Agenda

Bar Harbor Town Council

June 21, 2016

I. **CALL TO ORDER** – 7:00 p.m. – Town Council Chambers

A. **Excused Absence** – Councilor Barker requested to be excused.

II. **PUBLIC COMMENT PERIOD** – The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.

III. **APPROVAL OF MINUTES –**

A. **May 17, 2016 Regular Meeting**

B. **May 24, 2016 Special Meeting**

C. **June 15, 2016 Organizational Meeting**

IV. **FINANCIAL STATEMENTS** – Review and possible adoption of a motion to accept the financial statements as presented.

V. **ADOPTION OF AGENDA**

VI. **CONSENT AGENDA** – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:

A. **FY17 Water Spending** – Possible adoption of a motion "to approve a Continuing Resolution that authorizes staff to continue spending Water Division funds at the current levels until a water budget is approved, except that wages may be increased on July 1 as for other Town employees."

B. **FY17 Sewer Spending** – Possible adoption of a motion "to approve a Continuing Resolution that authorizes staff to continue spending Wastewater Division funds at the current levels until a sewer budget is approved, except that wages may be increased on July 1 as for other Town employees."

C. **Special Amusement Permit: Little A's** – Possible motion to file update status memo from Police Chief.

D. **Cable TV Public Access Channel** – Possible action to approve the April 28, 2016 request of Dobbs Productions to use public access Channel 2, as outlined in its request, on the condition that it agrees to abide by the Town Council's Cable TV Public Access Policy for broadcasting video. (Approved by CTTF on 5/16/16).

E. **FY16/FY17 Audit** – Review and possible acceptance of a proposal from James W. Wadman, CPA, to conduct annual audits of the Town's financial statements for the years ending June 30, 2016 and June 30, 2017

VII. PUBLIC HEARINGS:

A. **Special Amusement Permits: Side Street Café**, 49 Rodick Street, request for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Jennifer Young. (Renewal).

B. **Floodplain Management Ordinance Amendment** – Possible adoption of the proposed amendments to Bar Harbor Town Code Chapter 90, Floodplain Management, an amendment to reflect FEMA amended maps, definitions, and addition of LiMWA regulations.

VIII. REGULAR BUSINESS:

A. **Agreement with Hancock County Sheriff** – Request of Police Chief Willis for authorization to sign the agreement between the Sheriff's Office and Bar Harbor's Police Department

B. **FY17 Water Budget** – Introduction of the proposed FY17 Water Budget and possible scheduling of a public hearing on July 19, 2016.

C. **FY17 Sewer Budget** – Introduction of proposed FY17 Sewer Budget and possible scheduling of a public hearing on July 19, 2016.

D. **Backyard Parking Committee** – Update.

E. **Parking Solutions Task Force** – Create the Parking Solutions Task Force (formerly the Backyard Parking Committee) and possible approval of the By-laws.

F. **Task Force on Recycling** – Possible approval of the By-laws.

G. **Personnel Policy** – Review and possible adoption of the updated Personnel Policy.

H. **Solar Farm** – Possible electric service line donation and easement to Emera Maine at Public Works Facility for solar farm installation.

I. **FY16 Transfer of Funds** – Request of Finance Director to fund Municipal Building basement floor repair.

J. **Council Appointments:**

1. **Police Chief Sharing** – Possible appointment for one Councilor to the Mount Desert/Bar Harbor Joint Police Chief Committee.

2. **Communication Technology Task Force** – Possible appointment for one Councilor to the CTTF.

K. **Treasurer's Warrant** – Request of Treasurer to authorize paid bills.

IX. TOWN MANAGER'S COMMENTS

X. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

XI. **EXECUTIVE SESSION:** (None Anticipated)

XII. **ADJOURNMENT**

In order to assure your full participation in this meeting, we would appreciate your informing us of any special requirements you might have due to a disability. Please call 288-4098.

Manager's Memo

To: Bar Harbor Town Council
cc: Department Heads
From: Cornell Knight, Town Manager
Date: Friday, June 17, 2016

Re: **Town Council Meeting of June 21st**

CALL TO ORDER – 7:00 P.M.

I. A. Excused Absences – A possible motion: to excuse Councilor Barker as provided by Town Charter section C-12.B(1)(d).

IV. Approval of Minutes

V. FINANCIAL STATEMENTS - Finance Director Stan Harmon has enclosed his monthly report for 11 months into the fiscal year. If acceptable, a motion: to accept the Financial Report as presented.

VII. CONSENT AGENDA – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:

A. FY 17 Water Budget- The 2017 Water Budget will not be adopted by the start of the fiscal year so a continuing resolution is needed to continue to spend money after July 1. A motion: to authorize staff to continue spending Water Division funds at the current levels, except that wages may be increased on July 1 as for other Town employees.

B. FY 17 Sewer Budget- The 2017 Sewer budget will not be adopted by the start of the fiscal year so a continuing resolution is needed to continue to spend money after July 1. A motion: to authorize staff to continue spending Sewer Division funds at the current levels, except that wages may be increased on July 1 as for other Town employees.

C. Special Amusement Permit; Little A's update– enclosed is a memo from the Chief. A possible motion: to place the Little A's Special Amusement memo from the Police Chief on file.

D. Cable TV Public Access Channel- See enclosed letter. Possible motion: to approve the April 28, 2016 request of Dobbs Productions to use public access Channel 2, as outlined in its request, on the condition that it agrees to abide by the Town Council's Cable TV Public Access Policy for broadcasting video

E. FY 16 & FY 17 Audit- See the memo from Stan Harmon, Treasurer, regarding the Audit proposal from James Wadman, CPA. A possible motion: to hire James Wadman CPA to do the FY 2016 and FY 2017 audits as outlined in the Treasurer's memo of 6/916.

VIII. Public Hearings:

A. Special Amusement Permit Renewal

1. **Side Street Café** – 49 Rodick Street, Class 3ad, renewal. One noise complaint last year, see note from Chief Willis. Motion: to approve Side Street Café for a Class 3ad Special Amusement Permit as advertised.

B. Floodplain Management Ordinance Amendment see the enclosed ordinance with the proposed changes. I also included the memo from Angela Chamberlain, Code Enforcement Officer when the ordinance was first introduced last month, as it explains the reasons for the changes. Amendments to the ordinance are underlined and deletions are struck through. New Flood Insurance Rate Maps have been prepared by FEMA and municipalities must amend their ordinances to reflect the new maps in order to remain in the program. Following the public hearing, a possible motion: to approve the Floodplain Management Ordinance Amendments Chapter 90 of the Bar Harbor Code as presented June 21, 2016.

IX. Regular Business

A. Agreement- Hancock County Sheriff- See the enclosed memo from the Police Chief regarding the Deputizing of town police officers in order to work across town lines. The town attorney has reviewed the agreement. Lt. Kerns will attend to answer any questions. A possible motion: to authorize the Police Chief to sign the agreement between the Hancock County Sheriff's Office and the Town of Bar Harbor as presented.

B. FY 17 Water Budget- Please bring your Water Budget Book. The budget is posted on the website. Stan Harmon will introduce the budget and provide an overview. There is no rate increase proposed for the FY 17 Water Budget. Following Q & A, a possible motion: to adopt the Water Budget and Ordinance Chapter 201 as proposed (or amended) and schedule a public hearing on July 19, 2016.

C. FY 17 Sewer Budget Please bring your Sewer Budget Book. The budget is posted on the website, under Wastewater Division. Stan Harmon will introduce the budget and provide an overview. There is no rate increase proposed for the FY17 Sewer Budget. Following Q & A, a possible motion: to adopt the Sewer Budget and Ordinance Chapter 164 as proposed (or amended) and schedule a public hearing on July 19, 2016

D. Backyard Parking Committee Update- Enclosed are the notes from the first meeting. The plan is to get started later this summer and meet regularly to address the parking recommendations. A possible motion: to accept the update from the Backyard Parking Committee and file the notes with the Town Clerk.

E. Parking Solutions Task Force – The Backyard Parking Committee is recommending that the name be changed to the Bar Harbor Parking Solutions Task Force. The Backyard Parking Committee Group was never a town appointed committee, but now that they will be working on implementation of the parking recommendations, they should be officially adopted as a town task force. Ron Beard will be the facilitator. Enclosed is a draft set of By-Laws for consideration. A possible motion: to create the Bar Harbor Parking Solutions Task Force and adopt the By-Laws as presented (as amended).

F. Task Force on Recycling By Laws- Last month I was asked to prepare By-Laws for a Solid Waste/Recycling Task Force. Enclosed is a draft for a Recycling Task Force. A possible motion: to create the Bar Harbor Task Force on Recycling and adopt the By-Laws as presented (as amended).

G. Personnel Policy- Enclosed is the policy with proposed changes. The Personnel policy was last updated in 2005. The proposed edits reflect changes in law and current practices. This has been reviewed by legal counsel and the department heads. A possible motion: to approve the Personnel Policy as amended dated June 21, 2016.

H. Solar Farm- Enclosed is a request from Emera for the town to donate the service line and equipment at the PW facility which will allow them to make a connection to the solar farm. The connection must be from a line owned by Emera, not off another private line (town). The $1,213.26 fee to Emera will be paid for by the solar farm owners (see enclosed ReVision letter). The town attorney said it is reasonable to infer from the town meeting vote last year that the Council has the authority to grant the easement. A possible motion: to sign the Bill of Sale, sign the easement to Emera and authorize the Town Manager to sign the Contribution of Facilities Agreement with Emera in order to accommodate the Solar Farm installation.

I. FY 16 Transfer- See the enclosed memo from Stan. The temporary floor fix in the basement is a tripping hazard. There was not a balance from the renovation funds to cover this work. A possible motion: to direct the Town Treasurer to transfer $15,000 to the CIP Municipal Building account # 2124-6130, $10,000 from the Contingency account #1036-5906 and $5,000 from Town Manager Contract Services account #1012-5334

J. Council Appointments-

1. Police Chief Sharing Committee with the Town of Mt. Desert. - Councilor Bowden was one of the council representatives to that committee. Councilor Paradis is the other one.
2. CTTF- With Councilor Hochman's election there are now two councilors on the task force. Councilor Stivers is also on it.

K. Treasurer's Warrant – A possible motion: to sign the Treasurer's Warrants for paid bills.

Minutes

Bar Harbor Town Council

May 17, 2016

I. **CALL TO ORDER** – 7:00 p.m. – In attendance were Councilors: Paul Paradis, Gary Friedmann, Anne Greenlee, Peter St. Germain, Burt Barker, David Bowden, Clark Stivers; and Town Manager Cornell Knight.

A. **Excused Absence(s)** – All were present.

II. **COMMITTEE APPOINTMENTS** – *Application of Ms. Cindy Flye for appointment to the Bar Harbor Housing Authority Board of Commissioners, as Tenant Representative, for a term expiring July 31, 2017.* – Ms. Greenlee nominated Cindy Flye to the Bar Harbor Housing Authority Board of Commissioners as Tenant Representative for a term expiring July 31, 2017. There being no further nominations; the motion to appoint Cindy Flye passed unanimously.

III. **PUBLIC COMMENT PERIOD** – *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.* – Resident Terri Zabala thanked the Public Works for putting #2 plastic recycling bins out. She thanked them for all they do.

IV. **APPROVAL OF MINUTES** –

A. ***April 19, 2016 Regular Meeting- amendments-re-approve***
B. ***May 3, 2016 Regular Meeting***

Ms. Greenlee, with second by Mr. St. Germain, moved to approve the amended minutes of April 19, 2016 and May 3, 2016 regular meeting as presented. Motion passed 7-0.

V. **FINANCIAL STATEMENTS** – *Review and possible adoption of a motion to accept the financial statements as presented.* – Following a brief summary by the Finance Director Stan Harmon, Mr. St. Germain, with second by Ms. Greenlee, moved to accept and file the Finance Director's financial statements as dated 5/10/16. Motion passed 7-0.

VI. **ADOPTION OF AGENDA** – Mr. Friedmann, with second by Mr. St. Germain, moved to adopt the agenda as presented. Motion passed 7-0.

VII. **CONSENT AGENDA** – *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor*:

A. **Vehicle-for-Hire** – *Possible motion to approve*:

1. **Acadian National Park Tours** for four bus renewal licenses as submitted by Andrew Cough. (Approved by Police Dept. and proof of insurance provided.)

2. **Amazin' Moe'z Taxi** for one taxi cab renewal license as submitted by Maureen Leeman. (Approved by Police Dept. and proof of insurance provided.)

B. **Special Amusement Permit: Little A's** – *Possible motion* to file update status memo from Police Chief.

C. **Resolution: Councilor Bowden** – *Possible motion* to approve a resolution in recognition of David Bowden's years of service as a member of Bar Harbor Town Council.

Resolution
of
The Bar Harbor Town Council

WHEREAS, in recognition of David Bowden who has served as a Bar Harbor Town Councilor for nine-years, first elected in 2001; and

WHEREAS, in his municipal service, David has undertaken various tasks associated therewith, including an elected officer on the Council, time served as a Planning Board member, and years with the Chamber of Commerce; and

WHEREAS, David is well-known for his Bar Harbor - Salisbury Cove historical perspectives, his up close knowledge of water mains, sewer and municipal budgets, and historical land use amendments; and

WHEREAS, his willingness to discuss rather than dismiss controversial topics, and his conviction to do right by the citizens of Bar Harbor, has earned him respect; now therefore

BE IT RESOLVED, that the Honorable members of the Bar Harbor Town Council do hereby recognize and honor David Bowden with great gratitude and appreciation for his many years of commitment to his neighbors, friends, visitors, and residents of Bar Harbor, and to wish him much success in his future endeavors.

Mr. St. Germain, with second by Ms. Greenlee, moved to approve the consent agenda as published. Motion passed 7-0.

VIII. PUBLIC HEARINGS:

A. **Special Amusement Permit Renewals:**

1. **Mad Hatter Pub & Grill**, *116 Cottage Street, for a Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Anna Hosta.* – There being no public comment, Mr. St. Germain, with second by Mr. Barker, moved to approve Mad Hatter Pub & Grill for a Class 3ad Special Amusement Permit as advertised. Motion passed 7-0.

2. **Havana**, *318 Main Street, for a Class 3a, three or more musicians with mechanical amplification as submitted by Michael Boland.* – There being no public comment, Mr. St. Germain, with second by Ms. Greenlee, moved to approve Havana Restaurant for a Class 3a Special Amusement Permit as advertised. Motion passed 7-0.

3. **Black Friar Inn**, *10 Summer Street, for a Class 2a, two musicians with mechanical amplification as submitted by Thomas Hulbert.* – There being no public comment, Mr. St. Germain, with second by Ms. Greenlee, moved to approve Black Friar Inn for a Class 2a Special Amusement Permit as advertised. Motion passed 7-0.

B. **Town Meeting Warrant: June 14, 2016** – *Public comment on ten Land Use Ordinance amendments, pursuant to MRSA 30-A section 2528(5).* – Chair Paradis review the public hearing procedures giving each person up to three minutes to speak following a brief explanation from the Planning Director.

Downtown Village District(s)

Article 2 LUO: to add farmers market – No public comment.

Article 3 LUO: to add one and two family dwellings – No public comment.

Article 4 LUO: to add auto sales lot and auto repair garage – Diane Vreeland inquired if allowed could it automatically turn into a salvage lot like the one in Town Hill. Planning Director Bob Osborne replied, 'no, it's a different use'.

Article 5 LUO: to add home occupation – No public comment.

Article 6 LUO: to add retirement community – No public comment.

Signs, Lighting and Design Review Board

Article 7 LUO: illuminated sign standards – Barbara Fenderson inquired if it applies to indoor signs. Planning Director Bob Osborne stated generally ordinances apply to outdoor signs.

Article 8 LUO: Design Review Board sign review authority – No public comments

Article 9 LUO: Design Review Board overlay district – No public comment.

Article 10 LUO: move certain sign regulations – No public comment.

Article 11 LUO: allowable sign area – No public comment.

Donna Karlson thanked the Planning Board and the Planning Director for the excellent job in developing these articles.

IX. REGULAR BUSINESS:

A. **Dog Waste Bag Dispensers** - *Recommendation from the Parks & Recreation Committee to place dog waste bag dispensers in downtown area.* – Following a presentation from The HUB and comments from Council and the public, Mr. Friedmann, with second by Ms. Greenlee, moved to accept the 7 dog waste dispensers from The Hub and have them installed in locations outlined on the map and one at Hadley Point. Motion passed 5-2 (Nay: Mr. Paradis, Mr. St. Germain). The purchase and installation of the dispensers will be funded by sponsors, and the Town will supply the bags.

B. **November 2016 Warrant: Land Use Ordinance Amendments** - *Discussion with Planning Board on the following possible LUO amendments for special town meeting, November 8, 2016.*

1. **Cruise Ship Land Use Ordinance Amendment update**
2. **Parking Land Use Ordinance Amendments update**
3. **Housing Land Use Ordinance Amendments update**

Planning Director Bob Osborne gave an overview of each proposed amendment. Councilor Bowden suggested a joint workshop with the Planning Board to discuss and vet the proposed amendments. Both boards were in agreement. Mr. Bowden, with second by Mr. St. Germain, moved to schedule a joint workshop with Town Council and Planning Board at 5:00 p.m. Tuesday, May 24th. Motion passed 7-0.

C. **Solid Waste** – *Consider a citizen's request to form a task force to study PAYT and Recycling Programs* – Discussion included transfer station design, scheduling a bond vote in 2017, reduce waste, increase recycling, composting, educating the public, and get energy going to reduce, reuse, and recycle. Ms. Greenlee, with second by Mr. Stivers, moved to direct the Town Manager to prepare by-laws for a Solid Waste Task Force and to advertise for applications. Discussion continued; there were no specific tasks assigned or composition of the task force at this time. Mr. Barker, with second by Mr. Bowden, moved the question. Motion passed 7-0. The main motion passed 4-3 (Nay: Mr. Bowden, Mr. Paradis, Mr. St. Germain).

D. **Conservation Commission** – *Open Space Plan June 2014, revisions update.* – Conservation Commission members Jesse Wheeler and Michael Handwerk provided an overview of the proposed changes the Conservation Commission suggest as a result of comments received from Town Council and the public. The Commission suggests redefining the Open Space Plan as a tool and reference for the public and the landowners to recognize the resources and their potential. The Plan is an excellent document providing an inventory of the Town's valuable resources, their location, and their importance. It offers a range of choices available to landowners, if they should choose, to protect the resources on their property. Following a brief discussion, Ms. Greenlee, with second by Mr. Barker, moved to schedule a workshop with the Conservation Commission on Tuesday, July 12th, at 6:00 p.m. Motion passed 7-0.

E. **Task Force on Aging** – *Establish a Task Force and Review/Adopt Bylaws.* – Following the review of the By-laws, it was suggested to amend the By-Laws by adding: 'Pursue outside funding sources to advance the work of the Task Force' under duties and responsibilities. Mr. Friedmann, with second by Mr. St. Germain, moved to establish the Bar Harbor Task Force on Aging and approve the By-Laws dated May 12, 2016 as amended and advertise for applications for appointment. Motion passed 6-1(Nay: Mr. Stivers).

F. **Committee Appointment Letter** – *Possible approval or amendments to applications and draft letter to committee members.* - Ms. Greenlee, with second by Mr. Stivers, moved to approve the draft letter and amend the two applications by updating the list of current boards. Motion passed 7-0.

G. **Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. St. Germain, with second by Ms. Greenlee, moved to sign the Treasurer's Warrants for paid bills. Motion passed 7-0.

X. **TOWN MANAGER'S COMMENTS** – Mr. Knight noted upcoming important dates: June 7th is town meeting at the Emerson School gym starting at 7 pm, election is June 14th, Council's organizational meeting is June 15th at 5:30 p.m., and the next regularly scheduled Council meeting is June 21st.

XI. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

Mr. Stivers thanked outgoing Councilor Bowden.

Mr. Barker also thanked Councilor Bowden. He also expressed his appreciation to Matt Hochman for his input on social media.

Mr. St. Germain expressed his appreciation to Councilor Bowden and enjoyed working with him. Mr. St. Germain also reminded everyone to get out and vote, town meeting is June 7th and 14th.

Ms. Greenlee too expressed her appreciation to Councilor Bowden and will remember him for his historical points, his laugh, and willingness to tackle controversial topics.

