

AGENDA
Bar Harbor Town Council
By Video Conference
October 6, 2020

The public can monitor by watching Spectrum channel 7 or by live streaming on the town's website, www.barharbormaine.gov

I. CALL TO ORDER – 5:00 P.M.

A. Excused Absence(s)

II. COMMITTEE APPOINTMENTS – Council to consider Appointments Committee recommendations to appoint the following for three-year terms with expiration date July 31 of their applicable year:

- 1. Age Friendly Committee**
 - a. Susanne Hopkins, expiring 2023
- 2. Harbor Committee**
 - a. Jerry Blandford, expiring 2023

III. PUBLIC COMMENT PERIOD - The Town Council allows 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. Public comment can be made 1) through the Zoom webinar utilizing the raise hand function or 2) in person with social distancing and masks in the Council Chambers with seating in the Municipal Auditorium or 3) sending comments in advance to the Council Chair by email jdobbs@barharbormaine.gov or by mail to 93 Cottage St, Bar Harbor, ME 04609 to be read during the hearing.

IV. APPROVAL OF MINUTES – September 15, 2020 Regular Meeting

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. Cooperating Agencies Application – Possible motion to approve the changes to the Cooperating Agencies Application for FY 2021-2022.**
- B. State of Maine Election November 3, 2020 – Possible motion to appoint the Town Clerk as Warden for the November 3, 2020 State Election.**
- C. Special Town Meeting November 2020 – Possible motion to sign the Municipal Officers' Return acknowledging the posting of the Notice of Public Hearing on September 17, 2020.**

VII. PUBLIC HEARINGS - Maximum of 3 minutes per person. Public comment can be made 1) through the Zoom webinar utilizing the raise hand function or 2) in person with social distancing and masks in the Council Chambers with seating in the Municipal Auditorium or 3) sending comments in advance to the Council Chair by email jdobbs@barharbormaine.gov or by mail to 93 Cottage St, Bar Harbor, ME 04609 to be read during the hearing.

A. Special Town Meeting November 3, 2020 – Public comment on the following ballot articles:

- 1. **Article 2 – CHARTER MODIFICATION**– re: recommendations on ballots and Warrant Committee responsibilities
- 2. **Article 3 – CHARTER MODIFICATION**– re: electronic voting
- 3. **Article 4 – CHARTER MODIFICATION**– re: land use ordinance amendment process
- 4. **Article 5 – CHARTER MODIFICATION**– re: Town Manager, personnel, Town Attorney, Superintending School Committee
- 5. **Article 6 – CHARTER MODIFICATION**– re: removal of specific salaries
- 6. **Article 7 – CHARTER MODIFICATION**– re: new budget process
- 7. **Article 8 – CHARTER MODIFICATION**– re: changes to Warrant Committee election and membership
- 8. **Article 9 – CHARTER MODIFICATION**– re: change to filing of nomination papers
- 9. **Article 10 – CHARTER MODIFICATION**– re: public hearing for initiative/ referendum

B. General Assistance Ordinance Amendment #2020-12 – Public comment and possible motion to adopt the amendments to Appendices A-H of Chapter 102, General Assistance and sign the Adoption Form.

C. FY21 Water Budget Ordinance Amendment #2020-13 - Public comment and possible motion to adopt the FY21 Water Budget Ordinance amendment.

D. Special Amusement Permit Renewal

- 1. **Jack Russell’s Steak House**, 102 Eden St, request for Class 3a, three or more musicians with mechanical amplification as submitted by Tom St. Germain.

VIII. REGULAR BUSINESS:

- A. FY21 Sewer Budget** – Introduction of proposed FY21 Sewer Budget and possible motion to schedule a public hearing for October 20, 2020.
- B. Marijuana Sales** – Discussion of opt-in process to allow retail sales.
- C. Planning Board** – Possible motion to schedule a joint meeting to clarify the roles and responsibilities of Council and Planning Board.
- D. Treasurer’s Warrants** – Request of Treasurer to authorize paid bills.

IX. TOWN MANAGER’S COMMENTS

X. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

XI. EXECUTIVE SESSION

- A. Town Manager’s Evaluation** – To be held in executive session as permitted by 1 M.R.S.A. §405(6)(A) to discuss a personnel matter.

XII. ADJOURNMENT

To ensure your full participation in this meeting, please inform us of any special requirements you might have due to a disability. Please call 288-4098

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87370248161?pwd=bktOYmxERXdKQ0lnNWpQOHQ1NG5SZz09>

Passcode: 634944

Or iPhone one-tap :

US: +13126266799,,87370248161# or +19292056099,,87370248161#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900
6833 or +1 253 215 8782

Webinar ID: 873 7024 8161

International numbers available: <https://us02web.zoom.us/j/kcmp4p3gGq>

Manager's Memo

To: Bar Harbor Town Council
cc: Department Heads
From: Cornell Knight, Town Manager
Date: Friday, October 2, 2020
Re: **Town Council Meeting of October 6th**

- I. **A. Excused Absence(s)** – None that I am aware of but if there is one a possible motion: to excuse Councilor _____ as provided by Town Charter section C-12.B(1)(d).
- II. **Committee Appointments** – as presented on the agenda, nominations do not require a second.
- VI. **CONSENT AGENDA -**
 - A. **Cooperating Agencies Application-** The Cooperating Agency Policy was amended last meeting. Councilors Goldthwait and Cough re-worked the application, which is enclosed. A possible motion: to approve the Cooperating Agency Funding Application as presented.
 - B. **State of Maine Election-** a possible motion: to appoint the Town Clerk as Warden for the November 3, 2020 State Election.
 - C. **Special Town Meeting November 2020-** the notice is enclosed and will also be used for item VII- A. A possible motion: to sign the Municipal Officers' Return acknowledging the posting of the Notice of Public Hearing on September 17, 2020.

A possible motion: to approve the Consent agenda as published.

- VII. **Public Hearings:**
 - A. **Special Town Meeting-** public comments on articles 2-10. No action needed by the Council.
 - B. **General Assistance Ordinance Amendments-** See the enclosed amendments to the GA Ordinance, which are routine annual adjustments to the levels of assistance. Following public comments, a possible motion: to approve the amendments to Chapter 102 of the Municipal Code, General Assistance as presented.
 - C. **FY21 Water Budget Ordinance-** Have your FY 21 Water Budget books handy. Enclosed is the Ordinance amendments which does not result in a rate increase. Following public comment, a possible motion: to approve the amendments to Chapter 201, Article III of the Municipal Code, Water as presented.
 - D. **Special Amusement Permit Renewal-** Jack Russell's Steak House, 102 Eden Street. Following public comments, a possible motion: to approve the Special

Amusement application for Jack Russell's Steak House for a Class 3a, three or more musicians with mechanical amplification.

VIII. Regular Business

- A. FY 21 Sewer Budget**-see the enclosed sewer budget binder. Bethany Leavitt, Public Works Director and Stan Harmon, Finance Director will review the FY 21 sewer budget. The proposed budget does not have a rate increase. Following Q and A, a possible motion: to schedule a public hearing for October 20, 2020 to hear comments on the FY21 Sewer Budget.
- B. Marijuana** – see the enclosed email from Sheryl DeWalt who has received a conditional license for Adult use Retail Marijuana Dispensary from the Maine Office of Marijuana Policy. She would like to open a retail store on Cottage Street. The default is prohibition, until the town (council) votes to opt in (authorize) for retail sales to occur. The site she has selected is less than 500 feet from the school property line, which would be prohibited. Enclosed is the applicable section of state law (Title 28-B Sec 402) on local authorization. Also enclosed is a memo from Ed Bearor, Town Attorney answering 2 questions about the opting in process and establishing an ordinance to regulate them. No state tax revenues from marijuana are shared directly with opt-in municipalities. Before deciding on the issue it might be helpful to have public comments at a future meeting. Ed Bearor will attend the meeting to answer questions. There is a short video on the process of a municipality Opting In, on the MMA Website, under Training & Resources, Marijuana.
- C. Planning Board**- Councilor Friedmann requested this item at the last meeting. A possible motion: to schedule a joint meeting with the Planning Board to clarify roles and responsibilities and hire a facilitator to run the meeting.
- D. Treasurer's Warrant** – A possible motion: to sign the Treasurer's Warrants for paid bills.

