plan inner harbor area for Eastport Port Authority. Councilor Shannon Emery asks for clarity that it was inner harbor not boat ramp. Mr. Gardner responds that this is all that was ever discussed or permitted when it was put out to bid and that it was never anything else. Councilor Shannon Emery expresses her concerns. One of which is that \$50,000 is a lot of money and it was not anticipated; a meeting nor public hearing has been held on this as to whether or not the boat ramp needs to be dredged; no one has come to her and said that they cannot get their boat in or out of the water; she also raised concern about giving a lot of money to someone just because they are in the area and feels that no one else is getting a chance to bid and how does she know that someone like David Pottle which someone called her on her ride into the meeting saying that he did offer to do it for \$10,000 – whether or not that is true - there seems to be a lot going on with short notice; she also notes that the public is not in attendance and also places emphasis that full Council is not in attendance of the meeting and proposes tabling it and discussing at the Council's next meeting and advertising it with a bigger notice of time for people.

Mr. Gardner addresses her concerns and responds to say that Gerry's costs as far as the crane itself is hopeful to keep to three days for an amount of \$15,000. The lying share of this cost is the removal of the material to be done by Down East Masonry and that was the boat ramp and they bid the \$122,000. Councilor Shannon Emery responds that there may be someone in town that would want the project. Council Presidents comments to say that Down East Masonry was the low bidder originally and what Chris did was take out the dredging and left the cleanup. Mr. Gardner responds to say that since \$122,000 was too high, which is standard practice in municipal bidding, once you have the awarded low bidder; you can

move to negotiation stage and he reiterates is a standard practice of municipal bidding. Councilor Shannon Emery requests to see a copy of the bid that says it was just for the boat ramp and re-emphasizes that she wants to see this matter tabled until the next meeting so that all the information can be put on the table. Michelle Thompson asks for clarification that the Port Authority put the job out for bid and he responds it was and she then asks why the Port is asking the City to pay for it. He responds that the boat ramp belongs to the City and technically the Port could wash their hands of it and let the people come to the City and tell them the boat ramp needs to be fixed. She asks if they were going to put a job out a bid in the first place and wanted the City to pay for it, why didn't they come to the City. Mr. Gardner responds that they did not anticipate it to be that high.

It was their hope that it all could be moved through the harbor account through harbor users. In addition, there have been cost overruns on the breakwater. He continues to say if the City has no interest in participating they will not beg nor grovel for it and will just leave and walk away from it and then it becomes the City problem. Councilor Shannon Emery responds that this sounds like a threat. She states that she received three calls on the way in and the people/public are upset and they want more information and feels that it is too quick. This is not a normal meeting and the townspeople are unable to attend. Councilor Scott Emery comments to say that if we don't do it now it won't get done. He continues to say if that is what the people want, there will be no boat ramps. Councilor Shannon Emery re-emphasizes that she would like to hear what the people have to say. Chris Gardner responds to say that the Port Authority does not want to be a problem to the City and respectfully withdraws their request and states that the project will not be done. Council President reminds that there is a time frame for the Port and Mr. Gardner responds that it no longer exists and that they withdraw. Council Council President calls for a motion and Councilor Scott Emery motions in favor and Councilor Murphy asks the Clerk if he can second, she was unsure but noted that she understood Councilor Repole was in favor, however as Councilor Shannon Emery stated she is not in attendance to have heard discussion of the meeting. Shannon Emery states that she is not say yes or no and would like to table it also wants to see the information on the bid that was put out. Mr. Gardner addresses Councilor Shannon Emery and explains why they can't wait and that CPM is on a deadline to get this done and their and it is costing them money because they did not live up to their end of the bargain. As a result, Gerry has been contracted to finish it starting Wednesday and after he is done with that on Wednesday, there are two options for that: either the barge goes or it stays. He does inform Council should the City move forward with the dredging of the boat ramp, the Port Authority is more than willing to give benefit of their permit to the City at no cost. Council President contacts legal counsel to see if he is able to second the motion as Chair of Council. Councilor Scott Emery reminds Council that the \$75,000 earmarked for the other ramp would not even touch what it would take for that location and at least this way the City would have a usable ramp. Ms. Thompson spoke that she understood that Morrison's

would put up half of the money and the City half and that there was grant money. Councilor Scott Emery and City Manager, Elaine Abbott, both remind Council that the grant money had expired because the City did not own the land when the grant process was done. The City Manager reaffirms that the \$75,000 is sitting in a dedicated account. Mr. Gardner speaks that the earmarked \$75,000 would have been utilized to do the project requested that has been withdrawn and that it was not coming out of the budget. Councilor Scott Emery reminds Council that they will have a \$13,000,000 breakwater and a viable boat ramp downtown where it belongs as well as access to Moose Island Marine and parking and feels strongly that it is a plus for the City. Mr. Gardner explains that the \$15,000 is to simply take the material and crane it to the inner tidal zone and at that point and time it cannot be left there as it has to be taken from the inner tidal zone and then trucked a dump truck at a time out to the race track property and then it will have to be spread, loomed, chemicaled all those things that have to be under the dredging permit to be accepted by the DEP. If it were to be dug by an excavator it would cost \$60,000. By having the crane in the water we are getting a great rate. Mr. Gardner thanks the Council for their time and once again reiterates the Port respectfully withdraws their request and that they will not do the project and should the City wish to revisit it they can do it at their leisure. Councilor Shannon Emery asks why meetings are being called at 3:00 o'clock in the afternoon when the working people are unable to attend. Councilor Scott Emery responds that the meeting has been known about since Friday and the City Clerk assures that the agendas were posted locally and on the website as required Charter and reaffirms that City Hall is a point of contact for any questions. Councilor Shannon Emery shares that she was called on the way to the meeting that two local people had offered to dredge it for \$10,000 and that one of them was David Pottle and the other one she did not really know but that they were local. Councilor Scott Emery responds to say that the dredging is not the big expense of the project, it is getting rid of it. Councilor Shannon Emery feels very strongly to have a meeting and have it bid out. Councilor Scott Emery expresses concern that it is going to cost the taxpayers more money.

The record reflects that Councilor Shannon Emery opted to leave the meeting at 3:30 p.m. prior to the Council President returning from his call with legal counsel.

Council President returns and informs remaining Council that it is permitted for him to second a motion and should Council Scott Emery still wish for the motion to stand, he will second it. The City Manager reminds that there are only two councilors remaining. Council President states that Councilor Repole is in favor of the project. The City Manager responds that she does not believe she is able to vote as she does not have all the information of this meeting before her now. The City Manager advises that forcing a vote would be a huge mistake. The City Clerk reminds Council that irrespective of what is on the floor for a motion, that the Port Authority has withdrawn their request. The City Clerk also reminds Council that when Councilor Shannon Emery left the meeting at 3:30 p.m. that there was a motion of the floor with no second and leaves with remaining Council with no quorum for a vote.

MOTION SCOTT EMERY **SECOND** _____ **(NO QUORUM)**
To approve giving \$50,000 to the Port Authority for the boat ramp. **NO VOTE**

III. ADJOURNMENT

The Council President calls for a motion to adjourn.

MOTION SCOTT EMERY **SECOND** MURPHY **(PASSED 2-0) TIME: 3:36 P.M.**
To adjourn.