Mr. Friedmann reminisced about his first conversation with Councilor Bowden and most recently stomping through the swamp in Salisbury Cove. He thanked David for the years served as a Councilor. While not always agreeing, he knows he was just looking out for what he felt best for the town. He will be missed.

XII. **EXECUTIVE SESSION:** (None)

XIII. **ADJOURNMENT** – Mr. St. Germain, with second by Ms. Greenlee, moved to adjourn at 9:17 p.m. Motion passed 7-0.

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Patricia A. Gray, Town Clerk

Minutes
Special Joint Meeting with
Bar Harbor Town Council &
Planning Board
May 24, 2016

I. **CALL TO ORDER** – 5:00 P.M. – In attendance were Councilors: Paul Paradis, Anne Greenlee, Peter St. Germain, Burt Barker, Clark Stivers; and Town Manager Cornell Knight.

Planning Board members in attendance were: Ivan Rasmussen, Basil Eleftheriou, Tom St. Germain, and Joe Cough (arrived late) and Planning Director Bob Osborne.

II. **ADOPTION OF AGENDA** – Town Council Chair Paradis announced the two boards would review each proposed ordinance and after each ordinance, the floor would be open for public comments up to ten minutes total per ordinance.

III. **REGULAR BUSINESS:**

A. **November 2016 Warrant: Land Use Ordinance Amendments** - *Discussion with Planning Board on the following possible LUO amendments for special town meeting, November 8, 2016.*

1. **Cruise Ship Land Use Ordinance Amendment update** – Planning Director Bob Osborne reported that the amendment is in response to a letter from the State of Maine Port Authority to add 'commercial waterborne passenger facility' use. Following several Planning Board meetings, concerns arose that no amendments be made to accommodate this use that create undesirable or unintended consequences in the Bar Harbor Gateway and Shoreland General Development III districts which the property is zoned. Upon further research, Mr. Osborne found a State provision under Chapter 1000, Guidelines for Municipal Shoreland Zoning, for a district called "Commercial Fisheries Maritime Activities District". This model ordinance district can be adopted to a small single lot and allows for development more like the existing ferry terminal.

Following discussion, it was of general consensus from both boards to create a new district and its proposed water uses without compromising the Gateway and Shoreland General Development III districts. It was duly noted that Tom St. Germain was the dissenting vote at their Planning Board meeting, he opposed this idea partially

because of the neighboring properties are zoned for less allowable lot coverage.

In addition, it was suggested that the Planning Board review the consultant's plans for the ferry terminal and the public comments received that provided the list of proposed uses. It was also noted that during Planning Board meetings, concerns were raised about the public uses such as open air events. It was suggested that the concerns raised could be addressed through a town ordinance to manage the activities, noise, and traffic. The Planning Board will continue to work on a set of amendments to address the reuse of the ferry terminal.

The meeting was opened to the public for comments:
Matt Hochman – He thinks the new district for the one lot is the cleaner way to go. He reported that he still hears a lot of comments about allowing restaurant use at this facility. It takes away from other established businesses. He fears if a list of outdoor activities is created that one might be missed and that maybe unfortunate.

Ellen Dohmen provided the definition of 'grandfathering' in terms of a LUO amendment. An amendment could not scale back what is already in place. She also cautioned against using the phrase "but not limited to" when developing language for outdoor activities.

Dessa Dancy inquired if the town can request use of the terminal for parking during the busy tourist season, especially this year with the celebration of Acadia National Parks centennial year.

Jonathan Eno inquired why this single district would not be considered spot zoning. Mr. Osborne explained that Chapter 1000 expressly allows a municipality to opt to identify one or more CFMA Districts, each of which may be as small as a single parcel, provided that the municipality takes into consideration certain criteria.

Other public comments were heard in providing support of previous speakers. Grandfathering and development comments were received from Donna Karlson and Erin Early Ward.

2. **Parking Land Use Ordinance Amendments update -**
Planning Director Bob Osborne explained the board held a number of meetings discussing parking issues – where to add parking uses in certain districts and to remove them from other districts. The proposed Parking ordinance amendment is addressing off-site, off-street parking. Parking includes parking lots, parking decks, and parking garages.

It was of general consensus from both boards to allow parking lots in the districts listed, except Village Residential and Shoreland Limited Residential.

It was also of general consensus from both boards to allow parking decks in the districts listed, except Downtown Residential.

Discussion ensued regarding adding parking garages to the proposed list of districts. Noting that Bar Harbor Gateway, Downtown Village I, Downtown Village II were districts that allowed parking garages previous to the June 2010 LUO amendments. Educational Institutional and Scientific Research would be two new districts allowing parking garages. Further, it is proposed to remove parking garages from two districts that currently allows this use: Downtown Residential and Town Hill Business.

The floor was then open to the public.

Martha Searchfield stated it cannot be underestimated the negativity about the Backyard Parking Lot. Even though it is corrective action in the Downtown Village I, she would hate to see the new districts compromised. She felt education and communication would be necessary to amend the Downtown Village I. She suggested baby steps and thought perhaps if Jackson Lab built their parking garage and people saw it, they maybe more receptive to one intown. She recommended that the two new districts be the only two to go before the voters, and sometime later consider amending the remaining three districts.

Matt Hochman cautioned off-site parking lots could take away land for housing.

Ellen Dohmen proposed 'good planning'. "Don't run scare, educate the public and sell it." Do not place something to vote, if you know it's not going to pass. Do not place the three districts that previously allowed parking garages as separate articles; good planning envisions the town as a whole, not in sections.

Dessa Dancy favored voting each of the districts separately to give the voters a choice.

Discussion then returned to the boards. It was of general consensus to proposed five parking articles. The first three articles adding parking garages in the three districts where it was previously allowed, as separate articles; one question for adding the use in the two new districts (Educational Institutional, Scientific Research); and one question removing parking garages in the two proposed districts (Downtown Residential, Town Hill Business).

Lastly on the parking issue, it was of general consensus to support the proposed language for allowable off-site parking lots as written:

to allow off-site parking lots on land in common ownership within 500 feet of the site.

3. **Housing Land Use Ordinance Amendments update**
Planning Director Bob Osborne reported the board held several meetings and proposed to make adjustments to "minimum area per family" to delete "maximum floor area ratio". The Board's concern is these adjustments do not address the dormitory style worker housing and the shrinking supply of entry level year round rentals.

The floor was then opened to public comment:

Ellen Dohmen expressed her concerns and inquired how could it be consistent across all districts.

Donna Karlson gave an example of her house lot and possible development. She inquired if the different setbacks for different districts were considered.

Following public comments, it was of general consensus to continue to work on the Housing amendment.

IV. **ADJOURNMENT** – The meeting adjourned at 8:02 p.m. by acclamation of both boards.

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Patricia A. Gray, Town Clerk

Minutes

Bar Harbor Town Council

Special Meeting

Wednesday

June 15, 2016

I. **CALL TO ORDER** – 5:30 P.M. – Meeting was called to Order by the Town Clerk Patricia Gray. In attendance were Councilors: Paul Paradis, Gary Friedmann, Anne Greenlee, Peter St. Germain, Burt Barker, Clark Stivers, Matthew Hochman; and Town Manager Cornell Knight.

II. **ORGANIZATIONAL MATTERS**

A. **Oath of Office** - The Town Clerk administered the oath of office.

B. **Election of Officers**

1. **Chair** - The Town Clerk opened the floor for Chair nominations. Mr. St. Germain nominated Paul Paradis, it was duly seconded, and motion carried. Mr. Stivers nominated Gary Friedmann, it was duly seconded, and motion carried. Mr. Stivers explained his reasoning was due to the active lawsuit and possible conflict, nothing more. There were no further nominations; it was moved, duly seconded, to cease nominations. Motion passed 7-0. Paul Paradis was declared elected Chair by a vote of 5 to 2 (Favored: Mr. St. Germain, Ms. Greenlee, Mr. Friedmann, Mr. Barker, Mr. Paradis). Gary Friedmann received two votes (Favored: Mr. Stivers, Mr. Hochman).

2. **Vice-Chair** – Chair Paradis then called for Vice-Chair nominations. Mr. St. Germain nominated Gary Friedmann as Vice-Chair, seconded by Mr. Stivers. Motion carried. There being no further nominations, it was moved, and duly seconded, to cease nominations. Motion passed 7-0. Gary Friedmann was declared elected Vice-Chair by unanimous vote.

C. **Selection of Seating** - Councilors selected their seats in order of seniority.

III. **ADOPTION OF AGENDA** – Mr. St. Germain, with second by Ms. Greenlee, moved to adopt the agenda as presented. Motion passed 7-0.

IV. **PUBLIC HEARINGS:** (None)

V. **CONSENT AGENDA**

A. **Vehicles for Hire:**

1. **Occasions Limousine** – Possible motion to approve two taxi license renewals as submitted by James Ohmeis, Sr. (Approved by Police Dept. and proof of insurance provided)

2. **2. Island Checker Cab** – Possible motion to approve one new taxi license as submitted by Walls Elite Transportation Tours, LLC, Bradley Walls. (Approved by Police Dept. and proof of insurance provided)

3. **At Your Service** - Possible motion to approve seven taxi license renewals as submitted by Clare Bingham. (Approved by Police Department and Proof of Insurance provided.)

Mr. St. Germain, with second by Ms. Greenlee, moved to approve the consent agenda as published. Motion passed 7-0.

VI. REGULAR BUSINESS:

A. Council Committee Appointments –

1. Appointments Committee – *Appointment of three Town Councilors to serve for one year.* – Mr. St. Germain volunteered to serve. He also nominated Burt Barker and Anne Greenlee. There being no other nominations, by unanimous vote Councilors Barker, Greenlee, and St. Germain were appointed.

2. Joint (School) Budget Advisory Committee – *Appointment of two Town Councilors to serve for one year.* – The two current members requested that they continue for another year to provide continuity during the transitional period of the new superintendent. Mr. St. Germain expressed he wished to continue and nominated Burt Barker. By unanimous vote Councilors St. Germain and Barker were re-appointed.

3. Cruise Ship – *Appointment of one Town Councilor representative* – Mr. St. Germain nominated Paul Paradis. There being no volunteers and no further nominations, by unanimous vote Councilor Paradis was appointed.

4. Route 3 – *Appointment of one Town Councilor representative* – Mr. Friedmann nominated Clark Stivers. There being no further nominations, by unanimous vote Councilor Stivers was appointed.

5. Ferry Terminal – *Appointment of one Town Councilor representative* – Mr. St. Germain nominated Paul Paradis. There being no further nominations, by unanimous vote Councilor Paradis was appointed.

6. Task Force on Aging – *Appointment of one Town Councilor representative* – Mr. St. Germain nominated Anne Greenlee. There being no further nominations, by unanimous vote Councilor Greenlee was appointed.

7. Recycling Task Force – *Appointment of one Town Councilor representative* – Mr. St. Germain nominated Clark Stivers. There being no other nominations, by unanimous vote Councilor Stivers was appointed.

8. Backyard Parking Committee (Parking Solutions Task Force) – *Appointment of one Town Councilor representative* – The Backyard Parking Committee was not established as a town committee; and the committee recommends now is the time that the Town create the Parking Solutions Task Force to explore the consultant's recommendations. At the next Council meeting, the Parking Solutions Task Force By-laws will be presented for consideration. Mr. St. Germain nominated Matthew Hochman to serve. There being no

further nominations, by unanimous vote Councilor Hochman was appointed to the Parking Solutions Task Force.

VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Mr. Hochman thanked everyone who came out to vote. He stated it was nice to see everyone.

Mr. Stivers congratulated Paul Paradis and Matt Hochman for their successful election.

Mr. Barker announced his water is finally back on.

Mr. St. Germain echoed Mr. Striver's sentiments and looks forward in working with them.

Ms. Greenlee echoed the same sentiments and extended her thank yous to their families for allowing them to serve.

Mr. Friedmann stated it was nice to see Matt on the other side of the bench. He acknowledged the many Council meetings he has attended over the past year.

He also announced that U.S. Senator Angus King will be the keynote speaker at the Climate to Thrive event on July 31st at the MDIHS gym at 3:00 pm. There will be music, two additional speakers and an ice cream social.

Mr. Paradis welcomed Matt Hochman to the Council. He also clarified to the early statement regarding the active lawsuit; it is the Town of Bar Harbor being sued, not him.

VIII. EXECUTIVE SESSION (None)

IX. ADJOURNMENT – Mr. St. Germain, with second by Ms. Greenlee, moved to adjourn at 5:53 p.m. Motion passed unanimously.

_____

Patricia A. Gray, Town Clerk

IV.

Memo

To: Town Councilors; Cornell Knight

From: Stan Harmon, Finance Director

CC: Department Heads – PAT

Date: 6/03/2016

Re: Fiscal Year 2016 – May 31, 2016 – 11 Months Results

General Fund

Attached are the financial results for eleven months of operations for FY 2016. Because there was budgeted a $110,000 drawdown from Fund Balance, it is likely that this year's generally positive operating results will offset that drawdown but not much more.

Expenditures (92% goal)

The May summary statements show 89.2% spent versus 90.9% of the budget spent last year. 90.6% of the $3.6 million in budgeted municipal *wages* are spent year-to-date compared to 94.6% in May 2015. Recall that last year had some budgetary transfer help from Fund Balance due to the high storm expenses. Highway has spent $200,000 *less* at this point this year versus last year to date and will likely end up approximately $50,000 under its 2016 budget. Solid Waste is also trending lower than its budget at this point by close to $25,000. The Municipal Building budget will be over due to unexpected elect/plumb repairs this year and Hydrant Rentals will be over due to the water rate increase. Police & Dispatch are running tight. However, most Town departmental spending will certainly remain under their total appropriations---so, spending in total should remain $100,000 below budget, or between 1% & 2%.

Non-Property Tax Revenues (92% goal)

89% of the budget for non-property tax revenues is now collected versus 85% at this point last year. Vehicle Excise is up 7% over last year ($57,000) and should easily exceed the budget. Harbor & Police fees have reached their targets. Recycling income is down $17,000 from last year and Ambulance revenues are off by $42,000 from last year (partly due to the timing of billings) and neither are likely to reach their FY16 targeted budgets. Overall, total revenues will likely fall short of budget, perhaps by $25,000 - $50,000.

Ambulance Revenues *-lower volume this year with less Bangor runs*

FY 2016	11 Months YTD Runs Billed	733	Ave. Gross Billing (per run)	$603
FY 2015	11 Months YTD Runs Billed	791	Avg. Gross Billing (per run)	$640
FY 2014	11 Months YTD Runs Billed	843	Avg. Gross Billing (per run)	$630
FY 2016	11 Months YTD Runs billed	733	Net Collections (per run)	$372
FY 2015	11 Months YTD Runs billed	791	Net Collections (per run)	$397
FY 2014	11 Months YTD Runs billed	843	Net Collections (per run)	$377

	5/31/2016	5/31/2015
Ambulance Accounts Receivable	$176,974	$148,154

Excise-Motor Vehicle Revenues- *total revenue data shows we are up 6% over last year.*

FY 2016	11 Months YTD	4558 units	$883,708	=$194 / per vehicle
FY 2015	11 Months YTD	4472 units	$826,727	=$185 / per vehicle
FY 2014	11 Months YTD	4532 units	$807,847	=$178 / per vehicle
FY 2013	11 Months YTD	4709 units	$771,868	=$164 / per vehicle

Building Permitting Revenue- *permit count is up 7% over last year; revenue is up 7%*

FY 2016	11 Months YTD	288 permits	$81,762	=$280 / permit
FY 2015	11 Months YTD	268 permits	$76,226	=$284 / permit
FY 2014	11 Months YTD	249 permits	$166,771	=$669 / permit
FY 2013	11 Months YTD	267 permits	$73,926	=$277 / permit

FY '16 Previously Authorized Council Budget Adjustments or Transfers:

Contingency Fund Activity for FY '16:

Beginning Balance	(Town Meeting Approval)	$53,366
Minutes-Town Council Mins 10/20/15-Backyard Study		-$10,000
Minutes-Town Council Mins 4/19/16-MuniBldg Renovations		-$22,000
Ending Balance	@ 5/31/16 (available #1036-5906)	$21,366

General Fund Transfers:

From:	Expense #1032-5105 –Assessing Hourly wages (**TC Mins 4/19/16**)	($20,000)
To:	Expense #1088-5980 –GF CIP Fund Transfer-MuniBldg Renov.	$20,000

Capital Improvement Transfers/Adjustments:

From:	Assng #2132-6115 GIS Info System (**Town Council 7/7/15**)	($4,000)
	HWay #2177-6426 Sidewalks	($26,000)
	Undes #2182-6190 Undesignated CIP	($20,000)
To:	MuniB #2124-6130 Municipal Building Renovations	$50,000
From:	HWay #2177-6408 Grader Reserve (**Town Council 8/18/15**)	($84,794)
To:	HWay #2177-6414 FrntEndLoader-Snow Blower	$84,794
To:	UnDesig #2182-6190 Unallocated CIP (**Town Council 10/20/15**)	$13,500
To:	Comft Sta #2170-6352 Pier Comfort Station	$ 3,100
To:	CIP Revs #2188-4364 CS Fees Transferred In	$16,600

To:	MuniB #2124-6130 Muni Building Renovations	$42,000
To:	GFTransfer-CIP Revenues (see above) (#2188-4806)	($42,000)

Cruise Ship Fund Transfers:

To:	CIP Fund –Pier Comfort Station Project (**Town Council 10/20/15**)	$16,600
From:	CShip Fund Balance-Port Fees	$16,600
To:	Ferry Terminal Study #6510-5356 (**T/C 2/17/15 –MOU signed 10/15/2015**)	$48,000
From:	CShip Fund Balance-Pass Serv Fees	$48,000
Reallocate CShip monies for UMaine Economic impact study (**TC 4/19/16**)		$ 6,000

Property Tax Collection & Receivable Update:

Outstanding current year's taxes at the end of May, as a percent of total uncollected, decreased from 5.3% outstanding in 2015 to 4.0% in 2016, still good news this year. Tax Collector Sarah Gilbert mailed out 254 thirty day lien notices on May 20th, which is less than the 277 and 320 notices sent in the last two years. Remaining unpaid taxes for properties will be placed on lien by the end of June.

Tax Year	Property Taxes Outstanding Balance	@ 5/31/16 %	@ 5/31/15 Balance	%
2006-07	$ 1,274	0.1%	$ 3,908	0.1% - PersProp
2008	$ 1,643	0.1%	$ 6,788	0.1% - PersProp
2009	$ 4,286	0.1%	$ 8,823	0.1%
2010	$ 5,248	0.1%	$ 9,189	0.1%
2011	$ 6,603	0.1%	$ 11,557	0.1%
2012	$ 6,374	0.1%	$ 18,888	0.1%
2013	$ 5,219	0.1%	$ 189,103	1.3%
2014	$ 142,325	1.0%	$ 783,384	5.3%
2015	$ 625,826	4.0%		

Cash Investment and Status Report / Banking

On May 31st, the Town had $13,800,000 on hand in all funds—approximately $700,000 more monies available as last year's total balances at this same time period due to the unspent Water bond funds. Checking interest rates remain at .33% vs. the same .33% last year.

Wastewater Division Fund

Financials (92% - 11 month Benchmark) **Spending shows the following:**	**Annual Budget**	**May YTD Actual**	**% Spent**
Oper & Maint-FY2016-this year	*$1,330,551*	*$1,125,825*	*85%*
Oper & Maint-FY2015-last year	*$1,335,225*	*$1,109,363*	*83%*

	5/31/2016	**5/31/2015**
Accounts Receivable-Wastewater	$63,567	$120,908

Water Division Fund

Financials (92%-11 month Benchmark) **Spending shows the following:**	**Annual Budget**	**May YTD Actual**	**% Spent**
Oper & Maint-FY2016-this year	*$1,053,291*	*$889,798*	*84%*

Oper & Maint-FY2015-last year	*$1,051,000*	*$894,377*	*85%*

	5/31/2016	5/31/2015
Accounts Receivable-Water	$14,364	$33,540

Technology

In May's report from Steve, he helped finish the transition related to the *Crimestar* system eventually migrating to *Spillman* for Fire and Police, installed new Netmotion software, power converters and cellular hotspots on the emergency vehicles, completed the components for a State security audit for PD data, rebuilt two Fire laptops for *Spillman* use, as well as document the new systems, moved pc's/copier/phones for staff in Code/Planning to the renovated offices, responded to various fiber study inquiries critiquing the CTTF work to date, work with MUNIS on the system upgrade and later researched and solved a MUNIS print error issue due to the same upgrade, prepared a draft recommendation for an improved live streaming of meetings for the Town to consider and attended meetings relating to the fiber project, including speaking at the MMA Tech conference.