- XI. Executive Session**- a possible motion: to go into executive session as permitted by 1 MRSA sec 405 (6) (A) to discuss a personnel matter.

Minutes
Bar Harbor Town Council
By Video Conference
September 15, 2020

- I. CALL TO ORDER** – 5:00 P.M. - In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Valerie Peacock, Gary Friedmann, Joe Minutolo, Jill Goldthwait; and Town Manager Cornell Knight.
- A. Excused Absence(s)** – Mr. Hochman, with second by Mr. Minutolo, moved to excuse Councilor Cough as provided by Town Charter C-12.B(1)(d). Roll Call Vote:
- | | |
|-------------------|----------|
| <u>Dobbs</u> | <u>Y</u> |
| <u>Hochman</u> | <u>Y</u> |
| <u>Peacock</u> | <u>Y</u> |
| <u>Friedmann</u> | <u>Y</u> |
| <u>Minutolo</u> | <u>Y</u> |
| <u>Goldthwait</u> | <u>Y</u> |
- Motion passed 6-0.
- 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. Comments can be made through the Zoom webinar or may be emailed in advance to the Council Chair at jdobbs@barharbormaine.gov to be read during the meeting.* – None.
- III. APPROVAL OF MINUTES** – **September 1, 2020 Regular Meeting**
Mr. Hochman, with second by Mr. Friedmann, moved to approve the September 1, 2020 Regular Meeting minutes as presented. Roll Call Vote:
- | | |
|-------------------|----------|
| <u>Dobbs</u> | <u>Y</u> |
| <u>Hochman</u> | <u>Y</u> |
| <u>Peacock</u> | <u>Y</u> |
| <u>Friedmann</u> | <u>Y</u> |
| <u>Minutolo</u> | <u>Y</u> |
| <u>Goldthwait</u> | <u>Y</u> |
- Motion passed 6-0.
- IV. ADOPTION OF AGENDA** – Mr. Hochman, with second by Mr. Friedmann, moved to adopt the agenda as presented. Roll Call Vote:
- | | |
|-------------------|----------|
| <u>Dobbs</u> | <u>Y</u> |
| <u>Hochman</u> | <u>Y</u> |
| <u>Peacock</u> | <u>Y</u> |
| <u>Friedmann</u> | <u>Y</u> |
| <u>Minutolo</u> | <u>Y</u> |
| <u>Goldthwait</u> | <u>Y</u> |
- Motion passed 6-0.
- V. FINANCIAL REPORT** - *Review and possible motion to accept the financial report as presented.* Finance Director Stan Harmon presented a two-month report and answered

Council Questions. Mr. Hochman, with second by Mr. Friedmann, moved to accept the financial report as presented. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Motion passed 6-0.

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. Special Town Meeting November 2020 – *Possible motion to sign:*

1. Special Town Meeting Warrant for November 3, 2020 and
2. Notice of Public Hearing for October 6, 2020.

B. CDBG Grant – *Possible motion to sign the Standards of Conduct, Fair Housing Resolution, Section 504 Self-Evaluation and Transition Plan, Residential Anti-Displacement & Relocation Assistance Plan and EEO Policy Statement as required by HUD.*

C. General Assistance Ordinance – *Possible motion to schedule a public hearing for October 6, 2020 on the annual revision of maximum benefit levels in Chapter 102, General Assistance Appendices A-H, pursuant to 22 MRSA §4305(4).*

Mr. Hochman, with second by Mr. Friedmann, moved to approve the Consent Agenda as published. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Motion passed 6-0.

VII. REGULAR BUSINESS:

A. COVID-19

1. *Emergency Special Amusement Ordinance*

Police Chief Jim Willis provided feedback on the past two weeks since the ordinance was enacted. Mr. Hochman, with second by Ms. Peacock, moved to approve the amendments to the Amusements Ordinance Chapter 14 as presented and make it effective immediately under the Emergency Ordinance provisions of the Town Charter. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait N

Motion passed 5-1 (Nay: Goldthwait).

This emergency ordinance will expire November 1, 2020:

EMERGENCY ORDINANCE

Whereas, a pandemic emergency exists; and

Whereas, The Governor has extended the civil state of emergency until September 3, 2020, and

Whereas, the Town Council has the authority to enact emergency ordinances under Section C-16 of the Town Charter; and

Whereas, the pandemic will affect the business community,

Now Therefore be it ordained that the Town Council orders that the Special Amusement Ordinance be amended as shown below and take effect upon passage.

Amusements Ordinance Amendment

Town of Bar Harbor

#2020-11

An Amendment to allow amplified music outdoors.

The Town of Bar Harbor hereby ordains that Chapter 14, Amusements of the Town Code is amended as follows:

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

CHAPTER 14 – AMUSEMENTS

Article I: Special Amusement Permits

§ 14-2 Definitions.

The following definitions apply to this article and do not affect the meanings of words or terms in any other article of this Code. As used in this article, the following terms shall have the meanings indicated:

AMPLIFIED ACOUSTIC INSTRUMENT

Any Musical instrument designed to be played without mechanical amplification but that can also be connected to an amplifier, these may include but are not limited to: Acoustic Guitars, Violins/fiddles, Upright/Acoustic Bass, Mandolin, Banjo etc. Instruments designed to be played only with mechanical amplification are excluded.

§ 14-4 Classes of permit; reapplication.

B. Any permit granted shall be for one of the above-noted classes. ~~A licensee shall not permit on the licensed premises any music, dancing or entertainment which exceeds that permitted by the class of his/her permit, during the period for which his/her permit is valid as otherwise determined by this article.~~ This emergency Ordinance shall grant a temporary license upgrade to allow amplification while active and shall expire at midnight on September 15th unless renewed by council and will automatically expire on the 61st day after enactment per Bar Harbor Charter.

§ 14-6 Regulation of noise.

An applicant for a special amusement permit hereunder shall, as part of his/her application, demonstrate his/her ability to prevent the emanation of excessive noise from the premises sought to be licensed brought about by music, dancing or entertainment, except for a radio or other mechanical device excluded under 28-A M.R.S.A. § 1054 or amendments thereto. ~~The performance of amplified music out of doors by licensees is categorically declared to be in violation of this article.~~ Amplified outdoor music shall be limited to amplified acoustic instruments as defined in this chapter and one vocal microphone per performer, all outdoor amplification must adhere to this chapter.

The performance of nonamplified music out of doors by licensees is prohibited between the hours of 10:00 p.m. and 9:00 a.m. The performance of amplified music out of doors by licensees is prohibited between the hours of 9:00 p.m. and 11:00 a.m.

[End of Ordinance]

- 2. *Updates* – Nina St. Germain summarized COVID efforts to date. Chamber Director Alf Anderson and Chief Willis participated in the discussion, which included Halloween. Mr. Friedmann, with second by Mr. Hochman, moved to erect a heated tent somewhere in the downtown area provided there’s sufficient funds remaining in the grant program. Roll Call Vote:

<u>Dobbs</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Peacock</u>	<u>Y</u>
<u>Friedmann</u>	<u>Y</u>
<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>

Motion passed 6-0.

- B. Water Division Master Plan** – *Presentation by Olver Associates.* Annaleis Hafford from Olver summarized her presentation. Public Works Director Bethany Leavitt and Water Superintendent Jeff Van Trump also participated and answered Council questions. Mr. Hochman, with second by Mr. Friedmann, moved to thank Ms. Hafford and Olver Associates for the presentation and accept the Comprehensive Master Plan Update Summary and place it on file. Roll Call Vote:

<u>Dobbs</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Peacock</u>	<u>Y</u>
<u>Friedmann</u>	<u>Y</u>
<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>

Motion passed 6-0.

- C. FY21 Water Budget** – *Introduction of proposed FY21 Water Budget and possible motion to schedule a public hearing for October 6, 2020.* Finance Director Stan Harmon presented the budget and answered Council questions. Mr. Hochman, with second by Mr. Friedmann, moved to schedule a public hearing for October 6, 2020 to hear comments on the FY21 Water Budget. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Motion passed 6-0.

D. Cooperating Agencies Policy – Review drafts and possible motion to adopt.

Councilor Goldthwait presented the recommendations. Following discussion, Mr. Hochman, with second by Mr. Friedmann, moved to approve the amendments to the Cooperating Agencies Policy and Application. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock N
Friedmann Y
Minutolo Y
Goldthwait Y
Motion passed 5-1 (Nay: Peacock).

