

Mayor Harnett called the meeting to order at 6:35pm

## **ROLL CALL**

Thom Harnett, Mayor at large; Councilors: Terry Berry, District 1; Tim Cusick, At large; Mark Rines, District 4; Jon Ault, At large; Patricia Hart, District 2

Absent: Councilors: Shawn Dolley, District 3; Maryann White, At large

Also in attendance: City Manager, Christine Landes; City Clerk, Kelly Gooldrup; Curtis Ayotte, Peter Giampetruzzi, John Shaw, Louis Sigel, Chris Jenner, Barbara Jenner, Anne Davis, Barb Skelton, Judith Herman, Dorothy Washburne, Daniel Walker, Piper Panzeri, Peter Prescott, Brian Kent, Wayne Frankhauser, Sue Crawford, Tom Reeves, Jessica Lowell, Tony LaPlante Jim Toman, Jeannine L'Heureux, Dennis Wheelock

## **PETITIONS, PUBLIC HEARINGS (Public comment for anything not on the agenda)**

None

### **1. Executive Session pursuant to 1 M.R.S.A. § 405 (6)(F)**

Councilor Berry moved to go into Executive Session pursuant to 1 M.R.S.A. 405 (6)(F) regarding a possible Poverty Tax Abatement. 6:00 PM

Councilor Cusick seconded. Any further discussion. All those in favor. Unanimous. 6:20 PM

### **2. Executive Session pursuant to 1 M.R.S.A. § 405 (6)(C)**

Councilor Cusick moved to go into Executive Session pursuant to 1 M.R.S.A. 405 (6)(C) regarding a possible Credit Enhance Agreement. 6:20 PM

Councilor Berry seconded. Any further discussion. All those in favor. Unanimous. 6:31 PM

### **3. Discuss and Possibly Approve a Poverty Tax Abatement**

Councilor Berry moved to deny a poverty tax abatement for the applicant's FY18 taxes.

Councilor Cusick Seconded. Any further discussion. All those in favor. Unanimous.

### **4. Discuss and Possibly Approve to offer a Credit Enhancement Agreement to a Libby Hill Business Park Business**

Councilor Cusick moved to offer a Credit Enhancement Agreement to Black Diamond Consultants according to the terms as discussed.

Councilor Berry Seconded. Any further discussion. All those in favor. Unanimous.

### **5. Public Hearing and First Read of Amendments to the City's Dog Control Provision**

City Manager Landes explained that the Council chose option one in the previous meeting.

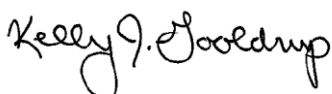
Mayor Harnett opened the public hearing at 6:41 PM and asked for public comment.

Barbara Jenner, Harrison Ave resident, asked if we see a dog with a leash but not hooked to it, do we call the police?

Mayor Harnett responded yes.

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*Approved by City Council as written (amended) and attested by City Clerk on 10/17/2018*



Kelly J. Gooldrup, City Clerk

Chief Toman encouraged people to please call in and let us know as much detail as possible about the dog and location. Any time anyone has an issue or fear, please call the police.

Peter Giampetruzzi asked if he will have to stay within six feet of his beagles while hunting rabbits.

Chief Toman responded that if you are on your own property or have permission from another property owner, it would be allowed.

Peter Giampetruzzi asked if an exception can be made to mimic the state law and exempt hunting dogs.

Mayor Harnett responded that the proposal in front the Council does not allow for that. You would have to come forward with a request for an amendment to the ordinance.

Councilor Rines recommended taking pictures and video of the 'at large' dog.

Councilor Hart asked what the police departments experience is with the leash law and aggressive or out of control dogs in general.

Chief Toman said we are primarily dealing with at roaming large dogs such as they slipped their leash or collar.

Overall we don't get calls about dogs loose at the waterfront or not heading their owner's voice commands.

Curtis Ayer, Highland Ave resident, asked if there is already a leash law in the city.

Mayor Harnett responded that we are amending the ordinance to change the definition of a dog at large. The State allows for voice command and that is what we are changing.

Curtis Ayer asked why we are looking at a six-foot leash instead of a twenty-foot leash.

Chief Toman responded that is much easier to control a dog with a six-foot leash as opposed to a twenty-foot leash.