Assessing

Justin reported that over 400 personal property returns were processed this month with training and help for Deane from Val, the assessing assistant in Ellsworth. The remainder of May was spent updating the real estate property transfer backlog—over 130 deed changes were updated on the Town's records. He has also completed the background work for the site visits that will occur in June—approximately 290 site visits are needed. Following the field work, then the tax info cards will be updated. Justin is spending time with Wastewater personnel on tweaking their mapping system with the video and data collection gathered by the crew, trouble shooting certain compatibility issues. Lastly, he reported that *PeopleForms* finally completed the last changes to update the *MapsOnLine* data on the public website---this update reflected any new info picked up by the 2015 Ortho photos.

AFCA

Staff (Sarah Gilbert) is filing a new mandated IRS government report (form 1095-C) –151 pages—that is part of the continuing reporting requirements of this Act. Our health insurer, Maine Municipal Health Employees Trust has already been filing annual reporting requirements which has previously impacted premium costs by 2+%. The Town must now report annually what type of health insurance is offered, the costs, what exact months employees are covered.

Cruise Ship Fund

Expenses-Direct Discretionary Exps:	Budget	Actual	%
FY2016	$164,874	$148,802	90%

Revenue activity so far – 11 months:	Budget	Actual	%
FY2016	$605,735	$533,481	88%
FY2015	$632,224	$574,968	91%
FY2014	$656,933	$637,156	97%

Town of Bar Harbor

Expenses - Period Ending

5/31/16

02-Jun-16

92% of Year Completed

General Fund	Dept	A FY '16 Annual Adj'd Budget	B FY '16 11 Months Actual	C FY '15 12 Months Actual	D Bud Variance Under (over) Col. A-B	E % Spent of Budget (B/A=E)	FY '14 12 Months Actual	Comments on variances
Town Council	10	$ 37,952	$ 33,557	$ 37,388	1,359	88.4%	$ 32,920	timing
Town Manager	12	$ 127,031	$ 107,058	$ 131,270	9,811	84.3%	$ 131,036	timing
Town Clerk	14	$ 140,381	$ 105,025	$ 123,202	24,126	74.8%	$ 119,475	trending under
Finance Dept.	16	$ 328,189	$ 302,333	$ 322,362	(399)	92.1%	$ 316,215	
Town Attorney	18	$ 19,150	$ 18,463	$ 36,982	(845)	96.4%	$ 67,420	
Elections	20	$ 12,717	$ 2,681	$ 12,156	9,019	21.1%	$ 10,361	timing
Technology	22	$ 174,287	$ 143,495	$ 147,667	16,849	82.3%	$ 121,486	timing
Municipal Building	24	$ 74,825	$ 78,571	$ 96,879	(9,732)	105.0%	$ 80,273	higher repairs
Town Offices	26	$ 33,452	$ 34,066	$ 35,269	(3,290)	101.8%	$ 37,566	timing
Employee Benefits	28	$ 1,376,319	$ 1,275,308	$ 1,252,271	(9,095)	92.7%	$ 1,345,347	on target
Code Enforcement	30	$ 74,851	$ 64,701	$ 91,282	4,162	86.4%	$ 69,142	
Assessing Dept.	32	$ 119,128	$ 108,192	$ 116,759	1,406	90.8%	$ 115,497	lower trend
Planning Dept.	34	$ 156,893	$ 109,272	$ 91,360	35,070	69.6%	$ 118,722	less legal exp
Miscellaneous	36	$ 189,104	$ 180,099	$ 211,723	(6,123)	95.2%	$ 180,505	timing
Ambulance	40	$ 450,258	$ 391,844	$ 404,660	22,393	87.0%	$ 391,936	
Fire Department	42	$ 357,964	$ 309,906	$ 327,018	19,421	86.6%	$ 316,107	
Hydrant Rentals	42	$ 523,710	$ 533,036	$ 480,468	(51,223)	101.8%	$ 480,468	
Police Dept.	45	$ 1,030,871	$ 957,759	$ 983,866	(9,358)	92.9%	$ 919,922	higher trend
Dispatch Division	47	$ 211,054	$ 198,987	$ 204,277	(4,817)	94.3%	$ 201,945	higher trend
Public Safety Bldg.	49	$ 38,916	$ 34,689	$ 42,602	1,114	89.1%	$ 45,807	
Street Lights	51	$ 71,575	$ 59,653	$ 69,069	6,196	83.3%	$ 63,278	timing
Harbor Dept.	53	$ 113,786	$ 101,195	$ 116,162	3,488	88.9%	$ 121,891	
Parks & Rec & Glen M	59	$ 235,251	$ 203,691	$ 229,730	12,740	86.6%	$ 228,873	
Emrg Mgt & Gen Assis	63/66	$ 1,444	$ 1,179	$ 1,170	149	81.6%	$ 1,445	
Cooperating Agencies	68	$ 42,843	$ 42,843	$ 45,231	(3,427)	100.0%	$ 39,843	all cks issued
Comfort Station	70	$ 93,361	$ 84,381	$ 83,607	1,511	90.4%	$ 90,729	
Public Works	75	$ 146,122	$ 130,363	$ 144,809	4,069	89.2%	$ 143,623	
Highway Dept	77	$ 1,007,992	$ 866,815	$ 1,160,595	60,538	86.0%	$ 1,059,443	200k less than FY2015
Solid Waste	79	$ 655,939	$ 515,621	$ 611,136	87,843	78.6%	$ 601,229	seasonal timing
General Fund Totals		$ 7,845,365	$ 6,994,783	$ 7,610,970	$ 222,953	89.2%	$ 7,452,504	
payroll periods		26	24	26		92.3%	26	

Includes $25,374 in carryover encumbrances from FY2015

General Fund - Revenues

Town of Bar Harbor
YTD May 31, 2016
92% - 11 Months

Department	Budget FY'16 12 Months	Actual FY'16 11 Months	Actual FY'15 12 Months	Bud. Var. Favorable (Unfavorable)	% Rev's Received 92% Goal	Variances From Budget Goal Comments
Town Clerk Fees	$ 28,304	$ 22,428	$ 27,254	(3,612)	79%	timing
Finance Department	$ 181,510	$ 161,407	$ 200,066	(5,582)	89%	
Municipal Building	$ 30,000	$ 31,959	$ 33,416	4,359	107%	made budget
Code Enforcement Permits	$ 160,358	$ 128,659	$ 187,533	(18,870)	80%	lower trend
Planning Fees	$ 20,694	$ 8,384	$ 10,209	(10,654)	41%	lower trend
Ambulance/Fire Fees	$ 396,100	$ 274,076	$ 351,052	(90,336)	69%	lower trend - # of runs
Police Department	$ 69,841	$ 70,986	$ 77,679	6,732	102%	made budget
Harbor Department	$ 49,203	$ 58,895	$ 54,351	13,628	120%	made budget
Parks & Recreation	$ 600	$ 800	$ 950	248	133%	made budget
Highway Division	$ 9,953	$ 12,018	$ 10,451	2,861	121%	made budget
Solid Waste-Recycling	$ 86,338	$ 44,702	$ 64,434	(34,729)	52%	lower trend - pricing
Departmental	**$ 1,032,901**	**$ 814,314**	**$ 1,017,395**	(135,955)	**79%**	
P.I.L.O.T.'s	$ 126,306	$ 132,862	$ 129,401	16,660	105%	all PILOT's paid
Interest Income	$ 20,350	$ 26,574	$ 25,330	7,852	131%	made budget
Misc, Cable Franch., other	$ 122,992	$ 120,466	$ 126,205	7,313	98%	
Excise & Other Taxes	$ 986,441	$ 933,215	$ 1,013,463	25,689	95%	on target
Intergovernmental	$ 218,504	$ 193,398	$ 209,123	(7,626)	89%	timing/on target
Revenues-Subtotal	**$ 2,507,494**	**$ 2,220,829**	**$ 2,520,917**	(86,065)	**89%**	
Property Taxes	$ 15,588,096	$ 15,602,181	$ 14,957,966	14,085	100%	
Transfers In-CS & Other Funds	$ 264,817	$ -	$ 268,907	-	0%	y/end adjustment
Fund Balance Used	$ 110,000	$ -	$ 412,639		0%	y/end adjustment
				-		
Grand Total-General Fund	**$ 18,470,407**	**$ 17,823,010**	**$ 18,160,429**		96.5%	
				-		
Wastewater Revenues	$ 2,212,776	$ 1,738,008	$ 2,099,773		79%	3 Qtrs Billed
Water Revenues	$ 1,930,105	$ 1,855,840	$ 1,981,903		96%	4 Qtrs Billed
CIP Fund Rev's/Transfers	$ 2,611,177	$ 2,384,730	$ 4,589,867		91%	on target
Cruise Ship Fund Rev's	$ 605,735	$ 539,286	$ 631,589		89%	on target

TOWN OF BAR HARBOR
CASH / INVESTMENT STATUS @ May 31, 2016

Note	Bank	Acct. No.	Purchase	Maturity	Interest Rate	Amount
****CHECKING ACCOUNTS**						
GENERAL	BHBT	77548521	**GL #10-1140**		0.33%	$ 779,000
SEWER	MACHIAS SB	8100333860 / 930	**GL #10-1135**		0.10%	$ 47,000
SEWER	BHBT	77548513	**GL #35-1140**		0.33%	$ 137,000
WATER	BHBT	77548556	**GL #40-1140**		0.33%	$ 625,000
	Total Checking Accounts					**$ 1,588,000**
GENERAL	BHBT	ICS - CDARS	FDIC custodial bank deposits	**GL #10-1130**	0.55%	**$ 4,081,000**
GENERAL	The 1st		collaterized securities	**GL #10-1145**	0.75%	**$ 1,152,000**
GENERAL	The 1st		collaterized securities	**GL #10-1146**	0.45%	**$ 1,007,000**
SEWER	BHBT-	ICS - CDARS	FDIC custodial bank deposits	**GL #35-1130**	0.55%	**$ 1,052,000**
SEWER	MACH S BK	ICS - CDARS	FDIC custodial bank deposits	**GL #35-1120**		**$ 664,000**
WATER	BHBT-bond $	ICS - CDARS	FDIC custodial bank deposits	**GL #40-1130**	0.55%	**$ 1,808,000**
****CERTIFICATES OF DEPOSIT: money market**						
Gen Fnd	The First	14 months	27-Jan-16	27-Jan-17	0.25%	$ 86,285
Gen Fnd	BHS&L	18 Months	27-Dec-14	27-Jun-16	0.70%	$ 110,835
Gen Fnd	BHS&L	12 months	04-Dec-15	03-Dec-16	0.65%	$ 112,416
Gen Fnd	MSB	12 Months	25-Oct-15	25-Oct-16	0.27%	$ 112,435
Gen Fnd	MSB	1 Year-CDARS	12-Jan-16	12-Jan-17	0.27%	$ 240,471
Gen Fnd	UTC-Camden	12 Month CD	11-Aug-15	11-Aug-16	0.15%	$ 107,233
Gen Fnd	UTC-Camden	12 Month CD	10-Feb-16	10-Feb-17	0.15%	$ 106,910
Gen Fnd	UTC-Camden	1 Year-CDARS	31-Mar-16	29-Sep-16	0.10%	$ 236,479
#10-1160		Total Certificates of Deposit				**$ 1,113,064**
CIP Reserves: Bar Harbor Banking & Trust - Trust Department						
GENERAL	COMB-combined funds		Money Mkt Funds Sweep		0.40%	$ 313,352
	Microsoft Corp		Bond - AAA	03-Nov-18	1.30%	$ 100,821
	Statoil ASA		Bond - AA	15-May-18	1.15%	$ 99,494
	Federal Farm Cr Bank		Bond - AA+	11/27/2017	0.88%	$ 99,901
	Fed Natl Mtg Assoc		Bond - AAA	2/19/2019	0.88%	$ 250,220
	Fed Home Loan Mtg Corp		Bond - AAA	1/4/2018	0.00%	$ 270,058
	Toronto Dominion Bank		Bond - AA-	5/2/2017	1.13%	$ 100,110
	Nippon Teleg & Tel Corp.		Bond - AA-	7/18/2017	1.41%	$ 100,080
	US Treasury Note		Note	9/30/2017	0.63%	$ 249,775
	US Treasury Note		Note	10/15/2018	0.88%	$ 200,110
	Vanguard Scottdale FDS		Mutual Funds		2.00%	$ 240,570
	#10-1170 Total In Trust Fund					**$ 2,024,491**
	TOTALS: All CASH & INVESTMENTS					**$ 13,825,555**

Notes: Checking Accounts and money markets above $250,000 are protected by Bar Harbor Bank's collateral (US Gov't or agency securities) that are held in joint custody at the Federal Reserve Bank of Boston.

COMB = Combined General, CIP, School and Cruise Ship Cash Accounts
SWR = Sewer Fund
WTR = Water Fund

BHBT = Bar Harbor Bank & Trust Co.
The First = First National Bank Of Damariscotta
UTC = Union Trust Company & now Camden National Bank
BHS&L = Bar Harbor Savings & Loan Co.
MSB = Machias Savings

Town Bond Rating:	Affirmed	August '15	Aa2 Moody's
	Affirmed	August '15	AAA S & P's
State of Maine Bond Rating:		May '12	AA S & P's
State of Maine Bond Rating:		June '14	Aa2 Moody's
State of Maine Bond Rating:		Jan '13	AA Fitch
Hancock County Rating		Jan '11	Aa2 Moody's
Hancock County Rating		Jan '11	AA S & P's
U.S. Government Rating		August '11	AA S & P's

VI C.

MOUNT DESERT POLICE DEPARTMENT
BAR HARBOR POLICE DEPARTMENT

James K. Willis, Chief of Police
jwillis@mdpolice.org

BHPD
Lt. David Kerns
37 Firefly Lane
Bar Harbor, Maine 04609
Tel: 207-288-3391
dkerns@barharbormaine.gov

MDPD
Lt. Kevin Edgecomb
21 Sea Street, PO Box 248
NE Harbor, ME 04662
Tel: 207-276-5111
kedgecomb@mdpolice.org

Date: June 16, 2016
To: Town Manager Cornell Knight
From: Chief James Willis
Subject: Update on Little A's Special Amusement Permit

Since my May 11, 2016 update, no new complaints have been received about the Little A's Special Amusement permit.

Officer Sundberg continues to coordinate our liaison efforts with Little A's and its neighbors. Soren is currently working day shift, so other Officers are conducting proactive visits during late evening hours and informing him of the results.

On May 25 we received a noise complaint about loud patrons outside the Mad Hatter, located across the street from Little A's. Our Officer did not find any patrons outside the Mad Hatter, but did find a few people talking on the outside deck at Little A's. They dispersed shortly after his arrival. During their patrols, Officers have walked behind Tom Marinke's property and when there is music playing and report they can hear some noise and the levels are reasonable.

Sal Clouse, owner of Little A's contacted us during the first week of June and asked to have someone stop by to discuss Karoke night as it's been getting busier. They agreed that Sal's efforts to minimize noise outside the building are effective and he will continue. Officer Sundberg spoke with Tom Marinke on May 29 and Tom said he notices the difference since we've been working with the parties involved and that while there is still some noise, "it's nothing he can't live with".

If and when necessary, we will use the process outlined in outlined in the town's ordinance relating to Special Amusement Permits, which calls for us to use our noise meter and follow through with warnings for violations. When substantiated violations are documented, Town Council is notified as part of our regular process.

VI D

Patricia Gray

From: Stan Harmon <sharmon@barharbormaine.gov>
Sent: Tuesday, May 17, 2016 4:45 PM
To: Cornell Knight
Cc: Pat Gray
Subject: Dobbs Prod. Annual Request
Attachments: CTTfMin5.16.16 draft.docx; Dobbs request (1).PDF

Our CTTF meeting recommended again that the Council approve the Dobbs request. This is an annual request that usually goes on the Consent calendar. See the attached draft minutes, as well as a copy of the Dobbs letter

Stanley Harmon,
Finance Director, Treasurer
Town of Bar Harbor
93 Cottage St.
Bar Harbor, ME 04609
207-288-5096
www.barharbormaine.gov

RECEIVED
MAY 02 2016
Town of Bar Harbor
Manager/Clerk's

The ACADIA 2 CHANNEL YouTube Vimeo

Steve Cornell: Chair
Town of Bar Harbor Technology Committee
93 Cottage Street
Bar Harbor, Maine 04609

April 28, 2016

Dear Steve

On behalf of Dobbs Productions Inc., I would hereby request permission to use public Access channel 2 in Bar Harbor for summer 2016 and winter 2017, to broadcast The Acadia Channel (June 1- Oct.31), and all MDI Tv Public Access related programming such as the bulletin board, Christmas concerts , exercise, local health, educational and informational programming.

Sincerely Yours, Jeff Dobbs: President

municipal only portion (to maintain reliable and secure internal Town communications and data transfer, and secondly, the full broadband for all homes portion.

C. **Discuss where we stand on sending a formal request for quotes:** *Fairpoint* and *Time Warner* have promised, but not returned quotes yet, for fiber service, including maintenance and specific speeds provided. An invite to speak to the CTTF would also be sent out to GWI.

D. **Dobbs Productions request to continue using public access channel 2:** This routine annualrequest was approved to be passed on to the Council for their formal approval of *Dobbs Productions* using the unused channel 2 for the summer once again. It was stated to members that Dobbs pays Time Warner directly for the leased use of this fiber.

6) Public Comment: Donna Karlson questioned Josh as to the proportion of High School kids who do or do not have broadband coverage at their homes. Josh had no reliable data on that but he did indicate that he was aware of some study groups of 5 to 7 kids gathering at homes with good internet. Alf suggested that the CTTF should provide a short, but concise FAQ paper handouts for Council meetings, Town meetings, etc. to assist in the education piece. He was told that there was an FAQ on the Town's website but it hasn't been updated and may be hard to find.

7) Items for Next meeting: A Monday, 6/20 meeting was scheduled at 3:30pm.

8) Adjournment: At 5:05 pm, it was unanimously approved to adjourn.

Respectfully submitted by Stan Harmon, Secretary, on 16th of May 2016.

May 16, 2016

Communications Technology Task Force
3:30 p.m. – Bar Harbor Municipal Building
Draft - Meeting Minutes

1) **Meeting called to order**: Chair Hochman called the meeting to order at 3:35pm. In attendance were Task Force members Steve Cornell, Councilor Stivers, Brian Booher, Josh Young, George Grohs and Stan Harmon. Also in attendance were public guests Ozzie Waterson from Hulls Cove and Donna Karlson. Representing the Chamber was Alf Anderson.

2) **Approval of Minutes**: Minutes of 4/25/16 were approved as presented.

3) **Adoption of Agenda**: The agenda was adopted with one added amended item after Public Comment; Comments by CTTF members.

4) **Cable Consortium Status Update:** Steve reported that he had no status updates.

5) **Regular Business:**

A. ***Discuss having a 'Straw Poll' or Non-binding referendum on the November 2016 ballot to determine public opinion on the fiber project***: Various opinions were expressed on this, the timing may be tight, more public education should be employed prior to, unknown costs may not have been determined by then, etc. It was then moved and voted to table further discussion of this to the June 20th CTTF meeting, after Town Meeting voted whether or not to fund engineering monies, which would be a preliminary vote to buy into the concept.

B. **Discuss public comment at the recent Town Council's Town Hill meeting:** Steve indicated to the members that he was asked by the Town Manager to respond to Mr. Inness's handout from that meeting. Accordingly, Steve handed out a draft for the CTTF members to review prior to Steve forwarded it to Mr. Knight. It was agreed by most members that there was much incorrect information, conclusions and mis-quotes in the document that needed clarifications. Steve shared his May tech conference info with the members, basically saying that fiber is still the consensus from the conference attendees that fiber is "future proof"; i.e., it's the way to go for long term reliability and ability to carry unlimited data. Additionally, that the fiber project needed to be broken down into the

VI E.