E. Council Goals – Update. Mr. Hochman, with second by Mr. Friedmann, moved to schedule the Council goals session for Monday, November 2, 2020 at 5pm by video conference. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Motion passed 6-0.

F. Treasurer’s Warrant - Request of Treasurer to authorize paid bills. – Mr. Hochman, with second by Mr. Friedmann, moved to sign the Treasurer’s Warrants for paid bills. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Motion passed 6-0.

VIII. TOWN MANAGER’S COMMENTS – None.

IX. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

Mr. Friedmann hopes that after the joint meeting with the Planning Board last week we can have a conversation about Council’s responsibility regarding setting land use policy for the town and getting clarification from an expert outside the town and beyond our town attorney. On my part there’s some confusion as to who sets policies and what the

Planning Board's role is in carrying those out and when the Planning Board can take initiative on policies.

Ms. Peacock regarding coming on to Council in June, lots of things are coming to culmination. I am looking forward to goal setting and comprehensive planning and what's coming after, as well as vacation rental work.

Mr. Hochman echoed Gary regarding clarification on roles and responsibility for Planning and Council. He is sorry to hear of the passing of Chris Fogg who worked as the head of the Chamber and worked closely with the town for many years. He offered condolences to Chris' family and the Chamber.

Ms. Goldthwait asked about next steps on vacation rentals. Mr. Knight stated they are working on some details for the next meeting and when ready will schedule a workshop. She briefed Council on the Climate task force, they are working on a greenhouse gas inventory with a focus on municipal infrastructure and will make a modest expenditure for a template type plan for the inventory. She also asked about detection of COVID contamination in waste water. Mr. Knight responded they are inquiring about it and will get a more complete answer. She had another question about underground power when doing the sewer work. Mr. Knight spoke to the expense and other challenges with underground power.

Mr. Dobbs echoed condolences and prayers on the passing of Chris Fogg to his wife Erin and their children. He was a good guy and a hard worker and added a lot to the Chamber and the town.

X. EXECUTIVE SESSION: (none)

XI. ADJOURNMENT – Mr. Hochman, with second by Mr. Friedmann, moved to adjourn at 7:00 p.m. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Motion passed 6-0.

Sharon M Linscott, Town Clerk

VIA New

Cooperating Agency Funding Application - 2021/2022

Town of Bar Harbor

CoOp
<small>(Town Use Only)</small>

Program Name		
Organization Name (if different)		
Headquarters/Office Address		
Mailing Address (if different)		
Contact Person		
Contact E-mail		
Contact Phone		
Tax Identification #		
Funding Requested		
Prepared By:		
Signed:		
	Date:	

Summary Financial Statements

(Actual revenue & expenses, not budget)

Data for Fiscal Year Ending:		
Revenue	Amount	Comments
Federal/State Funds		
County Funds		
Municipal Funds		
Public Donations		
Business Grants/Donations		
Special Event Fundraising		
Users Fees & Service Income		
All Other Income		
Total Revenue		

Expenses	Amount	Comments
Salaries & Benefits		
Program Supplies		
Office/Admin/Supplies		
Rent or Mortgage		
Utilities		
All Other Expenses		
Total Expenses		

Cooperating Agency Funding Application - 2021/2022

CoOp

Town of Bar Harbor

(Town Use Only)

Please answer the questions below. Feel free to attach a supplementary sheet, but number and headline each item.

1. Organization Name:

2. Services Offered

Health & Welfare – Does your program add to the community safety net for town residents at risk (youth, elders, people with disabilities, economically disadvantaged)? (Check all that apply and describe activities)

Physical/mental health, counseling, other health services

Housing/heat

Food security

Transportation

Child Care

Senior Wellness

Emergency/Disaster Relief

Other

3. Recreation & Culture – Does your agency provide events or programming that add to quality of life or benefit at-risk populations? (Check all that apply and describe activities)

Provides facilities

Sponsors events

Provides recreational programs for kids, seniors, general

Art, music, literacy programming

Other

4. Local Benefits

a How many Bar Harbor residents benefited directly from your programs in the past year?

b What are the measurable benefits of your program?

c How does your program or activity help create a solution to a problem or improve life for Bar Harbor residents?

d What is the geographical area you serve?

Cooperating Agency Funding Application - 2021/2022

Town of Bar Harbor

CoOp
(Town Use Only)

Organization Name:

5. Funding	
a	Does your program have a direct impact on our municipal budget by reducing or eliminating Town expenditures that would otherwise be needed?
b	If your agency serves a population beyond the Town of Bar Harbor, how much are each of the other towns in your service area contributing to your agency?
c	Would the Town of Bar Harbor funding provide the local match for federal, state or private grants?
d	Please describe your direct contribution and/or charitable fundraising activities.
e	How did your agency decide how much funding to request? Was a formula or standard used?

Cooperating Agency Funding Application - 2020/2021

Town of Bar Harbor

CoOp
(Town Use Only)

Program Name								
Organization Name (if different)								
Mailing Address								
City, State, Zip								
Contact Person								
e-mail (if any)								
Phone		<table border="1"> <tr> <td>Prepared By:</td> <td></td> </tr> <tr> <td>Signed:</td> <td></td> </tr> <tr> <td>Date:</td> <td></td> </tr> </table>	Prepared By:		Signed:		Date:	
Prepared By:								
Signed:								
Date:								
Fax								
Tax Identification #								
Funding Requested								

Summary Financial Statements

(Actual cash income & expenses, not budget)

Data for Fiscal Year Ending:		
Cash Inflows	Amount	Comments
Federal/State Funds		
County Funds		
Town Funds		
Public Donations		
Business Grants/Donations		
Special Event Fundraising		
Users Fees & Service Income		
All Other Income		
Total Inflows		

Cash Outflows	Amount	Comments
Salaries & Benefits		
Program Supplies		
Office/Admin/Supplies		
Rent or Mortgage		
Utilities		
All Other Expenses		
Total Outflows		

Cooperating Agency Funding Application - 2020/2021

Town of Bar Harbor

CoOp

(Town Use Only)

Organization Name

8. Impact on the Municipal Budget – Does your program have a direct impact on our municipal budget by reducing or eliminating Town expenditures that would otherwise be needed?

9. Fund Raising Activities – Please describe your direct contribution and/or charitable fund-raising activities.

10. Benefits – What are the **measurable** benefits of your programs?

11. Quality of Life - How does your program or activity build a solution to a problem or help take advantage of an opportunity to improve life for Bar Harbor residents?

12. Derivation of Request – How did your agency decide how much funding to request? Specifically, was a formula or standard used?

VI B

memo

Town of Bar Harbor

To: Town Council

From: Sharon Linscott, Town Clerk

CC: Cornell Knight, Town Manager

Date: 9/30/2020

Re: November 3, 2020 State Election – Appointment of Warden

It is requested *to appoint the Town Clerk as Warden for the November 3, 2020 State Election.*

Thank You.

VI C

memo

Town of Bar Harbor

To: Town Council
From: Sharon Linscott, Town Clerk
CC: Cornell Knight, Town Manager
Date: 9/30/2020
Re: Notice of Public Hearing - Municipal Officers' Return

The Notice of Public Hearing is being presented to you to sign the Municipal Officer's Return acknowledging the Notice was posted on September 17, 2020.

Thank You.

VI C § VII A

NOTICE OF PUBLIC HEARING – October 6, 2020 TOWN OF BAR HARBOR

STATE OF MAINE

County of Hancock, ss

To: A Constable of the Town of Bar Harbor

Greeting:

In the name of the State of Maine you are hereby required to notify and warn the inhabitants of the Town of Bar Harbor that the Bar Harbor Town Council will hold a public hearing in the Council Chambers, third floor, Municipal Building on Tuesday, the sixth of October, in the year of our Lord Two Thousand and Twenty at five o'clock in the afternoon then and there to hear public comment on the following articles placed on the written ballot of the Special Town Meeting to be held on Tuesday, the third of November 2020:

Article 2 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to 1. Clarify the recording of recommendations on Town Warrants and Ballots, 2. Change the Warrant Committee's responsibilities to consideration of the Municipal Budget and Land Use Ordinance amendments, and 3. Remove review and recommendations of Citizen Initiative and Referendum from the Town Council, Warrant Committee, School Committee and Planning Board, as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.