Jeannine L'Heureux, asked if there are fines with the ordinance.

Chief Toman responded that there are fines already in place. Not more than fifty dollars.

Jeannine L'Heureux, said that is not high enough. Otherwise is in support of the proposal.

Judy Herman, Veterinarian, used to walk her dog in Gardiner. Say that the six-foot leash is very important.

Retractable leashes should be illegal.

Peter Giampetruzzi asked if this means my Lab and Golden will no longer be able to swim in the water with my grandchildren without being on a leash.

Chief Toman responded yes.

Mayor Harnett asked for any further discussion from the public. Seeing none, the Public Hearing was closed at 7:00 PM.

Councilor Cusick moved to send the proposed amendments of the City's Dog Control Provision to a second read on October 17, 2018.

Councilor Ault seconded. Any further discussion. All those in favor. Unanimous.

**6. Public Hearing and Second Read of an Amendment to the Land Use Ordinance Subdivision Section 14**

CEO Skelton explained that this amendment is a complete rewrite. It is a removal of an existing section. The major change is that we classify subdivisions as major and minor.

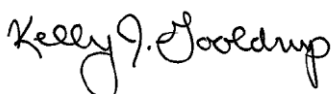
Mayor Harnett opened the Public Hearing at 7:03 PM and asked for any comments from the public. Seeing none, the public hearing was closed at 7:03 PM. No action necessary.

**7. Public Hearing and Second Read of an Amendment to the Land Use Ordinance Procedure Section 6**

CEO Skelton explained that this is a minor change but should alleviate a lot of work and added stress for the business owners. CEO could approve the minor changes with this proposal.

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Kelly J. Gooldrup, City Clerk

Mayor Harnett opened the Public Hearing at 7:05 PM and asked for any comments from the public. Seeing none, the public hearing was closed at 7:05 PM. No action necessary.

**8. Public Hearing and Second Read of Amendments to the General Assistance Ordinance**

City Manager Landes explained that in the previous meeting the Council requested numbers from General Assistance that was given out last year. We had \$18,176 in expenses. The State reimbursed us seventy percent of \$14,049.

Mayor Harnett opened the Public Hearing at 7:06 PM and asked for any comments from the public. Seeing none, the public hearing was closed at 7:06 PM. No action necessary.

**9. Adoption of the Amendment to the Land Use Ordinance Subdivision Section 14**

Councilor Hart moved to adopt the Amendments to the Land Use Ordinance Subdivision Section 14 and waived the publication requirement of the amendments in the newspaper.

Councilor Berry Seconded. Any further discussion. All those in favor. Unanimous.

**10. Adoption of the Amendment to the Land Use Ordinance Subdivision Section 6**

Councilor Hart moved to adopt the Amendments to the Land Use Procedure Section 6 and waive the publication of those changes in the newspaper.

Councilor Ault seconded. Any further discussion. All those in favor. Unanimous.

**11. Adoption of the Amendments to the General Assistance Ordinance**

Councilor Ault moved to adopt the Amendments to the General Assistance Ordinance.

Councilor Cusick seconded. Any further discussion. All those in favor. Unanimous.

**12. Discussion regarding the hiring of an Economic Development Director**

City Manager Landes reminded that the City Council approved a position in the fiscal year 19 budget in amount of \$43,562 that would cover from November through June. The City Council is to consider starting a discussion on filling this position, whether it is full or part-time at this point. She also asked for assurance that it will be funded in subsequent years going forward. There are plenty of developments upcoming such as TIF requests, Downtown Facade, Libby Hill Business Park, and The Two Bridge Projects. You have a letter in front of you from Steve Marson supporting this position.

Mayor Harnett asked for any public comment before opening up Council discussion.

Dennis Wheelock - representing Libby Hill Business Park, urged the council to consider this strongly.

Anne Davis - representing the Board of Trade, asked Mayor Harnett to read the letter from Steve Marson out loud.

Mayor Harnett read the letter from Steve Marson.

Anne Davis said the Board of Trade is in support of a full-time position.

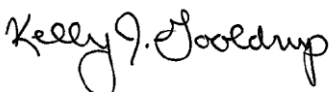
Susan Crawford – former Chair of the Economic Development Committee, said we need to fill this position before we start losing opportunities. She recommended it be a full-time position.