Memorandum

To: Town Council, Cornell Knight

CC:

From: Stan Harmon, Finance Director

Date: 6/9/2016

Re: Selection of Auditor for FY16 & FY17

Attached is a two year proposal from Mr. Wadman, which is traditionally what we have asked for. Also attached is the firm's Peer Review certification letter. As Finance Director, I endorse the proposal and fees as presented. I consider the fees on the low side, considering the quality audit received and this is partly because our own skilled staff and Munis software enables the finance department to prepare many of the reconciled schedules.

Mr. Wadman's firm has successfully audited the Town's books for many years and they also audit the school's portion of the books under AOS #91. This creates savings/efficiencies with the audit process. Jim's staff turnover has been very stable over the years and they know and work well with Bar Harbor's finance employees. They also audit over 20 Downeast communities. Their latest "peer" review audit, included in this proposal, received a passing grade and relates to their abilities and adherence to the professional standards of the audit industry.

The FY2016 fee is set *not to exceed* $16,*005* and FY2017 is set *not to exceed $16,405*. The fees have increased by 2.5% each year over the last several years. If the Town is subject to the *Single Audit* compliance there will be additional fees of $1,400, but this comes into play only if the Town receives federal grants in excess of $400,000.

TOWN OF BAR HARBOR
PROPOSAL FOR AUDITING SERVICES
FOR THE FISCAL YEARS ENDED
JUNE 30, 2016 AND 2017

PROPOSAL SUBMITTED BY:
JAMES W. WADMAN, C.P.A.
295 MAIN STREET
ELLSWORTH, ME 04605
TEL 207-667-6500
FAX 207-667-3636
Email jim@wadmancpa.com
Contact: Jim Wadman

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LETTER OF TRANSMITTAL

June 9, 2016

To the Town Manager and the Town Council
Town of Bar Harbor
P.O. Box 337
Bar Harbor, ME 04609

The following is our audit proposal for the Town of Bar Harbor for a two year period. We understand that the period of the audit will be for the 12 month periods ending June 30, 2016 and 2017. Our firm presently maintains an independent status and will continue to maintain an independent status with the Town of Bar Harbor.

We will perform our audit in accordance with generally accepted governmental auditing standards established by the American Institute of Certified Public Accountants, the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, and the Governmental Accounting Standards Board. Our audits will also be in compliance with Maine State Statutes as well as Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards at 2 CFR 200 (Uniform Guidance), if applicable. We understand that the financial statements will be presented in accordance with the financial model described in Governmental Auditing Standards Board Statement number 34 and related subsequent statements. Our audits will be a financial and compliance audit of all accounts and funds and will contain written opinions of the financial statements of the Town of Bar Harbor.

We will be available to management for consultation regarding matters that arise during the course of the year and we will keep management informed of current developments affecting its operation. If necessary, we will submit a management letter, which will identify internal control and management weaknesses and suggest corrective steps to be taken. Our audits will include an exit conference in which we will review the audit reports, the management letters and any other questions or comments that management may have. Our audits will also include providing opening balances for the following fiscal year.

The contact person for the audit engagement will be James W. Wadman, C.P.A., owner of the firm.

Respectfully Submitted,

James W. Wadman, C.P.A.

James W. Wadman, C.P.A.

FIRM QUALIFICATIONS

James W. Wadman, C.P.A. is a local accounting firm with five licensed professionals and two staff members. Our firm has been auditing a wide range of municipalities, school districts and non-profit organizations for 27 years. We presently audit over 100 municipalities, school systems, and non-profit organizations. Our office is located at 295 Main Street, in Ellsworth.

The senior personnel assigned to the audit will be James W. Wadman, C.P.A., a 1986 graduate of the University of Southern Maine with 27 years of governmental audit experience. Other staff to be involved in all aspects of the audit include; Wanese L. Lynch, C.P.A., a 1992 graduate of the University of Maine with 19 years of governmental audit experience; Kellie M. Bowden, C.P.A., a 1995 graduate of Husson University with 20 years of governmental audit experience; Ronald C. Bean, C.P.A., a 1992 graduate of Husson University with 15 years of governmental audit experience; Amy E. Atherton, C.P.A., a 2000 graduate of the University of Southern Maine with 16 years of accounting experience: and Daniel R. Gray, a 1991 graduate of Husson University with 18 years of governmental audit experience.

Approximately 16 hours per year of governmental auditing and accounting continued professional education are obtained by all personnel assigned to the engagement. The majority of this professional education is obtained through seminar participation with nationally renowned experts in governmental auditing.

Enclosed is a copy of our most recent unqualified peer review report on our accounting and auditing practice. The unqualified report signifies that our firm has met the objectives of quality control in accounting and auditing practice.

The Town of Bar Harbor will be notified prior to the commencement of audit fieldwork of any changes in key personnel assigned to the audit engagement. It will be our intention for the benefit of both the firm and the Town of Bar Harbor to keep the same personnel assigned to the engagement year after year.

TECHNICAL APPROACH TO ENGAGEMENT

Our audits will include obtaining an understanding of the accounting system, internal accounting controls and the flow of transactions of the entity. This process will begin with preliminary fieldwork and continue through the audit engagement. We will interview entity personnel, as well as review accounting information and document our understanding of the accounting system and internal control structure.

Our audits will include confirmation of account balances, as well as tests of samples of random and individually significant transactions. Testing procedures will be conducted on both revenues and expenditures for the fiscal year. We will identify areas of risk associated with the entity's operation, and will design our testing procedures based on our assessment of this risk.

Our audit engagement will consist of three phases:

Phase 1 – Preliminary Fieldwork – This phase will involve interview of Town personnel to obtain an understanding of the accounting system, the internal control structure and search for contingencies, related party transactions, fraud, risk assessment, etc. In addition, we will prepare cash and debt confirmations, legal representation information, obtain opening balances, selected substantive testing and budgetary information.

Phase 2 – Year-end Fieldwork – This phase will include the conclusion of testing procedures, account reconciliation and confirmation, conclusion of the search for contingencies and subsequent events, submission of adjusting journal entries and opening balances, the exit conference and the draft of the financial statements and management letter for management review.

Phase 3 – Audit Conclusion – This phase will involve the final report preparation, the inclusion of the "Management Discussion and Analysis", the attendance at any public meetings requested and assistance with any opening balances, etc.

We will require that the accounting staff have available for us, the following information and financial records prior to commencement of the audits:

1. Detailed general ledgers, receipts, warrants, invoices, purchase orders, bank statements with canceled checks, savings account records, employee contracts, and insurance policies.

2. Reconciliation of all cash accounts with bank statements and the general ledger.

3. Reconciliation of all unpaid property tax receivables with unpaid property tax listings and the general ledger.

4. Copies of Assessor's Certificate, Municipal Valuation Return and LD-1 calculation for the year being audited.

5. Details of all accounts receivable and accounts payable, which agree to the general ledger.

6. Minutes of all town and council meetings.

7. Payroll records, including payroll tax returns and W-2 forms, as well as 1099 Forms for contracted services.

8. Copies of all State and Federal grant applications, award letters, receipts of grant funds (including check stubs, if applicable), expenditures, drawdown requests and applicable adopted policies as stated in grant applications. Revenue and expense detail reports which agree with the general ledger control accounts.

9. Fixed asset records to comply with Governmental Accounting Standards Board Statement No. 34. These records will contain beginning balances that agree to the previous year audit report, additions, retirements and depreciation computations for the current fiscal year.

In addition, we will require that the opening balances in the general ledger agree to the opening balances from the prior year audit. Receipts, invoices and payroll records selected for testing will be provided by Town personnel.

COMPENSATION

Our fees for these engagements include all costs involved such as postage, travel, etc. Should the entity require additional accounting and consultation services, services will be provided at a our standard hourly rates of $82.50 per hour for licensed professional personnel and $53.50 per hour for non-licensed professional personnel. Hourly rates will increase by 2.5% annually. These services will be agreed to prior to commencement of the accounting services. Our annual fees would be as follows:

2015-2016 Audit	Town of Bar Harbor (incl water dept)	not to exceed $16,005
2016-2017 Audit	Town of Bar Harbor (incl water dept)	not to exceed $16,405
Single Audit compliance and internal control procedures and reporting (as required, annual cost)		not to exceed $ 1,400

VACHON CLUKAY
& COMPANY PC

CERTIFIED PUBLIC ACCOUNTANTS
608 Chestnut Street • Manchester, New Hampshire 03104
(603) 622-7070 • Fax: (603) 622-1452 • www.vachonclukay.com

System Review Report

June 23, 2015

To the Owner of James W. Wadman, CPA
and the Peer Review Committee of New England Peer Review:

We have reviewed the system of quality control for the accounting and auditing practice of James W. Wadman, CPA (the firm) in effect for the year ended March 31, 2015. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*.

In our opinion, the system of quality control for the accounting and auditing practice of James W. Wadman, CPA in effect for the year ended March 31, 2015, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. **James W. Wadman, CPA has received a peer review rating of *pass*.**

Vachon Clukay & Company, PC

VII A

Town of Bar Harbor
Application for Special Amusement Permit

Permit Fee
$129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 5/17/16 Application Type: ☐ New ☑ Renewal Permit Number: _____

Applicant: Jennifer Young (Name) Applicant's Address: 49 Rodick St (Mailing Address)

Business Name: Side Street Cafe Business Address: 49 Rodick St (Physical Address in Bar Harbor)

Type of Business: Restaurant (Restaurant, Bar, Nightclub, etc.) Location to be used: 49 Rodick St (Where on the premises will the amusement take place? Use back of page if necessary.)

Has a liquor license or special amusement permit for this business ever been denied or revoked? ☐ Yes ☑ No
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? ☐ Yes ☑ No
If yes, describe the circumstances in the space below:

The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.

Application is hereby made for a Special Amusement Permit for one of the following:

Without Mechanical Amplification

- ☐ Class 1 – Single musician
- ☐ Class 2 – Two musicians
- ☐ Class 3 – Three or more musicians

With Mechanical Amplification

- ☐ Class 1a – Single musician
- ☐ Class 2a – Two musicians
- ☐ Class 3a – Three or more musicians

With Mechanical Amplification and Dancing

- ☐ Class 1ad – Single musician
- ☐ Class 2ad – Two musicians
- ☑ Class 3ad – Three or more musicians

Other Entertainment or Amusement

- ☐ Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Jennifer Young
Applicant's Signature

The Municipal Officers of Bar Harbor hereby ☐ approve ☐ deny this application on _____ (Date)

_____
Patricia A. Gray, Town Clerk

Revised 04/09/2015

Patricia Gray

From: James Willis <jwillis@mdpolice.org>
Sent: Thursday, June 09, 2016 12:47 PM
To: Cornell Knight; Pat Gray
Subject: Side Street SAP

I've reviewed our records and found one incident from 2015 for Side Street Café that is associated with a Special Amusement Permit. During the evening hours on 10/27/15 Officers recorded average DB levels that violated the ordinance. The owner was present and was issued a warning. He immediately had the noise turned down, doors and windows were closed and no further complaints were received. The owner told our Officer that is was the last show of the year.

James Willis
Chief of Police
Mount Desert and Bar Harbor Police Departments
MDPD - 207-276-5111 / BHPD - 207-288-3391

VII B

TOWN OF BAR HARBOR
Code Enforcement Division

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tele. 207-288-3329 Fax 207-288-3032
E-Mail: ceo@barharbormaine.gov

Angela M Chamberlain

Code Enforcement Officer
Building Inspector
Electrical Inspector
Plumbing Inspector

MEMORANDUM

To: Cornell Knight, Town Manager
From: Angela Chamberlain, Code Enforcement Officer AC
Date: April 27, 2016
Subject: Floodplain Management Ordinance

I would like to request the Town Council's consideration to hold a public hearing and amend chapter 90 of the Bar Harbor Town Code, Floodplain Management as proposed in the attached 26-page document.

Bar Harbor's floodplain management ordinance was adopted on May 2, 1991 and last amended in 2005. I have attached an overview of the 2015 and 2016 updates to the model floodplain management ordinance but some changes worth noting are:

1) The map references are amended to reflect the new county wide Flood Insurance Study and the Digital Flood Insurance Rate Map panels.
2) All references to the State Planning Office were removed.
3) New definitions were added for North American Vertical Datum (NAVD), Containment Wall, Digital Flood Insurance Rate Map (FIRM), and Special Flood Hazard Area.
4) Other definitions were amended.
5) The addition of LiMWA regulations and a definition.

The Floodplain Management Program is funded primarily by FEMA (with some matching state funding) and is considered by FEMA to be the liaison between them and Maine communities. There is a state floodplain program in every state and their primary function is to provide technical assistance to those involved with the National Flood Insurance Program (NFIP), including local officials, lenders, insurance agents, surveyors, engineers, architects and homeowners. They work closely with communities to provide guidance when adopting, interpreting, and enforcing the regulations.

I have sent the attached draft language to Sue Baker at the Floodplain Management Program and she has reviewed and approved it. The new changes are shown as underlined and the language removed is shown as a strike through.

If the Council chooses to hold a public hearing and approves this amendment, they may set the effective date of this ordinance to coincide with the day the new maps become effective which is July 20, 2016.

Floodplain Management Ordinance Amendment

Town of Bar Harbor
#2016-

An Ordinance Amendment to amend the map references to reflect the new county wide Flood Insurance Study and the Digital Flood Insurance Rate Map panels, all references to the State Planning Office were removed, new definitions were added for North American Vertical Datum (NAVD), Containment Wall, Digital Flood Insurance Rate Map (FIRM), and Special Flood Hazard Area, other definitions were amended, and LiMWA regulations and a definition were added.

The Town of Bar Harbor hereby ordains that Chapter 90, Floodplain Management, of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 90. Floodplain Management

§ 90-1. Purpose; establishment.

A. Certain areas of the Town of Bar Harbor, Maine, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Bar Harbor, Maine, has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Chapter.

(1) It is the intent of the Town of Bar Harbor, Maine, to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

(2) The Town of Bar Harbor has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., §§ 3001 through 3007, 4352 and 4401 through 4407, Title 38 M.R.S.A, Section 440.

(3) The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Bar Harbor having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the Town of Bar Harbor, Maine.

B. The areas of special flood hazard, Zones A, AE, and VE~~,~~ for the Town of Bar Harbor, Hancock County, Maine, ~~are~~ identified by the Federal Emergency Management Agency in a

report entitled "Flood Insurance Study - ~~Town of Bar Harbor~~ Hancock County, Maine," ~~Hancock County," dated May 2, 1991,~~ dated July 20, 2016 with accompanying Flood Insurance Rate Map, dated ~~May 2, 1991~~ July 20, 2016 with panels 967D, 968D, 969D, 978D, 979D, 983D, 984D, 986D, 987D, 988D, 989D, 991D, 992D, 995D, 1003D, 1004D, 1011D, 1013D, 1014D, 1018D, 1181D, 1182D, 1202D, 1206D, 1210D, 1227D, 1229D, 1230D, 1231D, 1232D, 1233D, 1237D, and 1241D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine," ~~which~~ are hereby adopted by reference and declared to be a part of this ~~chapter~~ ordinance.

§ 90-2. Permit required.

Before any construction or other development (as defined in § 90-12), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 90-1, a flood hazard development permit shall be obtained from the Code Enforcement Officer, except as provided in § 90-7. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Bar Harbor, Maine.

§ 90-3. Application for permit.

The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include (Subsections H through K(3) apply only to new construction and substantial improvements.):

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

H. The elevation, in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:

(1) Base flood at the proposed site of all new or substantially improved structures, which is determined:

(a) In Zones AE and VE from data contained in the Flood Insurance Study – Hancock County, ~~Town of Bar Harbor~~, Maine, as described in § 90-1; or

(b) In Zone A:

[1] From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/~~July 1995~~), including information obtained pursuant to §§ 90-6K and 90-9D;

[2] From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

[3] ~~In the absence of all other data,~~ to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

(2) Highest and lowest grades at the site adjacent to the walls of the proposed building;

(3) Lowest floor, including basement; and whether or not such structures contain a basement; and

(4) Level, in the case of nonresidential structures only, to which the structure will be floodproofed.

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in § 90-6;

J. A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevations and grade elevations shown on the application are accurate;

K. The following certifications as required in § 90-6 by a registered professional engineer or architect:

(1) A floodproofing certificate (FEMA Form 81-65, ~~08/99,~~ as amended), to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of §§ 90-3H(4), 90-6G and other applicable standards in § 90-6;

(2) A V-Zone certificate to verify that the construction in coastal high hazard areas, Zone VE and Coastal AE Zone, will meet the criteria of § 90-6P; and other applicable standards in § 90-6;

(3) A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of § 90-6L(2)(a);

(4) A certified statement that bridges will meet the standards of § 90-6M;

(5) A certified statement that containment walls will meet the standards of § 90-6N;

L. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

M. A statement or construction plans describing in detail how each applicable development standard in § 90-6 will be met.

§ 90-4. Application fee; expert's fees.

A. A nonrefundable application fee as set forth by the Town Council from time to time shall be paid to the Planning Department, and a copy of a receipt for the same shall accompany the application.

B. An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the Town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the chapter and be grounds for the issuance of a stop-work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

§ 90-5. Review standards for flood hazard development permit applications.

The Code Enforcement Officer shall:

A. Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of § 90-6 (Development standards) have been, or will be met;

B. Utilize, in the review of all flood hazard development permit applications:

(1) The base flood data contained in the Flood Insurance Study — Hancock County, ~~Town of Bar Harbor~~, Maine, as described in § 90-1;

(2) In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including

information obtained pursuant to §§ 90-3H(1)(b), 90-6K, and 90-9D, in order to administer § 90-6 of this chapter; and

(3) When the community establishes a base flood elevation in a Zone A by methods outlined in § 90-3H(1)(b), the community shall submit that data to the Maine Floodplain Management Program. ~~in the State Planning Office~~.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 90-1 of this chapter;

D. In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program ~~in the State Planning Office~~ prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency;

F. Flood hazard development permits.

(1) If the application satisfies the requirements of this chapter, approve the issuance of one of the following flood hazard development permits, based on the type of development:

(a) A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, as-built, for verifying compliance with the elevation requirements of § 90-6F, G, H, or P. Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or

(b) A flood hazard development permit for floodproofing of nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of § 90-6G(1)(a), (b), and (c). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or

(c) A flood hazard development permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to, accessory structures as provided for in § 90-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

(2) For development that requires review and approval as a conditional use, as provided for in this ordinance ~~chapter~~, the flood hazard development permit application shall be acted upon by the Planning Board as required in § 90-7.

G. Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of § 90-10 of this ordinance ~~chapter~~, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certificates of design standards required under the provisions of §§ 90-3, 90-6, and 90-8 of this chapter.

§ 90-6. Development standards.

All development in areas of special flood hazard shall meet the following applicable standards:

A. All development. All development shall:

(1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Use construction materials that are resistant to flood damage;

(3) Use construction methods and practices that will minimize flood damage; and

(4) Use electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.

D. On-site waste disposal systems. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of any watercourse.

F. Residential. New construction or substantial improvement of any residential structure located within:

(1) Zone AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.

(2) Zone A shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation utilizing information obtained pursuant to §§ 90-3H(1)(b), 90-5B, or 90-9D.

(3) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of § 90-6P.

G. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:

(1) Zone AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed to at least two feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 90-3K, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(2) Zone A shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation utilizing information obtained pursuant to §§ 90-3H(1)(b), 90-5B, or 90-9D; ~~or, together with attendant utility and sanitary facilities, meet the floodproofing standards of § 90-6G(1).~~

(a) or, together with attendant utility and sanitary facilities, meet the floodproofing standards of § 90-6G(1).

(3) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of § 90-6P.

H. Manufactured homes. New or substantially improved manufactured homes located within:

(1) Zone AE shall:

(a) Be elevated such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation;

(b) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

(c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.

[1] Methods of anchoring may include, but are not limited to:

[a] Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by

[b] Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

[2] All components of the anchoring system described in § 90-6H(1)(c)[1][a] and [b] shall be capable of carrying a force of 4,800 pounds.

(2) Zone A shall:

(a) Be elevated on a permanent foundation, as described in § 90-6H(1)(b), such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to §§ 90-3H(1)(b), 90-5B, or 90-9D; and

(b) Meet the anchoring requirements of § 90-6H(1)(c).

(3) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of § 90-6P.

I. Recreational vehicles. Recreational vehicles located within:

(1) Zone A and AE shall either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in § 90-6H(1).