- (1) Contents of ballots: In addition to the provisions of the Revised Statutes of the State of Maine, the ballots for all Town Meetings shall include:
 - (a) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, ~~including in the form of~~ the number of Committee members and number of Committee members voting for and against the recommendation;
 - (b) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, ~~including in the form of~~ the number of Board members and the number of Board members voting for and against the recommendation;
 - (c) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, ~~including in the form of~~ the number of Committee members and the number of Committee members voting for and against the recommendation;

- (d) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
- (2) Warrant: The Town Meeting warrant shall be prepared as required by law and be posted in the Municipal Building. Further, the warrant shall include:
 - (a) A brief statement outlining the intent of the proposed article;
 - (b) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in the form of the number of Committee members and number of Committee members voting for and against the recommendation;
 - (c) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
 - (d) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
 - (e) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
 - (f) Such other explanatory material as, in the opinion of the Town Council, would help the voters better understand the issues at hand.

ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.

- A. It shall be the duty of ~~any duly elected~~ the Warrant Committee, meeting as a full body, to consider, investigate and report upon, with recommendations or comments, all articles except those dealing with election of candidates, revisions or modifications to this charter, the school budget, and citizen initiatives or referendums included in the Warrant of all Town Meetings, whether annual or special. ~~When requested to do so,~~ It shall be the duty of Town officers and committees to meet with the full body of the Warrant Committee or any of its subcommittees and to furnish, to all members, all information relative to matters being considered by the Warrant Committee.
- B. The Warrant Committee shall submit its recommendations on municipal budget articles to the Town Council as provided by Charter § C-31, Preparation and submission of the budget.

Rationale:

- The recommended amendments for Article II clarify the method of recording elected bodies' recommendations on Warrant Articles
- The recommended amendments clarify that the Warrant committee will review the Municipal Budget, and LUO amendments but will no longer review or make recommendations on the school budget. The School Budget is currently presented by staff, reviewed by the School Committee and the Town Council before being placed on the Town Warrant for adoption by vote at the Town Meeting. This process provides two reviews by elected bodies. Removing a third review by Warrant Committee will allow that committee to focus efforts on the Municipal Budget and proposed Land Use Ordinance amendments.
- The recommended amendments establish that neither the Town Council or Warrant Committee will provide recommendations on revisions or modifications to this charter
- The recommended amendments remove possible review or written recommendations of any citizen initiative or referendum from any elected or appointed body of the town. Citizen initiatives and referendums originate directly from voters and must be included on the Town Warrant unless immediately adopted by Town Council such a process should supersede review and recommendation by elected or appointed bodies of the town. Article ____ proposes to create a mandatory public hearing process for all initiatives and referendums so that voters may be informed, weigh their merits and express opinions in an open forum

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.

The seven-member Town Council recommends adoption by a vote of 6 to 1.

The 22-member Warrant Committee recommends rejection by a vote of 15 to 4.

Article 3 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to allow for the use of electronic voting as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.

C. (3) Method of voting at Open Town Meeting. Except where required otherwise by state law the town may use any means of manual or electronic voting approved by the Town Council to ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.

ARTICLE II: Town Meetings: § C-6. Powers and responsibilities.

- D. Any Town Meeting amendment made to the budget published in the Warrant or Town Report, shall be voted only by written or electronic ballot.

Rationale:

- The recommended amendments for Article II will allow for the use of electronic voting technology at Open Town Meeting which can expedite voting on budgetary articles not requiring written vote by State statute, help to increase participation in Town Meeting and mitigate social pressure on controversial items.
- This recommendation does not mandate the use of electronic voting at Town Meetings but allows its use providing it can ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.
- The use of electronic voting technology can also assist in providing better accessibility for voting at Open Town Meeting.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends adoption by a vote of 18 to 0.

Article 4 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to provide a process that allows the Town Council to amend the Land Use Ordinance when an amendment is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with statutes, after it has first been recommended by the Town Planner, discussed at Public Hearings and recommended by a supermajority of both the Planning Board and Town Council, as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE II: Town Meetings: § C-6. Powers and responsibilities.

- B. (3) Act on those ordinances placed on the warrant ~~pertaining to the Town's Land Use Ordinance~~ and on any initiative or referendum questions as provided for by this Charter;

ARTICLE III: The Town Council: § C-10. General powers and duties.

- A. (9) Make, adopt, ~~alter~~ amend and repeal ordinances for any purpose permitted by statute. with the exception of those pertaining to zoning except as provided below. In addition to such ordinances, the Council shall have the power to adopt ordinances which:

- (a) Adopt or amend an administrative code.
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- ~~(c) Amend or repeal any ordinance previously adopted.~~
- (d) Adopt land use ordinance amendments by supermajority vote as defined in §C-14C3 when:
 - i. The land use ordinance change is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with state statutes pertaining to municipal zoning and;
 - ii. The land use ordinance change is first recommended to the Planning Board by the Planning Director and upon review and after a public hearing, the Planning board recommends it to the Town Council by a supermajority vote (as defined in §C-14C3)

ARTICLE III: The Town Council: § C-14. Procedure.

- C. (2) Each Councilor in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest ~~clearly exists~~ is stated and recognized by a majority vote of the Council. If any Councilor does abstain from a vote other than because of a recognized conflict of interest, he/she shall be considered to have cast a vote with the majority and the record shall so show.
- C. (3) Qualifying land use ordinance amendments as described in §C-10 A(9)d must be recommended to the Town Council by a supermajority of the full membership of the Planning Board and must be approved by a supermajority of the full membership of the Town Council.
- C. (3) (a) For the purpose of this charter, supermajority shall be defined as two-thirds of the full membership of the body rounded up to the nearest whole number. (e.g. 4 in a 5-member body and 5 in a 7-member body.) In the case of a body of 3-members or less a supermajority shall be defined as a unanimous vote.

Rationale:

- This recommendation provides a method to make minor, non-substantive, changes to the Land Use Ordinance under the following conditions:
 - The change is defined as procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors, or
 - The change is to bring the land use ordinance into compliance with state statutes
 - The change is first recommended by the Town Planner
 - The change is reviewed by the Planning Board and a Public Hearing is held
 - The Planning Board recommends the amendment by a super-majority (two-thirds)
 - The change is reviewed by the Town Council and an additional Public Hearing is held

- The amendment is then adopted by a super-majority (two thirds) of the Town Council
- This recommendation provides a mechanism to amend minor aspects of the Land Use Ordinance without the lengthy process currently in place
- This recommendation will allow the Land Use Ordinance to be more dynamic and citizen friendly
- New or substantial amendments would continue to be adopted only by voters through Town Meeting

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.

The seven-member Town Council recommends adoption by a vote of 6 to 1.

The 22-member Warrant Committee recommends rejection by a vote of 15 to 3.

Article 5 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to change the language in Articles IV and V of the Charter that would: 1. clarify the Town Manager's residency requirement; 2. ensure that human resource procedures are compliant with State and Federal laws; 3. clarify the role of a Town Planner; 4. allow for additional legal counsel for the Town, if needed, and; 5. establish rotating terms for School Committee members; as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE IV: The Town Manager: § C-18. Appointments; qualifications; compensation.

The Council shall appoint a Town Manager for a term not to exceed three years and shall fix the Manager's compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the Town or state at the time of appointment and may reside outside the town while in office ~~only~~ with the approval of the Council.

ARTICLE IV: The Town Manager: § C-21. Powers and duties of the Town Manager.

- J. ~~Make recommendations to the Council for the more efficient operation of the municipality;~~ (Reserved)

ARTICLE V: Administrative Organization: § C-23. Personnel administration.

- C. Personnel policies. The Human Resources Director shall prepare draft personnel policies in compliance with all applicable State and Federal Laws. After approval by the

Manager, the policies shall be proposed to the Council for adoption. The Council may adopt them with or without amendment.

- D. Planning Director. The Manager or a person appointed by the manager shall be designated as the Planning Director. The Planning Director shall administer the planning department for the town.

ARTICLE V: Administrative Organization: § C-25. Town Attorney

There shall be a Town Attorney, appointed by the Council, who shall serve as chief legal adviser to the Town and all of its departments, except for the Superintending School Committee. In any matter where there may be a conflict between the Town Council and any other Town officer, department, board, agency or commission, Town Attorney shall represent the Town Council only. The Town Council may appoint or authorize such additional legal counsel as the Town's interest may require

ARTICLE V: Administrative Organization: § C-26. Superintending School Committee.