Councilor Ault moved to direct the City Manager to advertise and fill the position of Economic Development Director at a cost not to exceed \$43,562 in FY19. Also, the position will continue to exist into subsequent fiscal years at a cost yet to be determined.

Councilor Rines seconded.

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Kelly J. Gooldrup, City Clerk

Councilor Berry said he fully supports this position, but wants an honest comparison between part-time or full-time.

Mayor Harnett asked City Manager Landes if this is approved, will it come back to the Council.

City Manager Landes responded that the hiring will come out of the City Manager's office. The proposal of the chosen candidate by the City Manager's office will be brought to the Council for final approval.

Councilor Berry says some may want to only work 20 hours.

Mayor Harnett commented that he supports this position.

Councilor Hart supports the position and states that the city has been missing the skills of an Economic Development Director, but for everyone to remember having a tight budget and have even turned things down. She stated that she cannot vote on something that implies future council so that needs to be struck. Maybe we should look into contracted individuals not just W-2 employees.

Councilor Ault commented that when we approved this budget previously, I was not convinced that we needed a full-time position. I have come to the conclusion that a full-time is needed. Part-time might not attract the talent level that we are searching for at this time. We should be willing to explore possible regional services such as KVCOG.

Councilor Cusick said he is not sure he is comfortable budgeting \$65,000 for the FY20 next year. He is not sure it needs to be full-time, with benefits. He doesn't want to raise taxes to accommodate this position.

Peter Prescott – said the Council needs to consider a full-time Economic Director. In the late 1970's, the Economic Development Committee good things started happening around the City, and would hate to see us go backwards without a full-time position.

Councilor Ault commented that what Patrick Wright did it on a contract basis was impressive; he was part-time but is convinced he put in more hours. There may have been a level of burnout due everything asked of him.

Mayor Harnett stated that the Council is split on this decision. This item has been funded as we agreed to in the budget.

Councilor Hart stated that she did not vote for 'employee' during the budget and doesn't want to give any candidate a false security of the position for years to come, if it doesn't make the budget going forward.

City Manager Landes responded that when she looked at the budget it was funded as a hired employee with benefits.

Councilor Ault made the motion to amend the motion to read as follows:

Councilor Ault moved to direct the City Manager to advertise and fill the position of Economic Development Director at a cost not to exceed \$43,562 in FY19.

Councilor Rines seconded.

City Manager Landes commented that when an applicant comes in for an interview, they may ask what the prospect for the future will be based on that it hasn't been funded in past years. The sentence was just to give assurance for the future.

Councilor Berry agreed to support this because every day we don't have someone is a day lost. He wants to see every option explored for opportunity.

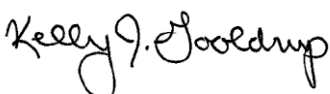
Mayor asked for any further discussion. All those in favor. 5-1. Councilor Hart opposed.

### **13. Discussion regarding the current Grant Agreement with Hoppy Days LLC/ John and Lynn Callinan**

City Manager Landes explained that in May of 2015 the City and Hoppy Days LLC signed a security agreement in the amount of \$35,000. A few weeks ago the business closed with hopes to open something in possibly up to six months. You have some proposal in front of you for changing the agreement.

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Kelly J. Gooldrup, City Clerk

Mayor Harnett stated that he views this as a hiccup. I propose that we stop the clock to give him time to start up again.

Piper Panzeri, Gardiner Main Street – we would like to have this paused.

City Manager Landes explained the current terms of the loan agreement.

Councilor Berry moved to allow Hoppy Days LLC to have a six months' grace period and at the end of the six months, the clock starts ticking again on the Agreement, pushing that paused time frame further ahead.

Councilor Ault Seconded.

Councilor Ault commented that this approach requires faith in the individual and the Council. He has earned this support.

Any further discussion. All those in favor. Unanimous.

**14. Discuss and Evaluate the Safety Concerns surrounding the tree near the corner of Main Avenue and Water Street and a 'Second' Stop Sign**

City Manager Landes explained that discussion surrounding the tree started during the last meeting. There are emails in the council packets from The Bridge Advisory Committee and Pete Coughlin. After researching the minutes from July 20, 2016 Councilor Ault moved to support the removal of the traffic lights at the intersection and install four-way stop signs. MDOT was going study ways to enhance the intersection for both vehicular and pedestrian traffic. Councilor Blanchard seconded. It was unanimously supported.