(2) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of either § 90-6I(1)(a) or (b), or 90-6P.

J. Accessory structures. Accessory structures, as defined in § 90-12, located within Zones AE and A, shall be exempt from the elevation criteria required in § 90-6F and G above, if all other requirements of § 90-6 and all the following requirements are met. Accessory structures shall:

~~(1) Be 500 square feet or less and have a value less than $3,000;~~

(1)~~(2)~~ Have unfinished interiors and not be used for human habitation;

(2)~~(3)~~ Have hydraulic openings, as specified in § 90-6L(2), in at least two different walls of the accessory structure;

(3)~~(4)~~ Be located outside the floodway;

(4)~~(5)~~ When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

(5)~~(6)~~ Have only ground fault interrupt electrical outlets. The electrical service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

(6) be located outside the Coastal AE Zone.

K. Floodways.

(1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvements, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided

demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in § 90-6K(3) unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

(a) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

(b) Is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping. ~~Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).~~

(3) In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of § 90-6, including the elevation requirements of § 90-6F, G or H, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements, provided that all the following criteria are met or exceeded:

(1) Enclosed areas are not "basements" as defined in § 90-12;

(2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

(a) Be engineered and certified by a registered professional engineer or architect; or

(b) Meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area.

[2] The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and

[3] Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the entry and exit of floodwaters automatically without any external influence or control, such as human intervention, including the use of electrical and other nonautomatic mechanical means;

(3) The enclosed area shall not be used for human habitation; and

(4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges. New construction or substantial improvement of any bridge in Zones AE, A and VE shall be designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two feet above the base flood elevation; and

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of § 90-6K; and

(b) The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water-loading values used shall be those associated with the base flood.

N. Containment walls. New construction or substantial improvement of any containment wall located within Zones AE, A, and VE shall:

(1) Have the containment wall elevated to at least two feet above the base flood elevation;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 90-3K.

O. Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks is permitted in Zones AE, A, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

(1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

(2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal floodplains.

(1) All new construction located within Zones AE, and VE shall be located landward of the reach of the mean high tide except as provided for in § 90-6P(6).

(2) New construction or substantial improvement of any structure located within Zone VE and Coastal AE Zones (as defined) shall:

(a) Be elevated on posts or columns such that:

[1] The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two feet above the base flood elevation;

[2] The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water-loads acting simultaneously on all building components; and

[3] Water-loading values used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable state and local building standards.

(b) Have the space below the lowest floor:

[1] Free of obstructions; or

[2] Constructed with open wood lattice work or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or

[3] Constructed to enclose less than 300 square feet of area with nonsupporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

(c) Require a registered professional engineer or architect to:

[1] Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA 55~~/June, 2000~~); and

[2] Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of § 90-6P(2).

(3) The use of fill for structural support in Zone VE and Coastal AE Zone (as defined) is prohibited.

(4) Human alteration of sand dunes within Zone VE and Coastal AE Zone (as defined) is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

(5) The enclosed areas may be used solely for parking vehicles, building access, and storage.

(6) Conditional use. Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in § 90-6G only if permitted as a conditional use following review and approval by the Planning Board, as provided in § 90-7, and if all the following requirements and those of §§ 90-6A and 90-6K and 90-6L are met:

(a) The conditional use shall be limited to low-value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

(b) The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water-loads acting simultaneously on all building components.

(c) The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

(d) The structure shall have unfinished interiors and shall not be used for human habitation.

(e) Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to two feet above the base flood elevation.

(f) All electrical outlets shall be ground-fault-interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the special flood hazard area.

§ 90-7. Conditional use review.

The Planning Board shall hear and decide upon applications for conditional uses provided for in this chapter. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a conditional use permit is required shall file an application for the permit with the Planning Board.

A. Review procedure for a conditional use flood hazard development permit.

(1) The flood hazard development permit application with additional information attached addressing how each of the conditional use criteria specified in the chapter will be satisfied, may serve as the permit application for the conditional use permit.

(2) Before deciding any application, the Planning Board shall hold a public hearing on the application within 30 days of its receipt of the application.

(3) If the Planning Board finds that the application satisfies all relevant requirements of the chapter, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

(4) A conditional use permit issued under the provisions of this ordinance ~~chapter~~ shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

(5) The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of conditional uses. ~~No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued conditional use permit or if it is a building or use which would require a conditional use permit if being newly established or constructed under this chapter.~~

(1) No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued conditional use permit or if it is a building or use which would require a conditional use permit if being newly-established or constructed under this chapter.

§ 90-8. Certificate of compliance.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For new construction or substantial improvement of any elevated structure, the applicant shall submit to the Code Enforcement Officer:

(1) An elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with § 90-6F, G, H, or P; and

(2) For structures in Zone VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect that the ~~designated~~ design and methods of construction used are in compliance with § 90-6P(2).

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this chapter.

C. Within 10 working days, the Code Enforcement Officer shall:

(1) Review the required certificate(s) and the applicant's written notification; and

(2) Upon determination that the development conforms with the provisions of this chapter, shall issue a certificate of compliance.

§ 90-9. Review of subdivisions and development proposals.

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area are to be constructed in accordance with § 90-6 of this chapter. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or a structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly

stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

§ 90-10. Appeals and variances.

The Board of Appeals of the Town of Bar Harbor may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer or Planning Board in the administration of the provisions of this chapter.

The Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

(1) A showing of good and sufficient cause; and

(2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

(3) A showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and

(4) A determination that failure to grant the variance would result in undue hardship, which in this subsection means:

(a) That the land in question cannot yield a reasonable return unless a variance is granted; and

(b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

(c) That the granting of a variance will not alter the essential character of the locality; and

(d) That the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:

(1) Other criteria of this § 90-10 and § 90-6K are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:

(1) The development meets the criteria of § 90-10A though D above; and

(2) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of § 90-10A through E, shall be notified by the Board of Appeals, in writing, over the signature of the Chairman of the Board of Appeals that:

(1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property; and

(3) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal procedure for administrative and variance appeals.

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

(2) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(3) The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

(4) The person filing the appeal shall have the burden of proof.

(5) The Board of Appeals shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.

(6) The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(7) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

§ 90-11. Enforcement and penalties.

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter pursuant to 30-A M.R.S.A. § 4452.

B. The penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.
C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

(1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

(2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

(3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

§ 90-12. Definitions.

~~A.~~ Unless specifically defined below, words and phrases used in this ~~chapter~~ ordinance shall have the same meanings as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the

plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

~~B. As used in this chapter, the following terms shall have the meanings indicated:~~

ACCESSORY STRUCTURE
A small detached structure that is incidental and subordinate to the principal structure.

ADJACENT GRADE
The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

AREA OF SPECIAL FLOOD HAZARD
The land in the floodplain having a one-percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in § 90-1 of this chapter.

BASE FLOOD
The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood."

BASEMENT
Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL
A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

BUILDING
See "structure."

CERTIFICATE OF COMPLIANCE
A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

COASTAL AE ZONE – The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction and substantial improvements in the Coastal AE Zone.

COASTAL HIGH HAZARD AREA - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are

designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action (LiMWA)" on a Flood Insurance Rate Map (FIRM).

CODE ENFORCEMENT OFFICER
~~Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.~~ A person certified under Title 30-M.R.S.A., § 4451 (including exemptions in § 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

CONDITIONAL USE
A use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to § 90-7.

CONTAINMENT WALL
A wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

DEVELOPMENT
A manmade ~~Any~~ change ~~caused by individuals or entities~~ to improved or unimproved real estate.~~,~~ ~~including~~ This includes, but is not limited to, ~~the construction of~~ buildings or other structures;~~ the construction of additions or substantial improvements to buildings or other structures;~~ mining, dredging, filling, grading, paving, excavation, drilling operations; or storage of equipment or materials, and the storage, deposition, or extraction of materials.~~; public or private sewage disposal systems or water supply facilities.~~

DIGITAL FLOOD INSURANCE RATE MAP (FIRM)
See Flood Insurance Rate Map.

ELEVATED BUILDING
A nonbasement building:

(1) Built, in the case of a building in Zone AE or A, ~~to have~~ so that the top of the elevated floor, or in the case of a building in Zone VE or Coastal AE Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or stilts; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to two feet ~~one foot~~ above the magnitude of the base flood.

~~(3)~~ In the case of Zone AE or A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required by § 90-6L. In the case of Zone VE or Coastal AE Zone, "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of § 90-6P(2)(b)[3].

ELEVATION CERTIFICATE
An official form (FEMA Form 81-31 ~~07-00~~, as amended) that:

a.~~(1)~~ Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

b.~~(2)~~ Is required for purchasing flood insurance.

FLOOD or FLOODING

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

FLOOD ELEVATION STUDY
An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM)
An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY
See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA
Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

FLOODPLAIN MANAGEMENT

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS
Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING
Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and ~~their~~ contents.

FLOODWAY
See "regulatory floodway."

FLOODWAY ENCROACHMENT LINES
The lines marking the limits of floodways on federal, state, and local floodplain maps.

FREEBOARD
A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

FUNCTIONALLY DEPENDENT USE
A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities but does not include long-term storage or related manufacturing facilities.

HISTORIC STRUCTURE
Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LIMIT OF MODERATE WAVE ACTION (LiMWA) – The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

LOCALLY ESTABLISHED DATUM
For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

LOWEST FLOOR
The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of § 90-6L of this ordinance. ~~chapter.~~

MANUFACTURED HOME
A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL
When related to ~~For purposes of~~ the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MINOR DEVELOPMENT
All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to, accessory structures as provided for in § 90-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

NATIONAL GEODETIC VERTICAL DATUM (NGVD)
The national vertical datum, ~~whose~~ a standard ~~was~~ established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)."

NEW CONSTRUCTION
Structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NORTH AMERICAN VERTICAL DATUM (NAVD)
Means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

ONE-HUNDRED-YEAR FLOOD
See "base flood."

RECREATIONAL VEHICLE
A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;

(3) Designed to be self-propelled or permanently towable by a motor vehicle; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY

(1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and

(2) When not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

RIVERINE
Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA
See Area of Special Flood Hazard.

START OF CONSTRUCTION
The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

STRUCTURE
For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

SUBSTANTIAL DAMAGE
Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT
Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure, and a variance is obtained from the Board of Appeals.

VARIANCE
A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION
The failure of a structure or other development to comply with a community's floodplain management regulations.

VIII A.

MOUNT DESERT POLICE DEPARTMENT
BAR HARBOR POLICE DEPARTMENT

James K. Willis, Chief of Police
jwillis@mdpolice.org
jwillis@barharbormaine.gov

BHPD
Lt. David Kerns
37 Firefly Lane
Bar Harbor, Maine 04609
Tel: 207-288-3391
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MDPD
Lt. Kevin Edgecomb
21 Sea Street, PO Box 248
NE Harbor, ME 04662
Tel: 207-276-5111
kedgecomb@mdpolice.org

MEMO

To: Cornell Knight, Town Manager
From: James Willis, Police Chief
Re: Authorization to Sign MOU with Hancock County Sheriff
Date: June 2, 2016

Several months ago, a court decision resulted in the end of our Police Officers being deputized as Hancock County Deputy Sheriffs. The court decision determined that at that time, Sheriff's lacked authority to issue Deputy Commissions to non-county employees. The practice had been in place many years without challenge. Since that time, new legislation has been enacted which allows Sheriff's to deputize non county employees under certain circumstances. Among the new requirements is that anyone being deputized be a full time certified law enforcement officer in Maine.

Our Full Time Officers commonly work on multi-jurisdictional, grant funded, enforcement teams including the Hancock County Underage Drinking Task Force and the Hancock County RIDE team (impaired driving enforcement). There is potential for future collaboration with the Sheriff's Department and other agencies and those efforts will likely be dependent on our Officers being deputized.

Another requirement of the new legislation allowing for this is that the agencies involved have a memorandum of understanding which specifies the purpose of the deputy commission. The attached draft MOU has received a favorable legal review.

I'm asking for the authorization to sign the MOU between the Hancock County Sheriff's Office and the Town of Bar Harbor's Police Department.

Scott A. Kane
Sheriff

Patrick W. Kane
Chief Deputy

Hancock County Sheriff's Department
50 State Street, Suite 10
Ellsworth, Maine 04605
(207) 667-7575
Fax (207) 667-7516

Agreement between
Hancock County Sheriff's Office and the town of Bar Harbor

Agreement made this _____ day of _____, 2016, by and between the Town of Bar Harbor on behalf of the Bar Harbor Police Department and Hancock County on behalf of the Hancock County Sheriff's Office.

Whereas, Title 30-A M.R.S.A. 2674 authorizes a Sheriff to appoint full or part time deputies to enforce Maine's criminal laws and offenses enumerated in Titles 17-A, 28, 28A and 29-A of the Maine Statutes; and

Whereas, the town of Bar Harbor has requested that certain of its police officers be appointed as deputies in Hancock County, and

Whereas, the Sheriff of Hancock County agrees to appoint a specific number of Bar Harbor police officers as Hancock County Deputies;

Now, therefore, for mutual consideration, the sufficiency of which each party acknowledges, the parties do agree as follows:

1. APPOINTMENT;

   The Hancock County Sheriff's Office agrees to appoint certain Bar Harbor Police Officers as Hancock County Sheriff's Deputies authorized to enforce Maine's criminal laws and offenses enumerated in Title 28, 28A and 29A of the Maine statutes within Hancock County. The specific individuals to be so appointed will be mutually agreed upon by the Chief of the Bar Harbor Police Department and the Hancock County Sheriff. The term of the appointment shall be for an initial period of six months with a subsequent appointment for three years. The appointment shall be used for participation in County wide enforcement efforts as they relate to the RIDE and Underage Drinking task force. The authority granted as a Deputy Sheriff shall also extend for the purpose of mutual aid and enforcement of law as determined appropriate by the Chief of Police and the Sheriff. The Sheriff may revoke an appointment at any time for no cause.

2. EMPLOYER-EMPLOYEE RELATIONSHIP RETAINED:

The Bar Harbor Police Department shall be the sole and exclusive employer of persons appointed as deputies hereunder and they are not intended, nor shall they be deemed to be employees of the Hancock County Sheriff's Office. In addition, nothing herein shall be construed to create a joint employer relationship between the Bar Harbor Police Department and the Hancock County Sheriff's Office and the appointed employee. The Bar Harbor Police Department retains all of the legal responsibilities of the employer-employee relationship while its officer(s) are acting as deputies with Hancock County.

Bar Harbor police officers appointed hereunder shall be paid all wages and benefits by the Town of Bar Harbor in the customary manner and shall accrue benefits pursuant to their personnel policy. The town of Bar Harbor shall be eligible for any reimbursement available to them as a result of its officers working a funded grant. Such circumstances shall be spelled out in a separate Memorandum of Understanding between the agencies.

To the fullest extent permitted by law, the Town of Bar Harbor at its own expense, shall defend or cause to be defended, Hancock County Sheriff's Office, its officers and employees, from and against any and all cause of action, claims or suits, just or unjust arising out of, or resulting from its officers' acts or omissions occurring while said officers are acting pursuant to the Deputy Sheriff powers granted hereunder.

In addition to the foregoing, the Town of Bar Harbor shall be fully responsible for all workers' compensation coverage of its officers employment hereunder and the Town of Bar Harbor hereby waives any right of subrogation which it may have against the Hancock County Sheriff's Office, its officers or employees, arising out of or resulting from said worker's compensation claims. Furthermore the Town of Bar Harbor shall be fully responsible for liability coverage for its officer(s) when on assignment as a Deputy Sheriff.

The town of Bar Harbor shall immediately notify the Hancock County Sheriff's Office and the Maine Criminal Justice Academy when an employee appointed as a deputy pursuant to this agreement is no longer employed by the agency.

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Chief of Police	Date
----------	----------
Hancock County Sheriff	Date

GOVERNOR'S VETO OVERRIDDEN

MARCH 31, 2016

CHAPTER

419

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND SIXTEEN

H.P. 1041 - L.D. 1516

An Act To Clarify the Authority of County Sheriffs To Grant Law Enforcement Powers

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the enforcement of Maine's laws by county sheriffs requires additional personnel that are available through deputizing municipal law enforcement officers; and

Whereas, this legislation needs to take effect immediately in order to ensure that Maine's county sheriffs are adequately staffed to perform their law enforcement duties; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §2674, as amended by PL 2013, c. 261, §2, is further amended by adding at the end a new paragraph to read:

Notwithstanding section 501 and except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request a county sheriff to appoint as a deputy sheriff a municipal law enforcement officer who has satisfied the training requirements of Title 25, sections 2804-C and 2804-E. The authorization of the municipal officers must be accompanied by an agreement between the requesting municipality and the respective county that specifies the purpose and time period for which the authorization is granted and which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to law enforcement officers of the municipality in the course of exercising their authority as deputy sheriffs. A municipal law enforcement officer appointed pursuant to this paragraph has the same authority as a

deputy sheriff within the respective county, except as to the service of civil process, and has the same privileges and immunities as when acting within the officer's own jurisdiction.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

VIII D

Bar Harbor Parking Solutions Task Force

DRAFT Notes from organizational meeting of May 24 2016

Present: Sherry Rassmusen, Eben Salvator, Paul Paradis, Dick Cough, Jill Goldthwait, Martha Searchfield, Cornell Knight, Ron Beard

Missing: Greg Veilleaux, Jill Weber

Member of the public: Erin Early-Ward, resident and business owner

Next Meeting: 3:30 - 4:30 June 28, 2916 in Council Chambers

Town Manager Cornell Knight and Town Council Chair Paul Paradis provided members with a status report on the recommendations of consultants (Bermello Ajamil and Desman Associates) to the Town Council, including final recommendations and "frequently asked questions" on the town's website.

http://www.barharbormaine.gov/402/Parking-Garage-Presentations

http://www.barharbormaine.gov/DocumentCenter/View/1767

They asked that the task force provide recommendations to the Council by early December on implementation of the parking program recommended in the consultants report, including:

- Establishment of a dedicated parking fund (into which parking-related revenues are deposited and against which parking-related expenses are charged)
- Ordinance amendments
- On-street paid parking (via smart meters or kiosks)
- Town parking lots (fee for use via kiosks)
- Residential Parking Permit (for in town residential neighborhoods)
- Eventual consideration of a parking garage, based on experience with and revenue from the other elements of the parking program

Mr. Knight noted that later that evening (May 24), the Council and the Planning Board were holding a public workshop on possible amendment to the land use ordinance to add parking garages as a permitted use (at the request of the Jackson Laboratory and in consideration of possible public/private partnership for a parking garage in the vicinity of the current Backyard parking lot). The earliest town vote on such an amendment would be in November, 2016.

Martha Searchfield, Executive Director of the Bar Harbor Chamber of Commerce indicated that the Chamber and the Hub of Bar Harbor would work on an education campaign to help members, stakeholders and citizens better understand the results of the consultant's parking study (indicating a deficit of some 80 spaces in peak season) and the recommendations, referencing the "frequently asked questions" in the consultants report.

Other discussion indicated the desire to hear from representatives of Acadia National Park about their plans around a new visitor center and related parking issues; from the Island Explorer, recognizing that more frequent bus pick-ups, especially along Route 3, would allow additional visitors to keep their cars parked at hotels and campgrounds; from the police chief regarding any relevant experience and concerns over implementation of r parking fees and regulations, and others.

Dick Cough indicated that improved pedestrian and bicycle access via improvments along Route 3 may also result in people leaving their cars at hotels along that route.

The group acknowledged citizen interest in exploring additional satellite parking and would include a status report of options in its' review of parking solutions.

The group discussed its schedule, attempting to meet at least once more in late June and setting up a "every two week" meeting schedule in late August into November, as necessary.

The group discussed its membership, noting two members of the original "Backyard Parking Committee" had stepped down (John Reeves and Jack Coopersmith).

The group discussed and, through Cornell Knight and Paul Paradis, made the following requests of the Council:

Name: Establish the name of the group as the Bar Harbor Parking Solutions Task Force (not a standing committee)

Membership: Consider applications to fill two additional seats, one representing in-town residential areas likely to be affected by the parking program, and an additional business member.

Charge: Clarify that, in considering the implementation of the consultant's recommendations, that the task force would focus initially on ***establishment of a parking program that includes:***

- ***Setting up a dedicated parking fund,***

- ***Creating a fee system for parking in town-owned lots and on-street parking via kiosks and smart meters.***
- ***Creating an associated free permit system for parking in affected residential areas***
- ***Traffic ordinance amendments***

Longer term consideration of a parking garage: The members of the task force are aware that while many citizens and business owners acknowledge that there is a deficit of public on-street and off street parking spaces in the height of summer, they have doubts about the need for an in-town parking garage.