- C. Elections and terms. Each member shall be elected for a term of three years; with terms to be staggered such that no more than two Committee members are elected to fill expired terms in any one year.

Rationale:

- This recommended change clarifies that the Town Manager may reside outside of Bar Harbor with Town Council approval.
- This recommended change updates the Human Resource Director's responsibilities to ensure that all procedures are complaint with State and Federal laws
- This change does not require that the Town hire a Planner but rather emphasizes the importance of the planning function. Town Council can choose to allocate funds in the municipal budget for this position. The Charter will require that the function is assigned to staff at the Manager's direction if funding is not available.
- This recommended change institutes staggered terms for the School Committee to maintain continuity, reduce the impact of turnover and ensure consistency with other elected bodies of the Town.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends adoption by a vote of 19 to 0.

Article 6 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to remove specific salaries for Town Council and School Committee listed in the

Charter and provide for annually establishing salaries as part of the budget voted on at Town Meeting as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE III: The Town Council: § C-8. Salary.

Each member of the Town Council shall be paid an annual salary of ~~\$1,500, except the Chair, whose annual salary shall be \$1,800,~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 30-A M.R.S.A. § 2602(1), as amended, the member's salary shall be prorated based on the number of months that member has held office, to the nearest full month.

ARTICLE V: Administrative Organization: § C-26. Superintending School Committee.

D. Compensation. Each member of the School Committee shall be paid an annual salary of ~~\$400, except the Chair, whose annual salary shall be \$500~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 20-A M.R.S.A. § 2305(4), as amended, his/her salary shall be prorated based on the number of months that member has held office, to the nearest full month

Rationale:

- This recommended change allows for the Town Council compensation to be decided annually by the Town through the budget process.
- This recommended change allows for the School Committee compensation to be decided annually by the Town through the budget process.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends adoption by a vote of 18 to 1.

Article 7 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to establish a new process for the development and adoption of the annual budget that provides for both the Town Council and Warrant Committee to conduct their reviews concurrently as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE VI: Financial Procedures: § C-31. Preparation and submission of the budget.

- A. Departmental CIP and operating budget requests. ~~Fifty six days before the Town Manager is required to submit the budget to the Town Council, all department heads and board or committee chairs, except for the School Committee, shall submit their CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C(2) through (4). shall be prepared according to a timeline set by the Town Manager to allow for submission of the budget by the last Tuesday in January each year. Budget submissions shall be in accordance with the provisions set forth in § C-29 and § C-30.~~
- B. ~~Departmental operating budget requests. Forty two days before the Town Manager is required to submit the budget to the Town Council, the department heads, board or committee chairs, except for the School Committee and cooperating agencies shall submit their budget requests to the Town Manager. Said requests shall include the information required in § C-29B through D.~~
- B. School Committee budget request. Fourteen days before the Town Manager is required to submit the budget to the Town Council, the School Committee shall submit its operating budget and CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C (2) through (4), as well as § C-29B through D.
- C. Submittal of budget to the Council and Warrant Committee. The Town Manager shall compile the budget information submitted, prepare the budget as provided in this section, and submit the operating budget and CIP to a joint meeting of the Town Council and Warrant Committee on or before the third Tuesday in January last Tuesday in January each year. The Town Warrant Committee and Town Council shall then jointly meet with town staff for detailed presentation of the municipal budget by town staff before proceeding to independent review.
- D. Warrant Committee and Town Council Review. The Warrant Committee shall review the municipal budget and submit its recommendations to the Council at a joint meeting of those bodies on or before the 4th Tuesday in February. The Council shall review the municipal and school budgets and the recommendations of the Warrant Committee.

- E. Tentative adoption of budget by Council. The proposed budget prepared by the ~~Manager shall be reviewed by the Town Council which shall tentatively adopt the budget as presented and reviewed shall be tentatively adopted by the Council~~ with or without amendments on or before ~~the seventh day of February~~ the 1st Tuesday of March of each calendar year and Council shall fix a time and a place for holding a public hearing on the budget prior to the ~~22nd of February~~ 4th Tuesday of March of each calendar year.
- F. Notice of hearing. The Town Clerk shall give public notice of such hearing in a newspaper of general circulation in the Town. Said notice shall contain as a minimum the date, time and place of the meeting, the locations where copies of the budget may be reviewed, the total appropriations requested for both the municipal and education budgets and an estimate of the ~~affect~~ effect on the tax rate. Full copies of the detailed budget shall be made available for public review at the office of the Town Clerk.
- G. Adoption of budget by Council. The Town Council shall hear public comment at the budget hearing, review the budget, adopt it with or without change and recommend it to ~~the Warrant committee on or before February 22nd Town Meeting on or before the 4th Tuesday in March.~~
- ~~H. Submittal to Warrant Committee. No later than seven days following the date of adoption, the Town Manager shall submit to the Town Warrant Committee the complete detailed budget as adopted by the Town Council~~
- H. ~~Warrant Committee review. The Town Warrant Committee shall review the budget and submit its recommendations to the Council prior to April 1. The Council shall review the recommendations as submitted by the Warrant Committee and submit the budget to Town Meeting with or without changes. The recommendations of the Warrant Committee pertaining to the municipal and education budgets budget shall be provided as a commentary to the Town Meeting as set forth in §C-5 1A and §C-5 2B.~~

ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.

- C. No later than ~~60~~ 30 days prior to each Annual or 10 days prior to each Special Town Meeting, the report of the Warrant Committee shall be submitted to the Town Clerk, who shall have it printed and made available for distribution to the voters. The report of the Warrant Committee shall be with respect to all articles submitted to it and shall include its recommendations with respect to each article and contain any commentary which the Warrant Committee elects to have included in said report.

Rationale:

- These recommended changes introduce a new budget development timeline that encourages a more streamlined approach for the development, review and comment on the annual Town budget.
- These recommended changes allow for an effective use of time and human resources.

- These recommended changes provide a process where the Warrant Committee and Town Council will have the same and simultaneous access to budget information and staff time so that each full body may review, comment and make recommendations on the annual Town budget.
- Town staff will present the draft budget to both the Town Council and Warrant Committee at a joint meeting and their respective reviews will take place within the same timeframe.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends rejection by a vote of 15 to 4.

Article 8 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to establish an election process for the Warrant Committee that is consistent with the other elected bodies of the Town and set the Warrant Committee membership number at 15 from 22 as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE VII: Warrant Committee: § C-34. ~~Nomination~~ Composition, eligibility, terms, and election

- A. ~~At least 75 days prior to each Annual Town Meeting, the person who held the office of Moderator at the most recent Annual Town Meeting (hereinafter referred to as the "Retired Moderator") shall call and chair a meeting or meetings to select 22 voters to be nominated for election by the Annual Town Meeting to serve as Warrant Committee members.~~
- B. ~~The Nominating Committee shall be composed of five members: said Retired Moderator, the Chair and Secretary of the Warrant Committee and two other registered voters to be appointed by the Retired Moderator. The Chair of the Nominating Committee may vote on motions coming before the Committee only in the event of a tie.~~
- C. ~~Should the Retired Moderator or Warrant Committee Chair or Secretary be unable, refuse or fail to fulfill their duties as provided above, the Town Clerk shall appoint a registered voter to fill their seat.~~
- D. ~~The Nominating Committee shall report the names of its intended nominees to the Town Clerk for inclusion in the Annual Town Report at least 60 days prior to the Annual Town Meeting.~~

- ~~E. At each Annual Town Meeting, a member of the Nominating Committee shall nominate the 22 voters selected pursuant to this section to serve as the Warrant Committee for the ensuing year. The Town Meeting shall thereupon proceed with the election of the Warrant Committee.~~
- A. Composition: There shall be a Warrant Committee of 15 members elected by the qualified voters of the Town in accordance with Article VIII.
- B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of Warrant Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Warrant Committee Member shall hold any other Town office or Town employment while serving as a Warrant Committee Member.
- C. Terms: Each member shall be elected to a term for three years, with terms to be staggered such that no more than 5 Warrant Committee members are elected to fill expired terms in any one year.

ARTICLE VII: Warrant Committee: § C-35. Organization.