Tony LaPlante, Public Works Director, explained briefly about the safety of the intersection surrounding the tree. At MMA Convention today, it was reported that last year was the deadliest year in history for the State of Maine for pedestrian fatality.

Wayne Frankhauser representing MDOT, stated that during the projects we are working on, safety is the main concern. We believe this tree should be removed.

Councilor Berry asked why we are making the decision not MDOT.

Wayne Frankhauser we try to work with the Community to seek different opportunity possibilities.

Mayor Harnett asked if the council says keep the tree, can MDOT say no it is unsafe.

Wayne Frankhauser replied that it is possible. We do look at recommendations otherwise.

Councilor Hart asked if MDOT can help us make it safer now.

Wayne Frankhauser responded that we can look at some additional signage.

Tony LaPlante said the City is going to paint stop bars when weather permits.

Brian Kent, Bridge Advisory Committee & the Trail Committee, stated that this intersection is an urban design issue as well as a safety issue. Al Godfrey voted to keep the tree. Maine has the best liability protection. Tree will be cut at Harvey's. The trees behind Gardiner feed will be cut down. The Bridge Advisory Committee wants to keep at least this one.

Tom Reeves – Cobbossee Stream Committee & the Bridge Advisory Committee, urged the Council to keep the tree. At 6:00pm trying to cross the intersection is an issue.

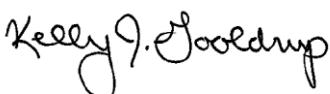
Councilor Ault read the letter from Al Godfrey.

Tony LaPlante said there is liability with this tree. Just like if someone hits a pothole with their vehicle, and we receive notice of the pothole needing repair, we have twenty-four hours to fix said pothole. If it is not fixed within that timeframe and someone else hits it, we are liable.

Chief Toman stated that it is his recommendation for the tree to be removed. For safety reasons, you people are on notice. It is in the City's best interest not to test the fact that we are liable. If we are sued, it going to be lengthy, costly, and stressful and it can be avoided.

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Kelly J. Gooldrup, City Clerk



City Manager Landes commented that although we may be protected in the court of law, you cannot put a price on a human life.

Councilor Hart asked why we are putting a tree at the waterfront, why not somewhere else in the downtown area.

Tony LaPlante the closest place we found with CEO Skelton was in the waterfront.

Councilor Hart said it adds to the streetscape. Can we wait to plant a tree?

Tony LaPlante said we can plant more than one tree in different areas.

Councilor Hart moved that in the interest of pedestrian and vehicle safety, we ask the City Manager to direct the Public Works Foreman to remove the tree from the corner of Maine Avenue and Water Street, and plant another at an appropriate location in the Downtown or the Waterfront Park.

Cusick seconded.

Councilor Ault commented that he was hoping to keep the tree. He was looking others options, but Tony LaPlante has convinced him to remove it. He supports this motion with heavy heart.

Councilor Cusick stated that when you go to court, you don't know what could happen. We have been put on notice.

Mayor Harnett commented that he is voting for this. He is concerned about liability and doesn't want to talk to the parent of the person killed in an accident. Safety is the concern and we have a responsibility for public safety.

Brian Kent asked if MDOT compensate for the removal of the tree?

Wayne Frankhauser it is in the budget for landscaping.

Mayor Harnett asked for any further discussion. All in favor. 5-1 Councilor Hart opposed.

#### **15. Discussion surrounding the new 'opt-in' Adult Use Marijuana Option**

City Manager Landes stated that the Marijuana Task Force Committee recommended the City opt-in. How would the council like to proceed?

Councilor Berry asked that if the Marijuana Task Force Committee approved the ordinance and sent to the Ordinance Review Committee and the Planning Board for approval. Haven't we already opted-in?

Mayor Harnett stated that we did do all those things and it was brought to Council and approved. But it now requires one more step.

CEO Skelton reminded people about the goat ordinance and how that happened and the Ordinance Review Committee spent a lot of time and effort on an ordinance if nothing is going to happen. They want direction as to not waste their time.

Councilor Berry asked if it would have to go to public hearing again.