The members of the task force suggests the council state that ***consideration of a public-private partnership to construct and operate a parking garage in the vicinity of the Backyard Parking lot only come after appropriate experience and monitoring of the initial elements of the parking program (including whether fees and enforcement provides any relief to the current parking deficit and whether the parking program generates income sufficient to handle all costs of implementation [kiosks, signage, enforcement, etc.] and shows capacity for additional that could be directed toward capital costs of a possible parking garage.***

Next meeting of the task force is set for June 28 at 3:30... an agenda will follow, likely to include a more complete discussion to better understand consultant's recommendation for parking fund, fee parking in public lots, fee parking on street and residential permit system, and laying out a schedule of topics and resource people at future meetings.

Respectfully submitted
Ron Beard, Facilitator

VIII E

Town of Bar Harbor Draft June 2016

Parking Solutions Task Force

The mission of the Parking Solutions Task Force is to make recommendations to the Town Council to implement the Bar Harbor Backyard Parking Study Final Recommendations presented March 2016.

Appointment

The Task Force shall consist of 12 members with one member being a Town Councilor.

The term of each member shall be for three years, except the initial appointments which shall be four appointments for 1 year; four appointments for two years and four appointments for three years. All newly designated task force members are to be sworn in by the Town Clerk.

The Task Force shall elect a Chair, Vice-Chair and Secretary at the first regular meeting of each year for a one year term. The Chair shall call a meeting at least once a month unless there are no agenda items. The secretary shall take minutes at each meeting and send approved minutes to the Town Clerk. A quorum is 7 members of the Task Force. Meeting agendas shall be posted on the bulletin board in the Municipal Building lobby and on the town's website.

Compensation

There shall be no compensation provided for the members of the Task Force.

Duties and Responsibilities

The Task Force will make recommendations on a Parking Program that will include:

- On-Street and Parking lot Metered Parking Program.
- Town Parking Lot Program (Fee-for-Use).
- Construction of a Garage.
- Residential Parking Program
- On-Street Parking Permit Program

Amendment

These bylaws may be amended only by action of the Town Council.

VIII F.

Town of Bar Harbor June 2016

Task Force on Recycling

The mission of the Task Force on Recycling is to find ways to improve the recycling rate for residents and businesses and lower the solid waste disposal costs for the town.

Appointment

The Town Council shall appoint Bar Harbor residents to the Task Force.

The Task Force shall consist of 7 members with one member being a Town Councilor.

The term of each member shall be for three years, except the initial appointments which shall be two appointments for 1 year; two appointments for two years and three appointments for three years. All newly designated task force members are to be sworn in by the Town Clerk.

The Task Force shall elect a Chair, Vice-Chair and Secretary at the first regular meeting of each year for a one year term. The Chair shall call a meeting at least once a month unless there are no agenda items. The secretary shall take minutes at each meeting and send approved minutes to the Town Clerk. A quorum is 4 members of the Task Force. Meeting agendas shall be posted on the bulletin board in the Municipal Building lobby and on the town's website.

Compensation

There shall be no compensation provided for the members of the Task Force.

Duties and Responsibilities

The Task Force will:

- Identify ways to improve recycling by residents and businesses.
- Explore ways to compost food waste and other organics.
- Review the master plan for renovation of the Transfer Station and Recycling Center and make recommendations to the Town Council.

Amendment

These bylaws may be amended only by action of the Town Council.

VIII G.

Personnel Rules

Town of Bar Harbor

June 21, 2016

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PREAMBLE

The Town Council of the Town of Bar Harbor hereby adopts, pursuant to Article 5, Part 2, Section 504 of the Town of Bar Harbor Charter, as revised June 13, 1978 the following Personnel Rules for utilization by the administration and employees of the Town of Bar Harbor. The general purpose of this policy is to establish a system of personnel administration that meets the social, economic and program needs of the people of Bar Harbor. Further, its purpose is to serve to increase the general efficiency in the Town by promoting and assuring equal rights, well being and security of all its employees. The Town may delete, amend, modify or change any or all of the provisions contained in these rules without prior notice. The provisions set forth in these rules are not contractual, but rather, are for the general guidance of the Town in its relationship with its employees.

1.0 DEFINITIONS:

The following definitions shall be used in the interpretation of these rules.

1.1 Appointing Authority - Shall mean the Town Manager, when referring to all Department Head positions, and to the Department Head, when referring to positions supervised by the Department Head.

1.2 Days - Unless otherwise stated, a "day" means a calendar day.

1.3 Department Head - Shall consist of the Town Clerk, Fire Chief, Police Chief, Public Works Director, Harbor Master, Planning Director, and Finance Director.

1.4 Employee - denotes any person appointed to a regular full-time or part-time position by the appointing authority.

1.5 Employee, Regular - means the Harbormaster and any employee who is scheduled to work year-round for not less than thirty-seven (37) hours per week.~~* (Amended 10-17-95)~~

1.6 Employee, Part-Time – denotes an employee who is scheduled to work more than twenty (20) and less than thirty-seven (37) hours per week. Employees in this category receive vacation leave, holiday leave, sick leave, but no insurance benefits or other fringe benefits.

1.7 Employee, Seasonal - denotes an employee who is appointed to a position working a full work week, but for a finite season, such as summer, winter, etc. Employees in this category receive no benefits.

1.8 Employee, Temporary - denotes an employee who works for a finite period of time less than six months. Employees in this category receive no benefits.

1.9 Family, Immediate - includes father, mother, sister, brother, spouse, child, stepparents, grandparents, step-children, parents-in-law or foster parents.

1.10 He, She, Him, Her, His, Hers - denotes both female and male employees and is used here only as a matter of convenience.

1.11 Pay Period - consists of two consecutive work weeks.

1.12 Work Week - shall consist of the days Sunday through Saturday.

1.13 Family - For the purposes of Health Insurance coverage, family will include wife, husband, legally dependent children, and domestic partner as defined by the affidavit provided by the Maine Municipal Employee Health Trust.

2.0 APPLICABILITY:

These Personnel Rules shall apply to all employees, except that the following chapters and sections shall not apply to employees subject to a written contract or collective bargaining agreement nor to part-time and temporary employees unless explicitly stated in those chapters: Chapters 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 22, 23, and 34 and Section 4.2. School Department employees are not covered by these personnel rules.

3.0 ADMINISTRATION:

The Town Manager shall be the Personnel Administrator. It shall be the duty of the Town Manager to: (1) encourage and exercise leadership in the development of the Town personnel practices among departments of the Town; (2) advise the Town Council on manpower utilization; (3) foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling, proper courtesy when dealing with the public and respect for municipal property; (4) establish and maintain records of all employees in the public service in which there is set forth as to each employee the title, pay or status, sick leave, vacation time and other relevant data; apply and carry out these rules and perform any act which may be necessarily desirable to carry out for the purposes and provisions of these Personnel Rules.

3.1. Equal Employment Opportunity

The Town provides equal employment opportunity to all applicants and employees. This policy applies to all employment-related decisions, including recruiting, hiring, assigning, supervising, training, upgrading, transfer, compensation, benefits, discipline, discharge, promotion, and education. The Town will not discriminate in employment opportunities or practices against any individual with regard to race, color, ancestry, national origin, religion, political affiliation, ~~sex~~sex, marital status, age, sexual orientation, physical or mental disability, or any other status protected by law.

The Town will make reasonable accommodations for applicants and qualified individuals with known disabilities unless doing so would result in an undue hardship to the town.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, Department Head

or the Town Manager. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

4.0 APPOINTMENT AND EMPLOYMENT:

4.1 Appointment - Appointment to any position within the employ of the Town will be by the Town Manager, except that positions of Department Head status are appointed by the Town Manager and confirmed by the Town Council. The Town Manager may delegate this responsibility to the Department Heads, as provided by Charter Section 4.04 (f). Applicants may be required to submit to various employment tests before employment. Other than for positions governed by law or regulations, there is no arbitrary age limit below or beyond which applicants will be employed, provided they are qualified to perform the work required. ~~Once appointed, all employees are considered probationary for the first six (6) months of employment.~~ No more than one member of an immediate family may be employed as a regular employee in any one department at the same time, nor can an employee be hired or promoted into a position in which he or she would supervise or be supervised by any member of his or her immediate family.

Once appointed, all employees are considered probationary for the first six (6) months of employment. An employee may be terminated without cause and without recourse to the grievance procedures contained in section 22 at any time during this probationary period.

4.2 Lay-off - Any employee who is laid off and who shall have had a good record as of the date of termination shall be given preference over other new applicants for any new positions or positions which are vacated; provided, however, they shall have qualifications equal to those of other applicants. Regular employees shall be laid off in the inverse order of their seniority. However, Department Heads may demote an employee to a lower class of position than that to which the employee is qualified rather than laying the employee off. No regular employee shall be laid off until he has been given at least two weeks notice before the effective date of lay-off. Non-regular employees may be laid off at any time without regard to provisions of this section.

4.3 Evaluation

An evaluation is the examination and review of job performance for purposes of determining continuation of employment, promotion, demotion or salary adjustment. Employees shall be evaluated within one month prior to the completion of the initial probationary period and once each year thereafter. Evaluations will be conducted by the immediate supervisor in a manner which the supervisor shall prescribe.

Employees shall be afforded the opportunity to review and discuss their written evaluation with their immediate supervisor and shall sign the evaluation as proof of discussion and understanding even if the employee may not agree with the contents. An employee may prepare a written response to the evaluation. This response shall be submitted to the individual who performed the evaluation and will become part of the evaluation. A copy of the complete evaluation will be provided to the employee and placed in his/her personnel file.

5.0 ATTENDANCE:

Employees shall be at their respective places of work in accordance with the general or departmental regulations pertaining to the hours of work. All Department Heads shall insure that each employee is aware of regular work hours for their respective groups and shall keep daily attendance records and furnish them to the Finance Director at least every two weeks. Persons arriving before the designated hour for work to begin shall be allowed on premises but shall not engage in work activities and will not receive compensation for this time, unless previously authorized.

6.0 VACATIONS:

6.1 Accrual Schedule: Employees shall accrue vacation leave according to the following schedule:

Years of Service	Days of Vacation
1 – 5	10 days
6	11 days
7	12 days
8	13 days
9	14 days
10	15 days
11	16 days
12	17 days
13	18 days
14	19 days
15	20 days
18	21 days
21	22 days
24	23 days
27	24 days
30	25 days
33	26 days

Exempt ~~"~~salaried~~"~~ employees shall receive an additional five (5) days of vacation leave per year, in recognition of the fact that they receive no additional compensation for ~~overtime~~additional hours worked.

For purposes of computing leave entitlement, if an employee regularly works an eight (8) hour day, their leave day is eight hours long. If they regularly work a six hour day, their leave is six hours long, etc.

6.2 Accrual Limit: Vacation leave shall accrue at a rate of 1/26th of the employees entitlement (on their next anniversary date) per pay period. The anniversary date is defined as the last regular (not temporary or part-time) date of hire. Years of service shall be computed from the last date of

regular hire to the most recent anniversary date. Additional vacation leave shall not accrue if, at the employee's anniversary date, their total accrual is greater than twice their vacation entitlement. The accrual will not start again until the employees balance is below the above-mentioned limit plus any un-accrued time since their anniversary date.

6.3 Scheduling: Vacation shall be granted on a first come, first served basis. The supervisor shall approve all vacation usage.

7.0 HOLIDAY LEAVE:

7.1 Paid Holidays – All regular and part-time employees including those on probation shall be entitled to the following paid holidays:

New Year's Day
(Jan. 1)
Martin Luther King Day
(3rd Monday in Jan.)
Presidents' Day
(3rd Monday in February)
Patriot's Day
(3rd Monday in April)
Memorial Day
(Last Monday in May)
Independence Day (July 4)
Labor Day
(First Monday in September)
Veteran's Day
(November 11)
Thanksgiving Day
(Last Thurs. in November)
Day after Thanksgiving
(Last Friday in November)
Christmas Day
(December 25)

Paid holidays falling on a Saturday shall be celebrated on the preceding Friday. Paid holidays falling on a Sunday shall be celebrated on the following Monday.

7.2 Holidays Worked -

A. Salaried employees shall receive no additional holiday pay in excess of salary.

B. Hourly Police and Fire Department employees shall receive a lump sum payment in December of each year for holiday pay; however, regular Police and Fire Department employees may take the paid holiday off at a different time in lieu of receiving holiday pay. New hires with less than one (1) year's service shall be paid on a pro-rated basis. ~~All regular Police and Fire Department employees may take the paid holiday off at a different time, in lieu of receiving holiday pay.~~

8.0 SICK LEAVE:

8.1 Accrual - Each regular and part-time employee shall earn sick time at the rate of one (1) day for each calendar month worked, accumulated to a maximum of 120 working days. This sick time will be accrued at a rate of 1/26th of the employee's yearly entitlement per pay period. For purposes of computing sick leave, if an employee regularly works an eight (8) hour day, their

leave day is eight hours long. If they regularly work a six hour day, their leave is six hours long, etc.

8.2 Use - Sick leave may be used only in the following cases:

A. Personal illness or ~~physical~~ incapacity~~to such a degree as to render the employee unable to perform the essential functions of his position, with or without reasonable accommodation~~.

B. Personal illness or physical incapacity of the employee's immediate family, such that the employee's attendance is required.

C. Appointments of the employee or immediate family with a ~~physician~~ medical provider, but only if this cannot be scheduled during non-working hours.

8.3 No Payout - Sick leave is a privilege granted by the Town for those persons when they are sick and unable to work. Therefore, sick leave may not be credited towards retirement time, vacation time or in any other way construed to be supplemental to salary or wages.

8.4 Abuse - Willful abuse of the sick leave privilege shall be cause for disciplinary action in accordance with the provisions of Article 23. Whether usage constitutes willful abuse will be within the discretion of the Town Manager.

8.5 Excuse May be Required - The Town, at its discretion, may require the employee to provide a written statement from the employee's physician showing the need for sick leave if it extends longer than three (3) consecutive days. The employee shall, when and at the time requested, advise the Town of his medical status and his availability for work. If the Town believes with good reason that an employee is abusing sick leave or shows a consistent pattern of suspected sick leave abuse, then the Town may take appropriate discipline in accordance with the disciplinary provisions of Article 23.

8.6 Notice to Supervisor - Employees to be absent shall report such fact to their supervisor within the first fifteen minutes of the working day, together with the reason for their absence, except that in the Police Department, the Policy and Procedure Manual shall govern.

8.7 Sick Leave Transfer - Upon a written request from an employee, the Town Council may, in its sole discretion, allow any other employee to donate sick leave days from his/her sick leave account to another Town Employee who has depleted his/her sick leave account. (Amended May 5, 1992).

Employees who donate vacation/sick time from their unused balance must adhere to the following requirements: 1) the minimum that an employee can donate per request is 1 day (pro-rated if the donor and donee work a different number of hours per day); and, the maximum that any employee can donate per request is 10 days, but no more than 50% of that employee's current balance; 2) employees cannot borrow against future vacation/sick time to donate; 3) employees who receive donated vacation/sick time may receive no more than 60 days within a

rolling 12 month period; 4) employees who are currently on an approved leave of absence cannot donate vacation/sick time.

Employees who would like to make a request to receive donated vacation/sick time are required to complete a written request which will include authorization to present the request to the employees of the Town for the sole purpose of soliciting donations. Employees who wish to donate vacation/sick time to a co-worker in need must complete a written donation confirmation. Requests for donations of vacation/sick time and any such donations must be approved by the Town Manager.

If the recipient employee has available vacation/sick time in his/her balance, this time must be used prior to applying any donated vacation/sick time. Donated vacation/sick time may only be used for time off related to the approved request. Vacation/sick time donated that is in excess of the time off needed will be returned to the donor.

9.0 BEREAVEMENT LEAVE:

A regular employee shall be allowed up to three (3) working days with pay in the event of a death in the immediate family. Special consideration may be made by the Town Manager when exceptional or unusual circumstances are a factor. Leave of up to one day may be granted at the discretion of the Town Manager to attend the funeral of a distant relative or friend.

10.0 LEAVE OF ABSENCE:

A regular employee who needs an absence from work for a reason other than those covered elsewhere in these policies may be granted a leave of absence without pay by the Town Manager for a period not in excess of one year. An employee desiring such time off must apply in writing to the Town Manager at least one week in advance of the requested leave, when possible. The request must specify the reasons for the leave and the length of time requested. Such requests will be evaluated on an individual basis by the Town Manager, with input by the Department Head or other supervisor.

Upon completion of the leave of absence the employee may be able to return to their regular position if that position is still available and suitable. In the event the position has been abolished or reassigned in their absence or is otherwise no longer available or suitable, the employee shall be given a position of equal classification, status and salary if such position is available. If no such positions are available, the employee may apply for any other job that is vacant and for which the employee is qualified. If no such positions exist or if the employee is not the best candidate for such position, the employee's employment may be terminated. Failure to use the leave of absence for the purposes for which it was originally approved or failure to comply with these provisions could result in termination or loss of seniority rights for the employee involved. No employee shall receive salary or benefits while on leave of absence. Insurances may be continued at 100% employee expense. When computing length of service for any reason, time spent on leave of absence will not be included. In effect, this changes the anniversary date of the employee for vacation increases and other benefits.

The granting or denial of a leave of absence under this section shall be solely within the discretion of the Town Manager and shall not be subject to the grievance procedure.

1.0 MILITARY LEAVE:

The Town of Bar Harbor complies with state and federal military leave laws. Any individual with questions about such leave should direct them to their supervisor or Department Head.

12.0 JURY LEAVE:

The Town shall pay the regular rate of pay to an employee while on jury duty for a period of up to 30 days. The employee shall surrender all jury pay to the Town for any day during which the Town is paying the employee's regular pay. Employees excused from jury duty must report back to work if excused from jury duty during normal working hours.

13.0 FAMILY LEAVE:

The purpose of this section is to comply with the Maine Family Medical Leave Requirements Act, 26 M.R.S.A. sub chapter 843 et seq. Any terms used herein that are defined in said act shall have the meaning prescribed by said act. Nothing herein is intended to be or shall be deemed to be inconsistent with said act.

13.1 State law permits an eligible employee to take up to 10 weeks of unpaid leave during a 2 year period. In order to qualify for state FMLA leave, an employee must have worked for the Town for at least 12 consecutive months prior to the need for the leave.

Leave under the state FMLA is available for the following reasons:

- A serious health condition of the employee;
- The birth of the employee's child or the employee's domestic partner's child;
- The placement of a child age 16 or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
- A spouse, domestic partner, child, domestic partner's child, or parent with a serious health condition;
- The donation of an organ of the employee for a human organ transplant; or,
- The death or serious health condition of the employee's spouse, domestic partner, parent, or child if the spouse, domestic partner, parent or child as a member of the state military forces, or the US Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

13.2 Serious Health Condition - "Serious health condition" means an illness, injury, impairment or physical or mental impairment that involves":

A. inpatient care in a hospital, hospice or residential medical care facility; or

B. continuing treatment by a health care provider.

13.3 Family Medical Leave Entitlement - The following conditions apply to family medical leave:

A. The employee must give at least 30 days notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice;

B. The Town ~~may~~ may require certification from a physician to verify the entitlement to and amount of leave requested by the employee; and

C. The Town and employee may negotiate for more or less leave, but both parties must agree.

13.4 Unpaid Leave - Family medical leave shall consist of unpaid leave.

13.5 Leave taken intermittently or on a reduced leave schedule.

Intermittent or reduced leave schedule family medical leave may be taken subject to the following limitations. Leave taken for birth or adoption of a child may not be taken intermittently or on a reduced leave schedule unless the employee and the Town agree otherwise. Leave for an employee's serious health condition, the employee's defined family member's serious health condition, or organ donation may be taken intermittently or on a reduced leave schedule when medically necessary. If the requested leave is foreseeable based on planned medical treatment, the Town may require the employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that: (1) has equivalent pay and benefits; and (2) better accommodates recurring periods of leave than the regular employment position of the employee.