- A. The Warrant Committee, upon the call of the Town Clerk, shall meet and organize with the election of a Chair, a Vice Chair and a Secretary within three weeks of its election. It shall have the power to ~~fill vacancies in its number by vote of its members and shall~~ establish its own rules of procedure and bylaws.
- B. Filling of vacancies. A vacancy in the Warrant Committee shall be filled for the remainder of the unexpired term, if any, at the next regular election held more than 60 days after the occurrence of the vacancy. The Committee by a majority vote of all of its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. Notwithstanding the requirement of a quorum, if at any time the membership of the Committee is reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

ARTICLE VIII: Elections and Nominations: § C-39. Elections.

- A. Conduct of elections. The regular municipal election shall be held on the second Tuesday of June. Except as otherwise provided for by this Charter, the provisions of the Revised Statutes of the State of Maine, as amended, shall govern elections of all Town officials required by this Charter, except the Moderator ~~and the members of the Warrant Committee~~, and said elections shall be conducted by the election officials accordingly.

ARTICLE VIII: Elections and Nominations: § C-40. Nominations.

- A. (1) Candidates for election to the Town Council, Warrant Committee, and the Superintending School Committee shall be nominated by petition. Any person who is qualified to vote in elections in the Town of Bar Harbor may be nominated for election

as a Councilor, Warrant Committee member, or School Committee member by a petition signed by not less than the number of qualified voters of the Town that is required by state law.

Rationale:

- These recommended changes ensure that Warrant Committee members are individually nominated by petition and elected by ballot at Town Meeting in a manner consistent with both the Town Council and School Committee.
- These recommended changes ensure that the Warrant Committee members' terms are rotating in order to maintain continuity of the committee.
- These recommended changes establish eligibility requirements for the Warrant Committee that are consistent with other elected bodies of the Town.
- The recommended new budget development process will allow for the whole Warrant Committee to work with the whole Town Council and staff as a group so that each individual member has access to the same information as they deliberate and make recommendations to the voters of the Town.
- These recommended changes reduce the Warrant Committee membership from 22 to 15 to reflect the recommended reduction in duties and to encourage full involvement of the Committee as it fulfills its duties to consider, investigate and report upon Warrant Articles. Much of the Committee's current work relies heavily on subcommittee work by small groups of individuals rather than full review by the whole Committee.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 8 to 1.

The seven-member Town Council recommends adoption by a vote of 6 to 1.

The 22-member Warrant Committee recommends rejection by a vote of 16 to 3.

Article 9 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to establish that the due date for filing of nomination papers be not less than 60 days before the election in order to be consistent with the State of Maine as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE VIII: Elections and Nominations: § C-40. Nominations

- B. Filing and acceptance of nomination petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument

not less than ~~45~~ 60 days prior to the day of election. The Clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

Rationale:

- This recommended change ensures that the Town Charter is consistent with the procedures of the State of Maine for the filing of nomination papers by candidates for elected office.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends adoption by a vote of 19 to 0.

Article 10 - CHARTER MODIFICATION: Shall the Town of Bar Harbor approve the charter modification to require that a Public Hearing be held for any proposed Initiative or Referendum as presented in the Town Meeting Warrant?

Charter Modification

The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:

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

ARTICLE IX: Initiative and Referendum: § C-48. Action on petitions.

- A. Public Hearing: When an initiative or referendum has been finally determined sufficient the Council shall set a date no later than 30 days from the final determination of sufficiency to hold a public hearing for the purpose of presentation and information on the proposed initiative ordinance or resolution and to receive public comment.
- B. Action by Council. When an initiative or referendum petition has been finally determined sufficient, and after holding a public hearing, the Council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.
- C. (1) (a) The vote on a proposed or referred ordinance shall be by secret ballot at a Town election, ~~held not less than 45 days and not later than~~ but not less than 45 days nor more than one year from the date of the final Council vote thereon. If no scheduled regular annual Town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as the regular annual election, ~~except that the~~

~~Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.~~

- i. Council may provide for a special election at an earlier date within the prescribed period.
 - ii. Copies of the proposed or referred ordinance shall be made available at the polls.
- C. (2) (a) Timeline for Voting. The vote on a proposed resolution shall be held at either a Town election or an open Town Meeting not less ~~then~~ than 45 days and not more than one year from the date of the final Council vote thereon. If no regular annual Town Meeting is to be held within the period prescribed in this subsection, the Council shall provide for a special Town Meeting; otherwise, the vote shall be held at the same time as the regular annual Town Meeting, except that the Council may in its discretion provide for a special Town Meeting at an earlier date within the prescribed period.

Rationale:

- This recommended change ensures that information for proposed Initiatives or Referendums is provided to the public at a Public Hearing so citizens can gain first-hand knowledge of the proposals and their possible impacts for the Town.
- This recommended change will help voters to make effective and informed decisions and provide for transparency in communicating information about Initiatives or Referendums.

Recommendations:

The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.

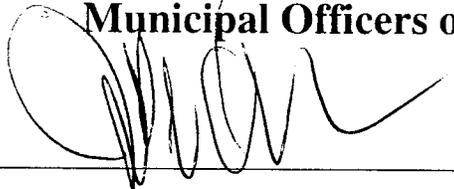
The seven-member Town Council recommends adoption by a vote of 7 to 0.

The 22-member Warrant Committee recommends adoption by a vote of 16 to 3.

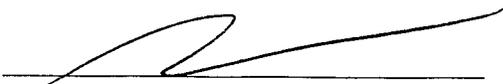


Given under our hands this fifteenth day of September 2020.

Municipal Officers of the Town of Bar Harbor



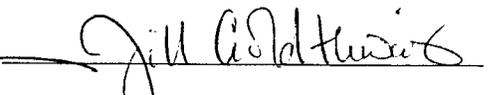
Jefferson Dobbs, Chair



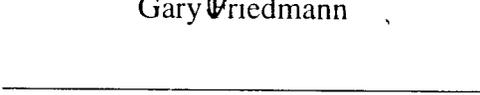
Matthew A. Hochman, Vice Chair



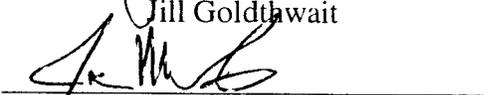
Gary Friedmann



Jill Goldthwait



Erin Cough



Joseph Minutolo



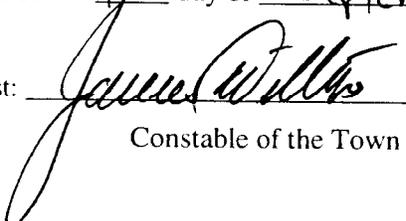
Valerie Peacock

Attest:

A true copy _____
Town Clerk of Bar Harbor, ME

CONSTABLE'S RETURN

By virtue of the within Warrant to me directed, I have warned and notified the inhabitants of the Town of Bar Harbor to assemble at the time and place and for the purposes therein named by posting attested copy of the within Notice on the Bulletin Board, Municipal Offices, being conspicuous public place within said Town on the 17th day of September in the year of our Lord Two Thousand and Twenty.

Attest:  _____
Constable of the Town of Bar Harbor

Attest: _____
A true copy _____
Town Clerk of Bar Harbor, ME

MUNICIPAL OFFICERS' RETURN

Pursuant to 30-A MRSA 2528(5) we have notified the inhabitants of the Town Bar Harbor of a public hearing, to be held at the time and place and for the purposes therein named by posting attested copy of the within Notice on the Bulletin Board, Municipal Building, being conspicuous public place within said Town on the 17th day of September in the year of our Lord Two Thousand and Twenty, being at least seven days before the hearing.

Given under our hands this sixth day of October 2020.

Municipal Officers of the Town of Bar Harbor

_____	_____
Jefferson Dobbs, Chair	Matthew A. Hochman, Vice Chair
_____	_____
Gary Friedmann	Jill Goldthwait
_____	_____
Erin Cough	Joseph Minutolo

Valerie Peacock	

Attest:
A true copy _____
Town Clerk of Bar Harbor, ME

General Assistance Ordinance Amendment Appendices A-H

Town of Bar Harbor
#2020-12

An Amendment for the annual revision of maximum benefit levels for Appendices A-H for the period 10-1-2020 to 9-30-2021 pursuant to 22 MRSA 4305(4).