CEO Skelton said we had a discussion at Ordinance Review Committee. The new State language will not be available until probably February so we are asking if the decision will be brought to Council or does it have to out to voters. We are just looking for clear direction and recommendation before proceeding.

Mayor Harnett stated that we rejected the referendum.

Curtis thought that the recommendation was clear and not sure why it came back to council for this discussion.

Mayor Harnett commented that we just need to take procedural steps once the law is in effect.

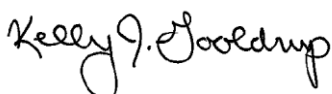
CEO Skelton stated that Council needs to be aware that there is a new process where you have to opt-in or out.

Councilor Berry where does it say you have to wait to opt in until the law goes into effect.

Mayor Harnett said the law changed.

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Dan Walker, Attorney- adult use bill LD17.19 was passed in late spring as an emergency bill. They made major reforms to the bill LD15.39 which was passed and then the Governor vetoed it. They came back and passed it but didn't adjourn until September 13, 2018. The bill has to wait ninety days to take effect on December 19, 2018.

Mayor Harnett commented that the opt-in provision deals with medical marijuana only. Our task force talked about recreational only.

Dan Walker said the adult use is in effect now. Recreational will be December 19, 2018.

Councilor Hart asked if we don't know what the material will look like, there are concerns with making that decision now.

CEO Skelton said the ordinance covers all opt-in.

Councilor Berry asked if we sent anything to the Ordinance Review Committee, those changes and additions wouldn't take effect until it comes back to the Council. If we don't like what we see, we can send it back with recommendations.

Mayor Harnett commented that we don't know if the state rules will allow municipalities to create local laws.

Dan Walker stated that some Communities are already making changes and ready to adopt the new ordinances and laws. They are predicting what the language will look like.

Mayor Harnett believes we can move forward and does not want to revisit the approvals of the recommendations of the Marijuana Task Force Committee.

## **16. Approve Minutes of September 19, 2018**

Councilor Hart moved to approve the September 19, 2018 meeting minutes as presented.

Councilor Cusick seconded. Any further discussion. All those in favor. Unanimous.

## **CITY MANAGER REPORT**

City Manager Landes – For Councilor Ault, 78 Central Street will be on the agenda. Her duties as Vice President of the Municipal Association Executive Committee will be moved up the President Linda Cohen not seeking re-election. I did start my tenor on the Maine Town & City Managers Board on Monday. Councilor Rines and Mayor Harnett need to stop by and sign warrants. Thank you for the opportunity to attend the International City Managers Convention last week.

## **CITY COUNCIL REPORT**

Councilor Berry said he was all set. Thank you.

Councilor Cusick said he was all set.

Councilor Rines said he was all set.

Councilor Ault gave a reminder that Swine & Stein is this weekend. If you can attend that's great, if you can volunteer that's even better. Thank you all.

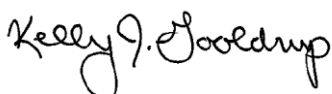
Councilor Hart said she was disappointed with the Economic Development discussion. She would like to do workshops like were done in the past. She asked the City Manager to restart giving us executive session in advance.

Anne Davis said commented that Councilors need to look at their City email instead of using personal email.

City Manager Landes responded that she would deliver the material on the Friday before the meeting and that she did not realize the Council did workshops before meetings on 'sticky issues'.

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Kelly J. Gooldrup, City Clerk



**GARDINER CITY COUNCIL  
MEETING MINUTES  
WEDNESDAY, OCTOBER 03, 2018  
6:00 PM**

Councilor Hart said she also supports the Committees decision about the tree. The intersection is unsafe and if there are any options to make it safer, she would like to see it happen in addition to the tree removal.

Mayor Harnett commented that we have learned more information since then.

Mayor Harnett said he would be at Swine & Stein. Volunteer if you can.

**ADJOURN**

Councilor Berry moved to adjourn.

Councilor Ault seconded. Any further discussion. All those in favor. Unanimous. 9:05PM

Upcoming Meetings Scheduled for Council:

- October 17, 2018
- November 7, 2018
- November 28, 2018
- December 19, 2018

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*Kelly J. Gooldrup*

Kelly J. Gooldrup, City Clerk