

**CITY OF EASTPORT
CITY COUNCIL MEETING
WEDNESDAY, FEBRUARY 14th, 2018
SHEAD HIGH SCHOOL - LIBRARY - 6:00 P.M.**

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

(Reference WS700 & 700310 & 311)

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

Those in Attendance: Councilor Roscoe Archer, Councilor Hailley Bradbury, Councilor Scott Emery, Councilor Shannon Emery, 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 SHANNON EMERY **SECOND** ARCHER **(PASSED 5-0) TIME: 5:31 P.M.**

To go into Executive Session for Personnel Matters under 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)*.

MOTION ARCHER **SECOND** SHANNON EMERY **(PASSED 5-0) TIME: 6:05 P.M.**

To come out of Executive Session.

REGULAR COUNCIL MEETING

(Reference WS700312)

Those in Attendance: Councilor Roscoe Archer, Councilor Hailley Bradbury, Councilor Scott Emery, Councilor Shannon Emery, 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: Lora Whelan, Gordon Smith, Alex Smeaton, Mary Repole, Peter Repole, Kendall Ziegler, Al Salleroli, Mary Jane Summers, Maxine Montague, Earl Small, Richard Clark, Jana Sutherland, Mr. DeWitt, and Jon McNerney,

I. CALL TO ORDER - Council President called the meeting to order at 6:06 p.m.

II. ACTION from EXECUTIVE SESSION

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

To approve putting out to bid for demolition property located at 76 High Street that was tax acquired by the City through the foreclosure process of a 30-day Notice of Foreclosure that matured on January 29, 2018 for the FY2016 real estate tax.

III. PUBLIC HEARING(s)

Council President opens this portion of the meeting for the public hearings at 6:08 p.m.

New Liquor License Application – William Condon – Ponderosa d/b/a Fins Restaurant (15 Norwood Road – Restaurant at Seaview Campground)

The Council President calls for questions and comments. There were none.

Amendment to the City of Eastport Firearms Control Ordinance – Section 1

The Council President reads aloud the proposed amendment to Section 1 of the City of Eastport Firearms Control Ordinance. Which is as follows:

To amend Section 1 of the ordinance to “add”: A. Exception. If the City Council determines that wild animals are dangerous to public safety, the City Council may approve hunting of said wild animals by firearms by specific individuals. Any such approved individuals hunting by firearms shall do so in accordance with State of Maine hunting law.

Council President calls for comments from the public.

Mr. DeWitt from the audience asks if this is passed and is determined that coyotes need to be hunted again, is the City going to use the same person that has been hunting them illegally for years. Council President responds they do not know who they will use but that it will be someone qualified. Mr. DeWitt then comments to say it appears to be very broad to him and believes there should be some sort of outline of what kinds of animals are dangerous.

Jana Sutherland from the audience comments to say that there be more specific wording drawn up as to the determination of what makes a dangerous animal and asks if it will refer to a broad range of animals or just individual animals that pose a danger. Council President responds that it refers to wild animals. Ms. Sutherland responds to say that is very broad and asks how they would determine which animal is dangerous. She then comments to say that maybe this amendment should be part of the Animal Control Ordinance. Council President responds to say that we do have an Animal Control Officer and that she would be contacted to assist in the determination.

Alex Smeaton from the audience addresses the Council and comments to say that the act specifies that the person would have to get permission from the Council and that there would be a process and that they couldn't just go shooting animals. It would need to be put on an agenda and brought forth to Council. Council President reminds that firearms are not to be discharged within the City.

Gordon Smith from the audience comments to say that there are State laws that speak to this concern as well and believes you must have permission from the owners within a 100 yard radius of those dwellings.

Councilor Bradbury comments to say that she personally believes that this directly relates to the discussion about the hunting of coyotes that she tried to open up with the Council months ago which she believes was tabled months ago and it seems to her that this is the response to that discussion that she asked to have and she feels the Council is now trying to just make it legal for the individual who was illegally hunting the coyotes. She further comments to say, beyond that; she feels it is a disservice to Eastport to not allow that discussion to take place before the City tries to pass an amendment such as this. She then makes reference that it refers to wild animals and notes that we have had more individuals being attacked by domestic dogs in Eastport than we have had by coyotes. She then states that we have had individuals who have been attacked by their own dogs. She continues to say that we see more occurrences of domesticated dogs posing dangers than we have of coyotes. She feels strongly that this is specifically targeted to allow firearms to be used to hunt coyotes in Eastport and says if this is the purpose of this amendment she believes it should only come after they have a discussion where individuals can be educated about the reality of coyotes and the vital role they play in the ecosystem. She emphasizes that she feels it is a disservice to Eastport to push this through without allowing that to take place first. She continues to say that she feels it is incredibly broad and she questions the Council's ability to make a sound judgment with that ignorance. She comments that if the Council is unwilling to educate yourself about the reality of these animals they should not have the right to determine whether they impose a real threat.