The Town of Bar Harbor hereby ordains that Chapter 102, General Assistance, of the Town Code is amended as follows:

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

CHAPTER 102 – GENERAL ASSISTANCE

Appendix A

Effective 10-1-201920 to 9-30-202021

GA OVERALL MAXIMUMS

Persons in Household	1	2	3	4	5*
Hancock County	818 <u>836</u>	855 <u>871</u>	1,036 <u>1,047</u>	1,307 <u>1,319</u>	1,433 <u>1,445</u>

Please Note: add \$75 for each additional person.

Appendix B

Effective 10-1-201920 to 9-30-202021

FOOD MAXIMUMS

Please Note: The maximum amounts allowed for food are established in accordance with the USDA Thrifty Food Plan. As of October 1, 201920, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	45.12 <u>47.44</u>	194 <u>204</u>
2	82.56 <u>86.98</u>	355 <u>374</u>
3	118.37 <u>124.42</u>	509 <u>535</u>
4	150.23 <u>158.14</u>	646 <u>680</u>
5	178.60 <u>187.67</u>	768 <u>807</u>
6	214.19 <u>225.35</u>	921 <u>969</u>
7	236.74 <u>249.07</u>	1,018 <u>1,071</u>
8	270.70 <u>284.65</u>	1,164 <u>1,224</u>

Note: For each additional person add \$~~146~~153 per month.

Appendix C

Effective 10-1-201920 to 9-30-202021

GA HOUSING MAXIMUMS

Bedrooms	Unheated		Heated	
	Weekly	Monthly	Weekly	Monthly
Hancock County				
0	155 <u>159</u>	667 <u>682</u>	178 <u>182</u>	764 <u>783</u>
1	155 <u>159</u>	667 <u>682</u>	184 <u>188</u>	791 <u>809</u>
2	184 <u>186</u>	792 <u>801</u>	223 <u>227</u>	958 <u>975</u>
3	234 <u>238</u>	1,007 <u>1,022</u>	283 <u>287</u>	1,216 <u>1,235</u>
4	248 <u>251</u>	1,067 <u>1,079</u>	308 <u>312</u>	1,324 <u>1,342</u>

Appendix D

Effective 10-1-201920 to 9-30-202021

ELECTRIC UTILITY MAXIMUM

No changes

Appendix E

Effective 10-1-201920 to 9-30-202021

HEATING FUEL

No changes

Appendix F

Effective 10-1-201920 to 9-30-202021

PERSONAL CARE AND HOUSEHOLD SUPPLIES

No changes

Appendix G
Effective ~~10-1-2007~~20 to ~~10-1-2008~~9-30-2021

MILEAGE RATE

Repeal and replace with:

2020-2021 Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 45 cents (45¢) per mile.

Please refer to the Office of State Controller for changes to this rate:
Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

Appendix H
Effective ~~10-1-2019~~20 to ~~9-30-20~~2021

FUNERAL MAXIMUM

Repeal and replace with:

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **\$1,475**. The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and

- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **\$1,025**.

The municipality's obligation to provide funds for cremation purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable cremation expenses are limited to:

- removal and transportation of the body from a local residence or institution
- professional fees
- crematorium fees
- a secured death certificate or obituary
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$55
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

Water Budget Ordinance Amendment

Town of Bar Harbor

#2020-13

An Ordinance Amendment to Adopt the Fiscal Year 2021 Water Budget

The Town of Bar Harbor hereby ordains that Chapter 201, Water, of the Town Code is amended as follows:

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

Chapter 201, Water

ARTICLE III, Water Budget, Rates Fees and Charges

§ 201-11 **Water budget.**

A. Budget adopted. The fiscal year ~~2021~~ Water Budget, dated ~~July 16, 2019~~September 15, 2020, is hereby adopted as published and summarized below.

- (1) Cash. Net cash generated is estimated to be ~~\$38,632~~<362,922>.
- (2) Revenues.
 - (a) PUC regulated revenues are estimated to be ~~\$2,127,302~~2,099,804.
 - (b) Total water revenues are estimated to be ~~\$2,151,302~~2,124,804.
- (3) Expenses. The following appropriations are hereby approved:
 - (a) Nonoperating expenses: ~~\$<4,400>~~.
 - (b) Salaries and wages: ~~\$301,594~~316,461.
 - (c) Payroll benefits: ~~\$151,200~~166,350.
 - (d) Contractual services: ~~\$283,662~~295,283.
 - (e) Materials and supplies: ~~\$119,300~~123,700.
 - (f) Utilities and commodities: ~~\$64,100~~64,000.
 - (g) Repairs and maintenance: ~~\$156,400~~164,000.
 - (h) Equipment purchases: ~~\$7,400~~18,500.
 - (i) Other: insurance, travel, advertising and miscellaneous: ~~\$46,800~~47,500.
 - (j) Interest: ~~\$132,736~~123,460.
 - (k) Depreciation and amortization: ~~\$315,647~~324,687.
 - (l) Capital spending: ~~\$302,676~~570,000.

[end of ordinance]



Town of Bar Harbor Application for Special Amusement Permit

VII D1

Fee
\$129

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

Date: 9/8/20 Application Type: New _____ Renewal yes Permit Number: _____
(assigned by Town)

Applicant Name: Tom St.Germain Business Name: Jack Russell's Steak House

Business Address: 102 Eden Street Mailing Address: PO BOX 262 BH 04609
Physical Address in Bar Harbor If different

Type of Business: restaurant Location to be used: barn, lounge
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place?
Use back of page if necessary.

Phone: 2072661595

Has a liquor license or special amusement permit for this business ever been denied or revoked? Yes _____ No X
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 X
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

*Dancing also requires a state permit & Fire Marshall inspection

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.

[Signature]
Applicant's Signature

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

Sharon M Linscott, Town Clerk

Revised 07/08/2019

Cornell Knight

From: Cornell Knight
Sent: Friday, September 25, 2020 2:21 PM
To: SDeWalt; Steve Fuller
Cc: manager@barharbormaine.gov; Michele Gagnon; Treeoflifedayspa Info; council@barharbormaine.com
Subject: RE: Local Authorization Form

Ms DeWalt

The Town Council Chair has placed this item on their October 6th meeting agenda at 5 pm.
Cornell Knight

From: SDeWalt <mbacpamom@yahoo.com>
Sent: Wednesday, September 23, 2020 5:55 PM
To: Steve Fuller <sfuller@barharbormail.org>
Cc: manager@barharbormaine.gov; Michele Gagnon <planner@barharbormaine.gov>; Treeoflifedayspa Info <info@treeoflifedayspa.com>; council@barharbormaine.com
Subject: Re: Local Authorization Form

Thanks for your email Steve. I really appreciate you providing the insights to the process and replying so quickly. How do I formally ask the board to reconsider their position to opt in for a retail establishment? I understand it may be a lengthy process and I appreciate the process as I want the community support. I have several long standing businesses in the town and as you know it has been a very difficult year with the pandemic and decimated tourist season but I remain committed to Bar Harbor for the long term.

Please let me know how to proceed with the formal request.

Thank you in advance and stay well,

~Sheryl

On Wednesday, September 23, 2020, 11:13:51 AM EDT, Steve Fuller <sfuller@barharbormail.org> wrote:

Hi Sheryl,

Thank you for your email and reaching out. I appreciate you sharing the background information about your businesses, and the factors that have brought you to the present point.

Before any local authorization could be considered and possibly granted, there would have to have been an affirmative vote to allow such an establishment in Bar Harbor.

This is the so-called "opt-in" provision under Maine law: that a municipality must first opt-in to allow adult use marijuana establishments. That is what is referred to in question 1 in Section 3(a) of the form you attached:

Has the legislative body of the municipality voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate as indicated in the "License Type" box of Section 1 of this form?

My understanding is, in this case, that the "legislative body of the municipality" would be the Town Council. However, no such vote has taken place. So that would need to happen first.

If there was interest in and support for opting in, I believe it is also likely that the town would want to look at where (i.e., what zoning districts) in Bar Harbor such establishments would be allowed or not allowed.

That could take some time and would eventually require a town-wide vote, as anything involving zoning like that is a land-use matter and under Town Charter has to go to the voters.

You asked for insight on whom to contact; given the information above, and that he works closely with the Town Council, I think Town Manager Cornell Knight (CC'd on this email, along with Planning Director Michele Gagnon) is the answer. His email is manager@barharbormaine.gov.