13.6 Restoration - Any employee who exercises the right to family medical leave upon expiration of the leave, is entitled to be restored by the Town to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This subsection does not apply if the Town proves that the employee was not restored as provided in this subsection because of conditions unrelated to the employee's exercise of rights under this section.

13.7 Maintenance of Employee Benefits - During any family medical leave taken under this section, the Town shall make it possible for employees to continue their employee benefits at the employee's expense.

13.8 Benefit Accrual - The taking of family medical leave under this section shall not result in the loss of any employee benefit accrued before the date on which the leave commenced.

13.9 Effect on Collective Bargaining - Nothing in this section may be construed to affect the Town's obligation to comply with any collective bargaining agreement or employee benefit plan

that provides greater family medical leave rights to employees than the rights provided under this section.

13.10 Rights Not Diminished - The family medical leave rights mandated by this section may not be diminished by any collective bargaining agreement or by any employee benefit plan.

13.11 Contract Rights - Nothing in this section may be construed to affect or diminish the contract rights or seniority status of any other employee of the Town.

13.12 Unlawful Interference or Denial of Rights - The Town may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided by this section.

13.13 Unlawful Discrimination Against Exercise of Rights - The Town may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right provided by this section.

13.14 Unlawful Discrimination Against Opposition - The Town may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this section.

FEDERAL FAMILY MEDICAL LEAVE:

Employees who have worked for the Town for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twelve (12) weeks of leave (FMLA leave) during a rolling 12 month period for the following reasons:

1. Birth and/or care of a child of the employee;

2. Placement of a child into the employee's family for adoption or by a foster care arrangement;

3. Care of the employee's spouse, child or parent who has serious health condition; or

4. Inability of the employee to perform the functions of the employee's position due to a serious health condition.

5. Servicemember family leave under FMLA. Upon proper certification, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

FMLA leave is unpaid, except that if an employee has accrued sick, compensation time, or vacation leave, the employee shall use such leave (in that order) before the leave becomes unpaid.

Depending on the circumstances, an employee may be entitled to State and/or Federal FMLA leave. An employee eligible for both forms of leave will be entitled to whichever law provides the greater benefit.

Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the Town has the option, in its sole discretion, to require the employee to transfer to a temporary alternative position for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular position unless the employee works a reduced amount of hours in which case the pay will be reduced in a corresponding manner.

When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the Town at least thirty (30) days' notice of the employee's intention to take leave. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must give at least thirty (30) days' notice, or as soon as practical if treatment starts in less than thirty (30) days, and make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Town, subject to the approval of the healthcare provider.

Any leave request based on a family member's or employee's own serious health condition must be supported by certification from a healthcare provider.

During family leaves of absence, the Town will continue to pay its portion of the health insurance premiums and the employee must continue to pay his/her share of the premium. If the employee does not return to work after the expiration of the leave, the employee may be required to reimburse the Town for payment of health insurance premiums during the family leave.

The Town may require an employee on FMLA leave to report periodically on his/her status and the intention of the employee to return to work, and also periodic re-certification of the medical condition. An employee taking leave due to the employee's serious health condition may be required to obtain certification that the employee is able to resume work.

Employees who return to work from family leave of absence within the twelve (12) weeks are entitled to return to their position or an equivalent position without loss of benefits or pay, unless (a) their employment with the Town would have terminated if no leave had been taken; (b) they have given notice of their intent to terminate their employment; or (c) they cannot, with or without reasonable accommodations, safely perform the essential functions of the position to which they may be restored.

~~Servicemember family leave under FMLA. Upon proper certification, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.~~

14.0 LEAVE RECORDS:

The Town shall keep the official records of leave accrued and used. The Town shall give periodic reports to the employees showing the balances in their accounts. Employees are encouraged and required to report any discrepancies to their supervisor immediately.

15.0 WORKERS COMPENSATION:

Employees who are injured in the performance of their work may be entitled to Workers' Compensation benefits in an amount prescribed by and administered in accordance with state law. Employees may use accrued unused sick leave to supplement Workers' Compensation. The Town may initially send an injured employee to a physician of the Town's choice and at the Town's expense. The Town may also require a return-to-work medical evaluation.

All accidents or injuries, no matter how minor, must be reported immediately to the Department Head. The Department Head shall notify the Finance Director no later than the next business day. The Finance Director shall give notice to the Worker's Compensation carrier. ~~Any employee suffering from an work-related injury or accident may be required to see a doctor for an examination at the Town's expense.~~

16.0 LIABILITY INSURANCE:

The Town of Bar Harbor maintains public official's liability insurance, ambulance malpractice insurance and police professional insurance and will pay the cost of legal defense expenses for its employees for actions that may arise out of the normal course of their work to the extent and under the circumstances permitted by the Town.

17.0 LIFE INSURANCE:

(moved to section 21)

~~Group life insurance and group accidental death and dismemberment insurance are available to regular employees at the employee's expense. The option to join is at the employee's discretion at the time of employment, and the cost of participating while an active employee is borne by the employee. The Town assumes the cost for retired Maine PERS employees, if the employee was a member prior to retirement.~~

18.0 RETIREMENT:

The Town will contribute to only one of the following retirement programs for all regular employees. The employee may choose either or neither program.

18.1 I.C.M.A Retirement Corporation - The Town will match the employee's contribution to this deferred compensation program up to 6.5% of the employee salary.

18.2 Maine Public Employees Retirement System - The Town will continue to contribute to the Defined Benefit MPERS program in such amounts as required by the agreement with MPERS. Employees currently participating in the MPERS will be allowed to continue to do so. Membership is an irrevocable decision.

18.3 Retirement Health Savings Plan - The T~~OWN~~own agrees to provide a Retirement Health Savings (RHS) to ~~unit~~ employees. ~~The RHS program would begin following the 2006 calendar year with the first payment made in January 2007.~~ For employees who have accumulated their maximum amount of sick leave, the T~~OWN~~own will calculate the amount of sick leave the employee would have earned beyond his/her maximum following each calendar year, the Town will then contribute twenty-five percent (25%) of that lapsed amount to the employee's RHS account. For example, if an employee reached his/her maximum accumulation of sick leave time (960) hours in this unit at the end of June and did not take any sick leave for the remainder of the calendar year, he/she would have earned an additional 48 hours of sick leave, the Town will credit to the individual's RHS account the dollar value of 25% of the 48 hours (12 hours) to the employee's RHS account. In addition employees who use 24 hours or less of sick leave per calendar year will have eight (8) hours of pay credited to their RHS accounts. The Town will compute this contribution using the December 31st wage.

19.0 SOCIAL SECURITY:

The Town participates jointly with all employees in Social Security and it is a condition of employment that all regular employees contribute.

20.0 MEDICAL INSURANCE:

20.1 The Town will provide regular employees the choice of the Maine Municipal Employees Health Trust Point of Service (POS) Plan or the Town of Bar Harbor Alternative Coverage Plan (Opt Out). Employees taking health insurance shall contribute towards the cost of health insurance in an amount to be established by the Town. The Town may change the contribution formula or total level in its sole discretion.

20.~~1~~2 Alternative Coverage Plans (Opt Out)

If a regular employee does not take the Town-offered insurance program and annually provides evidence that he/she and his/her family has comparable health insurance coverage, the Town will pay to the employee out-of-pocket health insurance expenses, including premiums, co-payments and deductibles for eligible procedures under the Town's insurance coverage up to what the employee would otherwise be entitled for each 12 month period of coverage. The method of reimbursement under this "opt out" option can be through one of two methods, selected by the employee once per year before the beginning of each calendar year.

A) Health Reimbursement Plan-qualified tax free direct reimbursements to employee.

B) Wage Stipend-bi-weekly payment of a stipend through payroll. This is a fully taxable method of reimbursement. The amount of stipend to be paid is an amount determined by the Town Council and adjusted from time to time. No submittal of medical receipts, etc. is required under this choice.

21.0 SUPPLEMENTAL INSURANCE:

Regular employees may elect to purchase other insurance programs through payroll deduction at group rates 100% employee cost.)

Group life insurance and group accidental death insurance are available to regular employees at the employee's expense. The option to join is at the employee's discretion at the time of employment, and the cost of participating while an active employee is borne by the employee. The Town assumes the cost for retired Maine PERS employees, if the employee was a member prior to retirement.

22.0 GRIEVANCE PROCEDURE:

The purpose of the grievance procedure is to settle the employee's grievance on as low an administrative level as possible so that a swift and efficient remedy may be found to the problem. Employees are encouraged to discuss problems openly and honestly with their supervisors prior to filing a grievance.

22.1 Grievance Defined - A grievance is hereby defined as any dispute, controversy or misunderstanding which may arise under the interpretation or application of these rules. Grievances filed must include a reference to the specific section alleged to be violated.

22.2 Step One - Within ten (10) days of the event giving rise to the grievance the employee shall file a written grievance with their supervisor. The supervisor shall hold a meeting regarding the grievance within five (5) days of the request. The supervisor shall have ten (10) days to provide a written response to the grievance after the meeting.

22.3 Step Two - In the event the decision of the supervisor as rendered in Step One is not acceptable to the employee, she shall have ten (10) days to notify the Town Manager in writing of her desire to pursue the grievance. The Town Manager shall hold a meeting regarding this grievance within fifteen (15) days of such a request. The Town Manager shall have ten (10) days in which to render a written decision of the grievance after the meeting.

22.4 Step Three - The employee may appeal the decision of the Town Manager to the Town Council only if the appeal relates to disciplinary action at the level of a suspension or higher. The employee must file a written notice of appeal with the Town Clerk within ten (10) days of notification of the Town Manager's decision in Step Two. The Town Council shall schedule the appeal to be heard within thirty (30) days of the Clerk's receipt of the notice of appeal. The Town Council shall render its decision and mail a copy to the employee within ten (10) days of the hearing. The decision of the Council shall be final and binding.

22.5~~6~~ Time Limits - The time limits for the processing of grievances may be extended by written consent of both parties. Employees are advised that the burden of proof is on them to prove that a grievance was filed or appealed within the time limit specified above.

22.67 Department Heads - In the event that the employee desiring to file a grievance is a Department Head or otherwise reports directly to the Town Manager, the employee shall submit a written grievance directly to the Manager and the grievance process shall begin with Step Two.

23.0 WORK RULES AND DISCIPLINE:

Work Rules

23.1 Employee Compliance - Employees are required to abide by the terms of these rules and to comply with such regulations as the Town may adopt which are not inconsistent with these rules. Should there be any doubt as to the employee's obligations, the employee shall comply with the rules and then file a grievance if he feels he has been wronged. If the employee disobeys a legitimate order or reasonable work rule instead of filing a grievance, discipline may be issued and upheld for insubordination based on the failure to follow the order or rule.

23.2 Operating a Motor Vehicle/Drivers License Status ~~Suspension~~ - An employee who needs a driver's license to operate vehicles as part of the job may be suspended without pay if said employee's right to operate a motor vehicle in the state of Maine is suspended or revoked, or limited in a way that would prevent him from performing the functions of the position. No seniority shall accrue during this suspension. Restoration to duty shall depend upon obtaining the right to operate a motor vehicle in the state of Maine. Termination could result in certain circumstances, including, for example, an indefinite license suspension.

Any changes to such an employee's driving record or license status must be reported to the employee's supervisor immediately. Where applicable, failure to maintain a valid driver's license may be sufficient cause for immediate termination.

Employees traveling on behalf of the Town must comply with all state, federal, and local traffic rules and regulations. The Town is not responsible for and will not reimburse an employee for any fine incurred by the employee for violating a traffic or criminal law while traveling on behalf of the Town.

Employees traveling on Town business are expected to wear seatbelts at all times.

Any accident, no matter how minor, which occurs while any employee is operating a vehicle on Town business, must be reported immediately to the Town Manager.

Employees who operate vehicles on Town business are strictly prohibited from operating such vehicles under the influence of alcohol or controlled substances, except for prescription medication authorized by a physician which does not cause unsafe performance.

Employees are not permitted to use Town vehicles for personal business/activity.

Discipline

23.3 Demotion, Dismissal or Suspension - The Town Manager and Department Heads shall have the right to take such disciplinary action where the facts and circumstances so warrant. Levels of discipline include, but are not limited to, written warnings, suspension, demotion, and dismissal. Counseling is not considered discipline.

When an employee's supervisor (or department head or Town Manager as the case may be) believes that there are grounds for discipline, the supervisor shall provide the employee with written notice of a disciplinary hearing. The notice shall include the time, date and place of hearing, the general nature of the offense, and the type of discipline contemplated. At the hearing, the supervisor shall inform the employee of the facts as understood and give the employee the opportunity to respond. The supervisor shall then decide whether disciplinary action is warranted, and if so, what disciplinary action is appropriate under the circumstances. A supervisor or department head may issue discipline up to the level of suspension, and may recommend to the Town Manger that an employee be demoted or terminated from employment.

Notice of such action must be in writing and filed with the employee no later than the effective date of the action. Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right to appeal as outlined in the grievance procedure.

23.4 Grounds for Discipline - The reason listed below are illustrations of behaviors, which may be grounds for discipline:

A. Drinking or using illegal drugs on the job or arriving to work while under the influence of intoxicating beverages or drugs, or bringing same on job.
B. Failure to follow reasonable orders of superiors.
C. Being habitually late or tardy.
D. Failure to perform the duties of the position properly within the employee's capability.
E. Negligent or willful damage to Town property or private property while on the job.
F. Conviction of theft or any other crime.
G. Dishonesty, including the falsification of official reports or records.
H. Use of abusive language toward a fellow employee or to the public or failure to treat the public with respect.
I. Negligently endangering the safety of other employees.
J. General conduct unbecoming a civil servant where such conduct might compromise the reputation, character and trustworthiness of the Town employee and / or government.
K. Violation of the work rules (that are not in conflict with these rules).
L. Acceptance of money or a gift by an employee when given under circumstances indicating the hope or expectation of receiving better treatment than that accorded to the public in general.
M. Documented poor performance without sufficient improvement.

24.0 SEPARATION OF EMPLOYMENT:

24.1 Separation - Upon separation, the Town shall pay all wages owed as well as accrued vacation pay due to the employee on the next regular pay day.

24.2 Voluntary separation - In all cases of voluntary separation, the employee shall provide the Town with written notice of intent to terminate employment ten (10) working days prior to separation from employment in order to resign in good standing.

25.0 SALARY AND WAGES:

The Town of Bar Harbor desires that the Town employees be paid on a basis that is commensurate with salaries and wages for comparable work in the Town, in order to attract and retain well-qualified employees. Wage increases may be made from time to time upon the recommendation of the Department Head and the approval of the Ttown Manager. Salary increases for the Town Manager and Department Heads must be approved by the Town Council.

26.0 PROMOTION:

The Town of Bar Harbor desires that its employees be given maximum opportunity for advancement within the service. Present employees shall be given first consideration in filling a vacancy, but it is recognized that from time to time, for the good of the service, it will be necessary to fill a vacancy from outside. Such a decision shall be made only after careful review of the qualifications of all Town employees who apply for the position.

27.0 SAFETY:

The Town of Bar Harbor recognizes that promoting and ensuring the safety of its Employees in the workplace is both legally required and mutually beneficial. When an employee is injured, the Town loses the valuable services provided by the employee while the employee suffers from pain, disability, and loss of income. The Town believes that no job is so important or urgent that employees cannot take time to perform it safely. Through the collective efforts of Town employees at all levels of the organization, the Town seeks to provide a work environment free from recognized hazards, including any hazard that may be created through prohibited use of drugs and alcohol which impairs performance. The Town is committed to the goal of providing a safe place of employment and sound-operating practices designed to result in safe and efficient working conditions.

28.0 POLITICAL ACTIVITIES:

28.1 Political Prohibitions - All regular employees shall refrain from the following political activities:

A. Using her employment for the purpose of interfering with or affecting the result of an election or nomination for a public office;

B. Directly or indirectly coercing, commanding or advising another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes;

C. Serving as an elected office while employed by the Town. This does not prohibit running for elected office.

28.2 Political Membership - The above prohibitions shall not be construed to prevent a regular employee from becoming or continuing to be a member of any political organization or expressing her views on political matters or from voting with complete freedom in any election.

29.0 RESERVED Technology Use Rules

The Town technology resources include computers, printers, phones, cell phones and other peripherals, programs, data, local and wide area networks, and the Internet. The Town has issued Technology Use Rules (TUR), available at www.barharbormaine.gov/finance/TUR governing the use of these Town owned resources.

30.0 PERSONNEL FILES:

30.1 Confidentiality - Certain information contained in a personnel file is public under the Freedom of Access law. Insofar as permitted by law, all personnel records including home addresses, telephone numbers and pictures of employees shall be confidential and shall not be released to any person other than Town officials.

30.2 Inspection - Upon request, an employee shall have the right to inspect the official personnel record maintained on said employee. Inspection shall be during business hours and shall be conducted under supervision of the Town. An employee shall have the right to have added to the personnel file a written refutation of any material which he considers detrimental or in error.

30.3 Written Reprimands - No written reprimands which have not previously been the subject of a hearing shall be placed in the personnel file unless the employee is first given the opportunity to see a copy of the reprimand.

31.0 EXAMINATIONS:

Physical or other examinations required by a governmental body or the Town shall be promptly complied with by all employees, provided, however that the Town shall pay for all such examinations. The Town shall not pay for any time spent in the case of applicants for jobs and shall be responsible to employees only for the time spent at the place of the examination or examinations. The Town reserves the right to select its own physician. If either an employee or the Town requests a second opinion, the requesting party shall pay for the exam.

32.0 TRAINING:

Mandatory training will be provided at no cost to the employee, including wages paid for the time spent in travel and in class, but no other time. The Town shall pay all reasonable expenses for mileage, lodging and meals. The Town Manager may set a maximum for expenses to be paid daily.

33.0 DEFECTIVE EQUIPMENT:

33.1 Operation - The Town shall not require employees to use or operate any vehicle or equipment that is not, in the judgment of the Department Head, in safe operating condition or equipped with the safety appliances prescribed by law.

33.2 Reporting Defects - Employees shall immediately report all dangerous equipment defects to their supervisor. All other defects shall be reported no later than the end of the shift.

34.0 OVER TIME AND COMPENSATION TIME:

34.1 Over time - All hours actually worked by hourly employees over forty (40) hours in a regular work week shall be paid at a monetary rate of one and one-half (1 1/2) times the base hourly rate of pay.

34.2 Over time compensation - For the purposes of section 34.1, above, "hours actually worked" includes vacation time, hours compensated for by holiday pay, or hours compensated for by bereavement leave.

34.3 Compensatory Time - when over time is authorized by the Department Head, the employee shall accumulate compensatory time. An employee may accumulate compensatory time up to a maximum of eighty (80) hours at any one time. After the maximum amount of compensatory time has been reached, additional overtime shall be paid at the overtime rate.

The use of all compensatory time shall have prior approval of the department Head. Within the need to maintain effective Town operations, the Town will make available the opportunity to use the accumulated compensatory time in accordance with the Towns work load.

34.4 Call-back Pay and Standby Time - Regular employees who are eligible for overtime payments and who are called to work outside their normal shift shall receive a minimum of two (2) hours pay. This section applies only when call-back results in hours worked which are not annexed consecutively to one end or the other of the working day or working shift.

34.5 Records of Hours Worked

Accurately recording time worked is the responsibility of every hourly employee. Federal and state laws require the Town to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties. Hourly employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

~~**35.0 REVISION TO PERSONNEL RULES:**~~

~~The Town Council may change these rules unilaterally at any time.~~

~~36.0 SEPARABILITY AND SAVINGS:~~

~~If any provision of these rules shall be determined to be contrary to law, the validity of the remaining provisions shall not be affected.~~

~~37.0 REPEAL AND EFFECTIVE DATE:~~

~~These rules shall become effective as of the date adopted by the Town Council and further, the adoption of these rules shall be deemed to repeal and replace all correspondingly numbered Personnel Rules adopted by the Town Council previously.~~

38.0 HUMAN RIGHTS:

Nothing contained in these Personnel Rules shall be construed contrary to the Maine Human Rights Act, 5 M.R.S.A. section 4451, et seq.
The Town of Bar Harbor hereby adopts the Employment Regulations of Maine Human Rights commission and directs they shall become a part hereof.