Kendall Ziegler from the audience states that she is in agreement with Councilor Bradbury and finds the proposition of the amendment to be insane. She continues to say that coyotes are predator of deer. Councilor Bradbury then speaks to lyme disease.

Councilor Scott Emery speaks to the sixty deer that was shot on the island this year and tagged and not one deer tick was found on the island. Councilor Bradbury responds to say that this isn't about deer. Councilor Scott Emery asks should anyone get a rabid fox or raccoon in a door yard he does not expect anyone to come shoot it. He says that this is more to do with shooting coyotes and feels it has got a lot to do with firearm control too. Councilor Bradbury responds to say that this is not about gun rights. She reminds the Council President that it was he who tabled the discussion about

coyotes and it has never come back up and reminds that Councilor Scott Emery just said that this is primarily to address coyotes and she feels, at the very least, that this should be tabled today because it is not the proper response. Councilor Scott Emery comments to say that this addresses all wildlife. She responds to say that what this comes down to her is that there are Council members who knew for years that an individual was given the permission from an entity that we are still not clear about to illegally hunt them and what they are trying to do now is make that legal.

Gordon Smith from the audience asks if trapping is legal.

Jana Sutherland of the audience comments to say that she agrees in part with being what Councilor Scott Emery with regard to shooting rabid animals.

Councilor Shannon Emery addresses Councilor Bradbury of her interpretation of how it is written is that the Council would have to meet to discuss whether or not they would allow it. Councilor Bradbury responds that she understands that but it is very clear to her that a bias exists towards coyotes that has already represented itself on this Council and the lack of that discussion and the fact that no one else has had a problem with an individual illegally hunting them with a firearm. She expresses that Council has already taken their stance on the fact that coyotes do not have the same rights to live as other creatures on this island. Councilor Shannon Emery asks Councilor Bradbury if there is a way to word this differently to help realize that no one would be hunting wild animals without the consent of the Council. Councilor Bradbury responds that she fears the abuse of the proposed amendment. She further states that she questions Council ability to make a sound judgment call on such matters without holding further discussions to educate them.

Mary Jane Summers from the audience addresses the Council and asks if someone from the University of Maine in Machias could come and share some information with the City about the coyotes place in the ecosystem and then an informed decision could be rendered. Councilor Bradbury would also like to see the public participate in that as well. She offers up looking into contacting a wildlife biologist to come and speak on this.

**Amendment to the City of Eastport Recreational Marijuana Ordinance
(requested by Al Salerolli d/b/a The Rose Bud)**

Council President explains that this proposed amendment is brought forth to Council for consideration by Al Salleroli and is requesting an amendment to the ordinance, Section 7 to read: Retail marijuana social clubs are expressly prohibited in the City of Eastport, except for retail marijuana social clubs existing at the time of the adoption of this ordinance. Council President opens the floor for questions and/or comments.

Gordon Smith of the audience asks how many clubs are in existence as well as at the time of adoption of the ordinance. Council President responded, one.

Mr. Smith asks for clarification that there would never be more than one if this were to pass. Council President comments to say that should Council permit this then they would be setting precedence to make the same exception for others.

Mr. DeWitt asks about the previous status of operation for this entity. Council President responds that it was for medical only.

Jana Sutherland of the audience asks if there have been any instances of public disturbance since the operation opened. Council President responds none that he is aware of.

Kendall Ziegler speaks to that there grandfather clauses in the law with regard to existing entities and did not believe there to be a problem.

Lora Whelan asks if this would be a change of use and addresses Mr. Salleroli that she is to understand that he has people there for use of medical marijuana not for recreational purposes. He responds that he came to the Town Hall and spoke about it and everyone was invited and he even invited the Chief of Police. He spoke of a caregiver business and a private club. He reaffirms that you cannot smoke in public so it becomes a private club. He continues to say that when he first opened in 2016, you had to have a medical card to come in but recreational was made legal in the State with no provisions for sale. Therefore, he did not sell to anyone and they brought their own but they could still come into the lounge and sit there and smoke. He further comments to say that recreational has been legal since January 30th, 2017.

Gordon Smith of the audience asks what the State's status is at this time. Legal Counsel, Dennis Mahar, responds that there are no regulations and that the legislature did not do anything to alter the Statute at this time. Mr. Salleroli reminds everyone that it is illegal on the Federal level.