I hope this is helpful. If you have additional questions, please let me know and I'll do my best to answer them or put you in contact with a person who can.

Thank you.

- Steve

Steve Fuller, Assistant Planner

Town of Bar Harbor

93 Cottage Street, Suite I

Bar Harbor, ME 04609-1400

Phone: (207) 288-3329

sfuller@barharbormaine.gov

From: SDeWalt <mbacpamom@yahoo.com>
Sent: Friday, September 18, 2020 5:24 PM
To: sfuller@barharbormaine.gov; Treeoflifedayspa Info <info@treeoflifedayspa.com>
Subject: Local Authorization Form

Hi Steve-

I am reaching out to you in the hopes you may provide some guidance. First, I will provide you a little background as I haven't had the opportunity to meet you in person. I am the owner of several businesses located on Cottage St in Bar Harbor. Specifically the Tree of Life Day Spa, Acadia School of Massage and SalonNaturelles. We have been operating the Tree of Life and Acadia School of Massage for over 15 years. This business has been employing island residents in year round since inception in 2005. I assumed SalonNaturelles from the founder in July this year. The salon has operated as a year round business since 2014. The pandemic was going to force the permanent closure of the salon. It has been a difficult year as you know in BH, the pandemic restrictions and forced closures created many hardships on our businesses. Thankfully, we have had the ability to keep all employees employed including absorbing the salon employees. In fact, we are in process of recruiting new hires for both businesses. I currently rent three properties from Bar Harbor residents/landlords for these businesses and we fortunately have kept those bills paid as well. Given all that was happening, I decided to apply for a Retail Marijuana Dispensary License through the state. The reason is that we utilize CBD products at our spa already and have had many clients requesting the retail products that contain THC and thus requiring a license. The plan is to use our 114 Cottage Street location as the retail location. It is a separate building but very close to our spa so clients can easily access both. We received a conditional license recently and the next step is to receive local authorization (I have attached the form). I was wondering if you might have any insights on whom to contact so we can begin the process to seek approval.

I really appreciate any insights and recommendations you might be able to provide. My cell # is 617-866-8357 if it is helpful to discuss over the phone.

Thank you in advance,

~Sheryl

MEMORANDUM

TO: Cornell Knight, Bar Harbor Town Manager
FROM: Rudman Winchell (Edmond J. Bearor; Stephen W. Wagner)
DATE: 10/2/2020
RE: Adult-Use Marijuana Stores

1) If there is an initiative to "opt in" and allow adult-use marijuana retail stores in Bar Harbor pursuant to 28-B M.R.S. § 402(3)(A), but that referendum or initiative does not also amend the Land Use Ordinance would marijuana stores be allowed in every district where a retail establishment is allowed?

No.

Even if the Town, be it by act of the Town Council or by act of the Town Meeting via initiative, "opts in" and allows adult-use marijuana stores, a marijuana store would then be an allowed use in any given district only if the Land Use Ordinance is amended to allow that use.

Under 28-B M.R.S. § 402(3)(A), a marijuana store (or any of the other three types of adult-use marijuana establishments) is not allowed in a given municipality unless the "legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment." The statute authorizes municipalities to regulate marijuana through regulations and restrictions, including, but not limited to, land use regulations, general authorization or limitation, and municipal licensing requirements. 28-B M.R.S. § 401.

In Bar Harbor, the legislative body is generally the Town Council except that the Town Meeting has exclusive authority to act on articles pertaining to the Town's Land Use Ordinance. Town of Bar Harbor Charter, §§ C-6(B)(3); C-10(A)(9). Additionally, via the initiative or referendum process, qualified voters may enact or repeal ordinances or resolutions. *Id.* § C-43(A)-(B). An amendment to the Land Use Ordinance—which may be initiated by citizen petition, a property owner request, the Planning Board, or the Town Council—is subject to notice and hearing requirements that are distinct from any other procedures for enacting or amending any other type of ordinance or resolution. Bar Harbor Code, § 125-9. Any use not specifically allowed as either a permitted use or a permitted use with site plan approval is specifically prohibited. *Id.* § 125-7.

Therefore, either the Town Meeting or the Council may pass an ordinance to "opt in" and allow adult-use marijuana retail stores. That ordinance could regulate the retail stores through a variety of means, such as a licensing and permitting scheme. However, unless the Land Use Ordinance is amended pursuant to the procedures of section 125-9, the use would not be permitted in any given district. *Id.*

It is conceivable that one might argue that a marijuana store would be allowed in any district in which a "retail establishment" is allowed if the Town Meeting or Council votes to allow that use,

even if the Land Use Ordinance is not amended to specifically allow it in any given district. This is because marijuana is a "good," and sale of a good is a "business," and "[r]etail Establishment" is defined as "[a]ny business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption or use but not for resale." *Id.* 125-109 (emphasis added). However, this argument would not likely withstand legal scrutiny. If the Town took the position that "retail establishment" does not include a "marijuana store," and this position was challenged, it is our opinion that the Town would most likely prevail for the following reasons.

Section 125-7 states the intent of the Land Use Ordinance is to only permit a use in a given district when that use is "specifically allowed." Therefore, the definitions of uses must be construed narrowly. All words, except construction or structure-related terminology, shall have the "meaning implied by their context in the chapter or their ordinarily accepted meanings found in the current edition of Webster's Collegiate Dictionary; provided, however, that with respect to any permitted use that is not defined in § 125-109, such use shall be defined by reference to the Standard Industrial Classification and only then, if not defined therein, by reference to the current edition of Webster's New Collegiate Dictionary." *Id.* § 125-108.

Here, the context of the entire Land Use Ordinance does not support the argument. The Land Use Ordinance does not mention marijuana, so it is not reasonable to conclude that "retail establishment" should be construed to include sale of a product not at all anticipated by the ordinance, especially when that product is a controlled substance. *A Fryeburg Tr. v. Town of Fryeburg*, 2016 ME 174, ¶ 5, 151 A.3d 933 ("We construe the terms of an ordinance reasonably, considering its purposes and structure and to avoid absurd or illogical results.") Additionally, the Land Use Ordinance specifically defines "grocery store"—also a business that sells goods—suggesting an intent to treat certain specific and specialized retail stores differently than general retail stores. *Id.* § 125-109 ("grocery store"). Moreover, "marijuana store" is a term defined by state statute and is subject to a three-part licensing scheme and extensive regulations concerning its physical structure and operations. Even though section 125-108 does not state that interpretation of a defined use should be governed by state statute when applicable, it is very doubtful that a Court would ignore that a "marijuana store" is a term specifically defined by statute and allowed in a municipality only when specifically authorized by the municipality's legislative body. *See Town of Fryeburg*, 2016 ME 174, ¶ 5, 151 A.3d 933. Finally, the characterization of proposed uses in applications for local permits presents a "mixed question of law and fact." *Jordan v. City of Ellsworth*, 2003 ME 82, ¶ 8, 828 A.2d 768. Therefore, a Court would give at least some deference to the Town's interpretation that a marijuana store is not a retail establishment under the Land Use Ordinance. *See id.*

2) Could the Town Council "opt in" and allow adult-use marijuana retail stores in Bar Harbor conditioned upon amending to the Land Use Ordinance by a certain date?

Yes. The Council could vote to allow adult-use marijuana stores in Bar Harbor, subject to the condition that said use be allowed only upon amendment of the Land Use Ordinance and/or enactment of a marijuana licensing ordinance by a certain date.

Title 28-B §402. Local authorization of marijuana establishments within municipalities

1. Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [PL 2017, c. 409, Pt. A, §6 (NEW).]
[PL 2017, c. 409, Pt. A, §6 (NEW).]

2. Minimum authorization criteria. A municipality may not authorize the operation of a marijuana establishment within the municipality if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 2017, c. 409, Pt. A, §6 (NEW).]

3. Local authorization required for operation of marijuana establishment within municipality. A person may not operate a marijuana establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment; [PL 2017, c. 409, Pt. A, §6 (NEW).]

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of marijuana establishment; and [PL 2017, c. 409, Pt. A, §6 (NEW).]

C. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [PL 2017, c. 409, Pt. A, §6 (NEW).]

A municipality may certify to the department a person's compliance with the requirements of paragraph B on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

[PL 2017, c. 409, Pt. A, §6 (NEW).]