39.0 POLICY ON HARASSMENT:

It is the policy of the Town of Bar Harbor that all employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy is prohibited. This policy refers not only to supervisor- subordinate actions but also to actions between co-workers. Any complaints of harassment will be investigated and resolved promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

39.1 Sexual and Other Prohibited Harassment

A. The Town of Bar Harbor hereby adopts the definition of sexual harassment set forth in Section 3.06 (I) (1) of the Employment Regulation of the Maine Human Rights Commission. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term of condition of an individual employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

B. Sexual harassment is an extremely serious matter and is prohibited in the work place by any person in any form, whether directed at a co-worker, supervisor, or any other employee. ~~-~~

C. Any employee who believes he or she has been the subject of sexual harassment should report the alleged act to the Department Head or Town Manager immediately. No employee will be retaliated against for reporting sexual or other illegal harassment.

D. Any supervisor or employee who is found, after appropriate investigation, to have engaged in sexual harassment will be subject to discipline, up to and including discharge

E. This policy also prohibits unlawful harassment on the basis of any other protected category, such as race, color, ~~sex~~gender, sexual orientation, physical or mental disability, religion, age, ancestry or national origin.

39.2 Verbal Harassment - Derogatory or vulgar comments regarding a person's ~~sex~~sex, religion, age, ethnic origins, physical appearance, sexual orientation or the distribution of written pornographic material having such an effect, are prohibited. Any employee who believes he or she has been the subject of such harassment should report the alleged conduct to the Department Head or Town Manager.

40.0 DRUG FREE WORK PLACE:

To ensure the safety and well being of the employees and public, it is the Town's policy to maintain a drug free workplace and to prohibit employees from working under the influence of any illegal drug or controlled substance. The Town further prohibits the unlawful manufacture, distribution, dispensation and possession, as well as the use, of illegal drugs or controlled substances on any property or place owned or under the control of the Town of Bar Harbor or during working hours. Violation of this policy is cause for disciplinary action, up to and including discharge.

41.0 USE OF TOBACCO PRODUCTS:

In keeping with the Town's intent to provide a safe and healthy work environment, use of tobacco products is prohibited within all Town buildings and vehicles. Exterior designated smoking areas, as appropriate, shall be determined and designated by the Town Manager.

42.0 EMPLOYEE DRESS AND APPEARANCE:

As representatives of the Town, employees are expected to maintain a neat and professional appearance. The following types of clothing are prohibited: pants made of jean material of any kind; shorts (unless part of a suit or the employee works outside); tank or halter tops; strapless tops; cropped tops; clothing that does not adequately provide coverage or that shows undergarments; torn clothing; clothing with holes; flip flops; sweatsuits or similar attire; and leggings. This list is not exhaustive. If an employee has a question about whether a particular type of clothing is permitted under this policy, it should be directed to his/her supervisor or Department Head. Employees of the Department of Public works are exempt from this section as union contracts require the Town provide uniforms. Non-union employees are exempt also at the discretion of the Public Works Director.

Professional appearance also means maintaining good hygiene and grooming while working. Facial hair is permitted as long as it is neat and clean. Earrings are acceptable as long as they are not a safety hazard; however, no more than two earrings may be worn in each ear while working. Rings through the nose, eyebrow, tongue, or other body parts visible to the public may not be worn while working. All tattoos must be small in size and not offensive or covered at all time while working. Examples of offensive tattoos could include, but not be limited to: profanity, scenes depicting nudity or that could reasonably be seen by others as sexual harassment, scenes that could reasonably be seen by others as racist or discriminatory against any protected classification, and scenes depicting violence or illegal activity. Employees are expected to be conservative in the wearing of makeup and scented products.

Employees who violate this policy in the opinion of their Department Head or the Town Manager may be asked to leave the workplace until they are in compliance. Repeated infractions of this policy may be cause for disciplinary action.

Under certain limited circumstances, an exception to this policy may be made for an employee with a bona fide health and/or religious need. To request such an exception, the employee must contact the Town Manager as soon as the need for the exception arises.

43.0 VIOLENCE IN THE WORKPLACE:

The safety and security of all employees is of primary importance. Threats, stalking, threatening and abusive behavior, or acts of violence against employees, visitors, customers, and/or Town facilities or property by anyone on Town property, on a Town-controlled site, or in connection with Town employment or business will not be tolerated (even those made in jest). Violations of this policy will lead to corrective action up to and including termination and/or referral to appropriate law enforcement agencies for arrest and prosecution. The Town reserves the right to take any necessary legal action to protect its employees. All employees are responsible for notifying their Department Head immediately of any threats that they witness or receive or that they are told another person witnessed or received. Even without a specific threat, all employees should report any behavior they have witnessed that they regard as potentially threatening or violent or that could endanger the health or safety of an employee when the behavior has been carried out on Town premises, on a Town-controlled site, or is connected to Town employment or business. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened.

44.0 NURSING MOTHERS IN THE WORKPLACE:

An employee may use either available paid break or meal time or unpaid time each day to express breast milk for her nursing child for up to three years following childbirth. The Town will provide an adequate location for this purpose that is clean and allows the employee to express breast milk in private. The Town will not discriminate against an employee who chooses to express breast milk in the workplace pursuant to this policy.

35.0 REVISION TO PERSONNEL RULES:

The Town Council may change these rules unilaterally at any time.

36.0 SEPARABILITY AND SAVINGS:

If any provision of these rules shall be determined to be contrary to law, the validity of the remaining provisions shall not be affected.

37.0 REPEAL AND EFFECTIVE DATE:

These rules shall become effective as of the date adopted by the Town Council and further, the adoption of these rules shall be deemed to repeal and replace all correspondingly numbered Personnel Rules adopted by the Town Council previously.

VIII. H.

Cornell Knight

From: PLATT, DENISE <denise.platt@emeramaine.com>
Sent: Wednesday, June 15, 2016 1:11 PM
To: manager@barharbormaine.gov
Cc: John Luft (john@revisionenergy.com); SHOREY, ROXANNE
Subject: Bar Harbor Primary Line Ownership transfer
Attachments: BH Tax Effect quote and COF Agreeemtn.pdf

Good afternoon,

For Emera Maine to extend service to the proposed PV solar array off Public Works Way, we need to acquire ownership of 500' of the 3ph primary line. Essentially, we are asking the Town to contribute the line to us, pay the 19% tax effect on the depreciated value of the line, and we will own and maintain the line going forward. Attached is the letter from our field planning area along with a billing statement and Contribution of Facilities Agreement to be signed and returned.

The depreciated value of the 3ph primary line is $6,385.59, which necessitates the 2016 tax effect rate of 19% payment of $1,213.26, for Emera Maine to acquire ownership. This transaction will allow us to provide service to the PV solar array site.

Please contact me if you have any questions and enjoy your day!

Denise Platt
Customer Care Coordinator
Emera Maine
T: 207-973-2607 | F: 207-973-2849
E: denise.platt@emeramaine.com
www.emeramaine.com

Emera Maine

RECEIVED
JUN 16 2016
Town of Bar Harbor
Manager/Clerk's Office

June 14, 2016

The Town of Bar Harbor
Attn: Pat Gray
93 Cottage St. Ste 1
Bar Harbor, ME 04609-1400

Dear Councilors:

Emera Maine Bangor Hydro district has a request to extend a utility line to the new solar project located on Town property of off the Wilcomb Road. This extension will originate from the private line now serving the Town's public works. The Company is obliged to take ownership of and maintain up to and including the pole that will service the Town and the solar project.

The Company is asking for ownership of the first 500 feet of line along with the rights to access and maintain it.

I have enclosed an easement and a bill of sale for your inspection. If they meet with your approval, please sign and date them where indicated, have your signatures acknowledged by a notary public on the easement, and return the properly executed documents to me in the enclosed self-addressed envelope.

If you have any questions regarding this matter, please call me at 1-800-248-2258, extension 3744, or direct to my office at (207) 941-6601. You may also reach me by e-mail at jerry.carrier@emeramaine.com.

Thank you for all of your time.

Sincerely,

J Carrier
Right of Way Agent

Enclosures

CONTRIBUTION OF FACILITIES AGREEMENT
DEVELOPMENT

In consideration of the mutual promises stated herein, Emera Maine Company of Bangor, Maine (the 'Company') and the Town of Bar Harbor (Customer) of 93 Cottage St., Bar Harbor, ME hereby agree as follows:

The Company agrees to receive 500' of the existing primary distribution facilities that were built in accordance with its standard construction practices located Public Works Way, Bar Harbor, Maine.

The Customer agrees to make as a one-time payment for the net present value of income tax effect of $1,213.26.

The Customer warrants that he or she owns the premises being served or has a lease or other sufficient legal interest in the premises for the term of the Agreement, as evidenced by an instrument recorded in the Hancock County Registry of Deeds in Book _____ at Page ____.

The Company's obligation to provide service under this Agreement is hereby made expressly contingent on its ability to obtain an adequate right-of-way to reach the customer, either through necessary pole permits or private easements. Furthermore, the Company shall not be obligated to pay any out-of-pocket costs in order to obtain such right-of-way. Notwithstanding the forgoing, the Company shall agree to pay such costs if the Customer separately agrees to reimburse the Company for such costs.

IN WITNESS WHEREOF, the parties have executed this Agreement the _____ day of _____, 2016.

_____
Name:
Title:_____

STATE OF MAINE
County of Hancock, ss: _____, 2016

Personally appeared the above-named _____ and acknowledged the foregoing instrumen to be his/her free act and deed.

Before me,

_____
Notary Public

_____
Type or print name of Notary

EMERA MAINE

By: _____
Nathan Cota, Mgr., Resource Planning & Scheduling

Issue 86647

BILL OF SALE

THE TOWN OF BAR HARBOR, a municipal corporation, of Bar Harbor, in the County of Hancock, State of Maine, being the owner of certain goods and chattels described below and being located in the Town of Bar Harbor, County of Hancock, State of Maine, for consideration given by EMERA MAINE, a Maine corporation having a place of business at 970 Illinois Avenue, Bangor, County of Penobscot, State of Maine, the receipt whereof is hereby acknowledged, does hereby grant, sell, convey, transfer and deliver, unto the said Emera Maine, the following described goods and chattels, namely:

A utility line consisting of One (1) 40 foot CL4 pole Dated 2014, One (1) DBL 96 inch arm, Six (6) 15 KV INS, One (1) neutral bracket, Six (6) 7 inch pins, One (1) 10 inch anchor, One (1) small guy, One 40 foot CL4 pole dated 2012, One (10 96 inch ARM, Three (3) 15KV insulators, Three (3) 7 inch pins, One (1) neutral bracket, One (1) 10 inch anchor, One (1) small guy, 2,040 feet of AAAC bare wire, all as now located along Wilcomb Lane.

And It does hereby covenant with the said Emera Maine that It is the lawful owner of the said goods and chattels; that they are free from all encumbrances, that It has good right to sell the same as aforesaid; and that It will warrant and defend the same unto it the said Emera Maine, its successors or assigns, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, That It, the said The Town of Bar Harbor, has caused this instrument to be executed by its duly authorized representatives this _____ day of June, 2016.

Witness:

_____

_____
The Town of Bar Harbor

By: _____

_____

_____

_____

_____

RECORD AND RETURN TO:
Emera Maine
Attn: Renee Wright
P.O. Box 932
Bangor, ME 04402-0932

EASEMENT

THE TOWN OF BAR HARBOR, a Municipal Corporation, of Bar Harbor, in the County of Hancock, State of Maine, being the owner in fee simple of certain lands located in the Town of Bar Harbor, County of Hancock, State of Maine, and described as follows:

> Being the premises conveyed by Alliene T. Wilcomb to the Grantor herein by deed dated December 21, 1971, and recorded in the Hancock County Registry of Deeds in Book 1132, Page 725;

for consideration given, grant and convey to **EMERA MAINE**, a Maine corporation having a place of business at 970 Illinois Avenue, Bangor, Maine, its successors and assigns forever, the receipt whereof is hereby acknowledged, the rights, privileges and easements to construct, maintain, operate and upgrade from time to time on said lands, for utility purposes, a line consisting of poles, anchors and wires with the necessary fixtures and supports, extending westerly from lands now or formerly of Patricia A. Ropp said line continues westerly along and adjacent to Wilcomb Lane for 500 feet more or less, comprising of utility poles #7 and #8; with the right to extend lines from the said line, either overhead or underground, to sites on the said premises as customers may request service, with the right to transmit electricity and intelligence over said line, and to clear and dispose of interfering trees and other growth from time to time, with permission to enter upon said lands for the above purposes; further granting to Emera Maine, its successors and assigns, the power to assign to others, in whole or in part, any or all of the rights, privileges and easements herein set forth.

The Grantor for itself, and its heirs, executors, administrators, successors and assigns, covenant and agree to and with the Grantee, its successors and assigns, that it will not erect or maintain or permit the erection or maintenance of any building, trailer, mobile home, swimming pool, or other structure, of any kind or nature, within 15 feet of said line, any or all of which in the opinion of the Grantee, its successors and assigns, would endanger or interfere with the exercise of any of the rights, privileges and easements hereby conveyed.

IN WITNESS WHEREOF, It the said The Town of Bar Harbor has caused this instrument to be executed by its duly authorized representatives this _____ day of June, 2016.

The Town of Bar Harbor

_____	_____	_____
Burt Barker	J. Clark Stivers	Gary Friedmann
_____	_____	_____
Anne Greenle	Paul Paradis	Peter St Germain

STATE OF MAINE

County of Hancock ss: June _____, 2016.

Personally appeared the above-named Town Council Members and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Professional design, installation and service of solar energy systems

June 15, 2016

Town of Bar Harbor
93 Cottage St
Bar Harbor, ME 04609

To Whom It May Concern,

With Town approval, Revision Energy has been developing a Community Solar Farm (CSF) project out at the Public Works site on a parcel of land approved by Town vote in June of 2015. We are very close to having the full 165 panels in the solar farm sold and we are in the process of finalizing the details before we take the project to closing with the legal team. This has initiated contact with Emera to install the required new 200 amp single phase service to the CSF site. An application for a new service has been submitted with Emera and a field planner has visited the site. It has been learned that the primary powerlines that bring power to the public works site are not owned by Emera. In order to add a new service, Emera will need a 500'section of primary line transferred from the Town of Bar Harbor to Emera. According to Emera, this transfer will require a payment of $1,213.26 to cover the tax liability of the transfer. This charge of $1,213.26 will be paid for by the Bar Harbor Community Solar Farm Project and payment will be administered by Revision Energy, provided this transfer of ownership is agreed upon by the town of Bar Harbor. This is an essential part of getting construction to begin on this project and to allow for this project to go to closing. Revision Energy and the CSF members will eagerly await the Town's decision on this matter. If anyone has any questions or concerns, please do not hesitate to contact our office and ask for John Luft. Thank you for being an important partner in this first of a kind event in Emera territory. We are hopeful this Bar Harbor CSF will pave the way for many more solar farms in the near future.

Best Regards,

John Luft
Revision Energy
Liberty Branch Manager

(207) 589-4171

varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/ _____
Stanley W. Harmon
Treasurer
Town of Bar Harbor

Explanation:
Council's goal E.1 Infrastructure is to "Support, monitor and actively engage MDOT and our State and Federal delegations to ensure Route 3 reconstruction is completed". The Town's taxpayers have already appropriated $540,000 as part of an agreement with MDOT as its share of the construction costs of this project. However, because there is necessary relocation of mains and hydrants involved, there is the requirement to upgrade the Town's Rte #3 water main, hydrants and valves. There will be a larger main installed with increased flow, hydrants, services & mains moved away from the travel lanes. The cost for this project is estimated at $1,700,000 and the debt service costs are to be paid by the water ratepayers.

Recommendations:
The seven member Town Council recommends approval, by a vote of 4 to 2.
The 22 member Warrant Committee recommends approval by a vote of 20 to 0.

Article T - LEASES FOR COMMUNITY SOLAR FARMS AND POWER PURCHASE AGREEMENTS: To see if the Town will vote to authorize the Town Council to enter into one or more lease agreements with: 1) one or more Associations that are comprised entirely of local residents, on terms that the Council deems appropriate, for the purpose of siting and developing one or more Community Solar Farms (CSFs); and 2) ReVision Energy of Liberty and Portland, Maine (a solar energy design and installation company), or its successor or a similar company, on terms that the Council deems appropriate, for the purpose of enabling the Town to enter into one or more long-term Power Purchase Agreements for solar energy. Copies of the "Community Solar Farm Letter of Intent to Execute Ground Lease and Exclusivity Agreement", which is the initial leasing document, are available at the Town Clerk's office.

Explanation: *This action would allow the Town of Bar Harbor to lease town-owned land and/or suitable roof space to one or more separate Associations of Bar Harbor residents to develop one or more Community Solar Farms (CSFs). CSFs are defined as solar energy generation facilities that are 100% owned and operated by residents living in the local community. CSFs offer the opportunity for residents to co-invest in, and co-own, solar generation and are of particular interest to residents who are not able to install solar electricity generation on their own property (i.e., poor site, unsuitable roof, no land, other restrictions, etc.). The value of the electricity generated would be credited to the Emera accounts of the members of the associations. In leasing its property, the Town would enable the siting of one or more CSFs on town-owned land. The initial Association would lease the*

space on the town's salt shed roof to install solar panels for a minimum of 30 years. All Associations would pay the Town an annual fee of $15/kW (which is a rate consistent with industry norms in Maine), and would be responsible for all operations, maintenance, and liability associated with the solar panels. The benefits to the Town include annual lease payments for the life of the lease for each CSF created. The benefits to residents include the opportunity to participate in a CSF located in Bar Harbor.

This action would also allow the Town of Bar Harbor to lease town-owned land and/or suitable roof space to ReVision Energy or to a similar company. Passage of this warrant article would enable the Town and a solar energy company to enter into one or more long-term contracts for on-site solar electricity generation on town-owned property that would offset all or part of the Town's electricity needs, in exchange for the Town paying no upfront costs and monthly payments comparable to its current monthly costs for that share of generation.

Recommendations:
The seven member Town Council recommends approval, by a vote of 4 to 2.
The 22 member Warrant Committee recommends approval by a vote of 11 to 9.

Article U **MUNICIPAL BUDGET: Expenditures** - To see what sum the Town will raise and appropriate for the Municipal Budget for FY16 (7/1/15 TO 6/30/16).

Explanation:
This is the total amount that the Town Council is allowed to spend from all sources except grants and donations, as provided in Article X, and from reserve accounts.

Recommendations:	*Town Council*	*Warrant Committee*
Total Expenditures	*$10,985,591*	*$10,985,591*

The seven member Town Council recommends approval, by a vote of 7 to 0.
The 22 member Warrant Committee recommends approval by a vote of 20 to 0.

Article V **MUNICIPAL BUDGET: Other Revenues** - To see what sum the Town will vote to reduce the amount to be raised by taxation by using estimated revenues and fund balance for the Municipal Budget for FY16 (7/1/15 TO 6/30/16).

Explanation:
In addition to property taxes, the Town receives other revenues from fees, licenses, excise taxes, etc., and we sometimes use monies left over from prior years (fund balance). The funds shown in this article reduce the amount of property taxes that

VIII I

Memo

To: **Town Council, Cornell Knight, Town Manager**

From: Stan Harmon, Finance Director

CC:

Date: 6/14/2016

Re: **Budget Transfer Request – Municipal Building Floor Repair**

The issue - Some wood floor supports (2x4's) below the flooring by the basement elevator have collapsed. Part of the reason, I understand, is that the wooden 2 x 4's should have been pressure treated if they were to lay on concrete and these supports that were installed in 1987 were not. I suspect the other reason for deterioration was the one time flooding episode in the basement in 1998, where up to 8" of storm water backed up into the building and the wood supports couldn't be dried out properly. It now has a temporary fix provided by the Highway crew, consisting of plywood covering with some caution floor tape to alert the elevator user to the uneven flooring.

The fix - We have one construction estimate ($15,189) for the purpose of estimating costs to demo and then replace the flooring from the handicapped doorway, past the elevator, covering this entire area. The flooring material would likely be very similar, as it wore well over those 30 years. This is a large enough project where we would seek bids, if approved.

Per your request to find logical year end monies available, there are likely two available sources of funds:

Town Manager Contract Services - $5,000 (#1012-5334)

Contingency funds - $10,000 (#1036-5906)

Possible Motion:

That the Town Treasurer transfer $15,000 to the CIP Municipal Building account #2124-6130; $10,000 from Contingency account #1036-5906 and $5,000 from Town Mgr. Contract Services account #1012-5334.