Councilor Archer speaks to that his only concern is that it would be exclusive to that entity and then that becomes a monopoly and is not in favor of putting the City in such a situation. He further comments to say until the State gets their stuff together, he will not go any further.

Legal Counsel, Dennis Mahar, speaks to the way the ordinance is written that it does not prohibit private individuals or a private entity from the consumption of marijuana on their property, recreationally. However, it does prevent the sale.

Councilor Shannon Emery questions the wording and Al Salleroli says it now reads no lounge and that is what he has been operating. Legal Counsel, reminds Al that is not what he has been running as he has not been allowed to sell. He states that what he is asking is a special exception for something that he could not do. Mr. Salleroli responds that he is not asking to sell but to keep the lounge and that there are no avenues for that with the exception of medicinal purposes.

Legal Counsel, Dennis Mahar, tells Mr. Salleroli that he does not need this amendment. He further comments to say that the definition with the State legislation and in the local ordinance prohibits a lounge that is effectively a bar. Al Salleroli then comments to say that a lounge would be considered a sale place and Mr. Mahar confers and does not refer to a private club. Mr. Mahar tries to bring up the Statute. Al then asks when and if the State does come up with something on the laws for sale, will he be able to have the recreational sale license and can that be in a separate room for the sale and still have the lounge. Councilor Bradbury speaks to that is not relevant now because they don't have the State legislature on that yet. Mr. Mahar responds that is not likely as they do not even allow that for alcohol. He further continues to say that you cannot have a license to sell on premises in the same location.

Gordon Smith of the audience asks if he can't sell marijuana to non-medical where are they going to get it. Legal Counsel, Dennis Mahar, responds that the State statute redefines the retail marijuana social club as an entity licensed to sell retail marijuana to consumers for the consumption on the licensed premises. He affirms that as long as you are not selling one is fine.

Mary Jane Summers from the audience asks for clarification that he does sell to card holders and Mr. Salleroli responds only to his patients on the premises and in a different room. He affirms that one is a lounge and the other is the medical business for caregivers.

Jana Sutherland of the audience asks for a re-read of how that section of the ordinance currently reads and what is being proposed as an amendment. Councilor Bradbury obliges and re-reads both.

Mr. Salleroli just wants to keep his business he is building going and if it is fine with the way he is running it right now – then there is nothing else needed.

Jon McNerney of the audience asks if the medical marijuana consumers use the lounge now and Mr. Salleroli responds with a yes.

Former Councilor Mary Repole of the audience addresses Legal Counsel, Dennis Mahar, and asks for clarification that nothing needs to be changed and Mr. Salleroli can continue with doing his business as he has been and he responds with a yes.

Once the State sets the regulations for recreational he will apply for that license as per the State laws.

Councilor Bradbury comments to say that she feels that they are getting away from the issue at hand and if he came to be sure that he can still continue to operate his business as he has been then they can move along and proceed forward as no change is needed at this time given his request.

Mr. DeWitt asks the Council if there are plans to amend the local ordinance for recreational marijuana once the State regulations are known. Legal Counsel responds that the local municipality does not have the authority to regulate for medical but can regulate for recreational retail.

Al Salleroli asks to clarify one thing – which is premises and asks if it is the entire building or it is a room that it is in. Legal Counsel responds it is the building with a separate entry.

Council President declares the public hearings closed at 6:40 p.m.

IV. ACTION ON PUBLIC HEARING(s)

New Liquor License Application – William Condon – Ponderosa d/b/a Fins Restaurant (15 Norwood Road – Restaurant at Seaview Campground)

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

To approve a new liquor license application for William Condon – Ponderosa d/b/a Fins Restaurant (15 Norwood Road – Restaurant at Seaview Campground).

Amendment to the City of Eastport Firearms Control Ordinance – Section 1

MOTION BRADBURY **SECOND** SHANNON EMERY **(PASSED 3-2)**

Councilor Archer & Councilor Scott Emery Voted “NO”

To not accept the proposed amendment in Section 1 of the Firearms Control Ordinance as submitted and presented.

Amendment to the City of Eastport Recreational Marijuana Ordinance (requested by Al Salleroli d/b/a The Rose Bud)

MOTION SHANNON EMERY **SECOND** BRADBURY **(PASSED 4-1)**

Councilor Scott Emery Voted “NO”

To not accept the proposed amendment as submitted and requested as it was determined that it does not affect his current business.

V. ADJUSTMENTS TO AGENDA

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

To approve an adjustment to the agenda to add “(h) Fire Truck – Earl Small” to Item VII New Business.

VI. UNFINISHED BUSINESS - NONE

VII. NEW BUSINESS

a) Council Approval to Sponsor the Summer Meals Program

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

To approve sponsoring the Summer Meals Program.

b) Accept Donation of (7) Lockers from USCG

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

To **accept** a donation of seven lockers from the USCG.

c) Council Approval for a 3-Year Contract for the Sweeping of Roads

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

To **approve** a 3-year contract for the sweeping of roads as submitted.

d) Opening & Award of RFP's for Bond Anticipation Note – WWTP

(\$2,000,000 Interim Financing on a USDA Grant)

A total of three RFP's were received and the City Clerk gave them to the Council President for opening.

One from The First at an interest rate of 2.89% for a total interest amount of \$117,206; one from Machias Savings Bank at an interest rate of 2.59% for a total interest amount of \$157,558; and one from Bangor Savings Bank at an interest rate of 2.84% for a total interest amount of \$170,399.

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

To **accept and award** the RFP as submitted for a Bond Anticipation Note for the WWTP for \$2,000,000 Interim Financing on a USDA Grant to **The First** at an interest rate of **2.89%**.

e) Council Approval for Placement of Signage on Local Roads – Bold Coast Bikeway

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

To **approve** the placement of signage for Bold Coast Bikeway on the Local Roads.

f) Council Liaison/Manager Updates

The City Manager updates that she had applied for a grant on sidewalks and that DOT has informed us that they will not be funding that program this year as they are playing catchup but that she will try again next year.

She also informs Council that she tried for a grant to resurface the tennis courts and we were declined on that but she will keep trying.

MOTION ARCHER **SECOND** BRADBURY **(PASSED 4-1)**

Councilor Archer Voted "NO"

To **accept** the Manager's Report as presented and given.

g) Council Approval of Consent Agenda

Councilor Shannon Emery makes a request of going back to the old days of when the Department Heads present their reports or that at least the reports

are read. Councilor Archer comments to say have it put into the individuals packets and the Council President and the City Manager reminds Councilors that they are in the Council packets. The City Clerk reminds Council that Council expressed there was not a need for one from Public Works but that it would be on file at City Hall for review. Whatever is in the Council packet is what was submitted to the Clerk.

MOTION ARCHER **SECOND** SCOTT EMERY **(PASSED 4-1)**

Councilor Shannon Emery Voted "NO"

To approve the Consent Agenda as submitted.

h) Fire Truck - Earl Small

Fire Chief, Richard Clark, addresses the Council about consideration of purchasing a 1993 E-One Ladder Fire Truck which they can still get parts for. Their current ladder truck has issues with inspection and is difficult to get parts for as they have gone out of business and parts would be scarce if we needed them. This new truck would also update the safety of our people. The 1975 is not out of commission just outdated. Council President asks if they would take the other truck in trade and Richard said that they have not gotten to that point yet. He further comments to say that the truck we have has no pump nor water on it. The 1993 does have a pump and they would make that their first line truck and save the newest truck so that they always have a decent truck – the best truck would always be there as the backup. Currently, their newest one is a 2001. With the 1993 they could run the hose from the ground as opposed to putting firemen up above, which is also a safety factor.

Former Councilor Mary Repole from the audience asks if the payments are \$500.00 a month. Earl Small from the audience responds to say that he calculated it for 15 years at a rate of 2.45% for an amount \$5,000.00 per year. He comments further to say that this truck is an automatic whereas the other one is a standard which requires double clutching and they are limited to only three people who can drive it. He also notes that the ladder and the body is aluminum and that there would be no issue of rust. The existing ladder truck has not been inspected for a couple of years and shouldn't be utilized. The Fire Chief states it should be inspected every five years but it is difficult to get someone to come out. Earl Small said they have not done any negotiating but he is hoping to come out somewhere around \$60,000.

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

To proceed with the negotiation on the new fire truck as presented.

VIII. COUNCIL ISSUES

Councilor Scott Emery asks if one of the gymnasiums at either school be open in the summer time in lieu of not being able to resurface the tennis courts.

Councilor Archer would like to see the old cruiser put out to bid. He was updated that the Council that it was given to the airport. Councilor Archer said they did not want it because they did not want to put insurance on it. The City Manager responds she was not made aware of this. Council President suggests that we check with the Airport Manager, Steve Trieber, on this.

IX. ADJOURN

MOTION ARCHER **SECOND** BRADBURY **(PASSED 5-0) TIME: 7:20 P.M.**
To adjourn.