

Minutes
Bar Harbor Town Council
July 19, 2016

- I. **CALL TO ORDER** – 7:00 p.m. – In attendance were Councilors: Paul Paradis, Gary Friedmann, Anne Greenlee, Peter St. Germain, Matthew Hochman; and Town Manager Cornell Knight.
- A. **Excused Absence(s)** – Ms. Greenlee, with second by Mr. St. Germain, moved to excuse Councilors Stivers and Barker as provided by Town Charter section C-12.B(1)(d). Motion passed 5-0.
- II. **COMMITTEE APPOINTMENTS** –
- A. *Council to consider Appointments Committee recommendations to appoint the following with expiration date of July 31 of their applicable year:*
1. **Recycling Task Force:** (includes one Councilor representative)
 - a. Two year term: Martha Searchfield , Michael Handwerk
 - b. Three year term: Arnold Lundquist, Ken Smith, Robert RechholtzMr. St. Germain, with second by Ms. Greenlee, moved to endorse and nominate the Appointments Committee slate of applicants to the Recycling Task Force as presented. Motion passed 5-0.
 2. **Cruise Ship Committee:** (All 3 year terms)
 - a. CruiseMaine representative: Amy Powers
 - b. Scientific Industry representative: Chris MallerMr. St. Germain, with second by Ms. Greenlee, moved to endorse and nominate the Appointments Committee slate of applicants to the Cruise Ship Committee as presented. Motion passed 5-0.
 3. **Harbor Committee:**
 - a. Three year term: Chris Maller
 4. **Appeals Board:**
 - a. Three year term: Linda MartinMr. St. Germain, with second by Ms. Greenlee, moved to endorse and nominate the Appointments Committee applicant, Linda Martin, for the Appeals Board as presented. Motion passed 5-0.
- B. Council to consider appointments from appropriate nominating authority:
1. **Bar Harbor Housing Authority:**

- a. Five year term: Richard Fox

Mr. St. Germain nominated Richard Fox to the Housing Authority for a five year term. There being no further nominations; Richard Fox was unanimously appointed.

2. **Voter Registration Appeals Board Chair:**

- a. Four year term: Jennifer McWain

Mr. St. Germain nominated Jennifer McWain to the Voter Registration Appeals Board as Chair for a four year term. There being no further nominations, Jennifer McWain was unanimously appointed.

III. **PUBLIC COMMENT PERIOD** – *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.* – Ms. Ann Zoidis suggested the Council consider a derelict and empty building tax to provide incentives to maintain or occupy. She pointed out the former Nakorn Thai building on Cottage Street which remains unoccupied and rundown.

IV. **APPROVAL OF MINUTES** –

- A. *July 5, 2016 Regular Meeting* – Request of Councilor Greenlee to amend the spelling of her name in item I. A. Mr. St. Germain, with second by Ms. Greenlee, moved to approved the minutes of July 5, 2016 as amended. Motion passed 5-0.

V. **FINANCIAL STATEMENTS** – *Review and possible adoption of a motion to accept the financial statements as presented.* – Following a brief overview from the Finance Director Stan Harmon; Mr. Friedmann, with second by Mr. St. Germain, moved to accept and file the financial statements in the Finance Director's memo dated 7/12/16. Motion passed 5-0.

VI. **ADOPTION OF AGENDA** – Mr. Friedmann, with second by Ms. Greenlee, moved to adopt the agenda as presented. Motion passed 5-0.

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

- A. **Special Amusement Permit: Little A's** – *Possible motion to file update status memo from Police Chief.*
- B. **Maine Municipal Association Annual Election** – *Possible passage of a motion to vote the slate of candidates for Vice-President and Executive Committee members proposed by the MMA Nominating Committee and authorize the Town Clerk to sign and return the ballot.*
- C. **Maine Municipal Association** – *Possible passage of a motion to vote the slate of candidates for MMA's Legislative Policy Committee.*
- D. **Vehicle for Hire** – *Possible motion to approve the following taxi licenses:*

- 1. **Moe’z Taxi** request for one additional taxi license as submitted by Maureen Leeman. Proof of Insurance provided. Approved by Police Dept.
- 2. **Bar Harbor Coastal Cab** request for one additional taxi license as submitted by Craig Wood. Proof of Insurance provided. Approved by Police Dept.

Mr. St. Germain, with second by Ms. Greenlee, moved to approve the consent agenda as published. Motion passed 5-0.

VIII. PUBLIC HEARINGS:

- A. **FY17 Sewer Budget Ordinance Amendment - Public comment and possible adoption on the proposed FY17 Sewer Budget Ordinance amendment.** – Following a brief explanation from the Finance Director Stan Harmon, who highlighted zero increase in the rates, the same as the previous three years; Ms. Greenlee, with second by Mr. St. Germain, moved to adopt the Sewer Ordinance Amendment, Chapter 165, as proposed. Motion passed 5-0. There were no comments from the public.

Sewer Ordinance Amendment

Town of Bar Harbor

#2016-02

An Amendment to Adopt the Fiscal Year 2017 Sewer Budget, Rates, Fees and Charges.

The Town of Bar Harbor hereby ordains that Chapter 165, Sewers, of the Town Code is amended as follows:

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

Chapter 165 , SEWERS

ARTICLE III, Sewer Budget and Rates

§ 165-7.1 Sewer budget, fees and charges.

- A. Budget ~~adopted~~ introduced. The fiscal year 2016~~7~~ Sewer Budget, dated ~~August 4, 2015~~ May 13, 2016, is hereby ~~adopted~~ introduced as published and summarized below.

- (1) Fund balance. Designated fund balances are estimated as follows:

- (a) Estimated starting designated fund balances:

- [1] Working Capital: \$440,624.

- [2] CIP Projects: ~~\$1,262,846~~ 1,258,950.

- (b) Ending designated fund balance:
 - [1] Working Capital: ~~\$440,624~~ 439,082.
 - [2] CIP Projects: ~~\$1,258,950~~ 1,569,380.
- (2) Revenues.
 - (a) Total revenues and other sources are estimated to be: ~~\$2,133,000~~ 2,131,500.
 - (b) Revenue for the sewer rates shall be calculated from the total operating and capital appropriations minus any non-rate revenues:
 - [1] Total revenue derived from sewer rate: ~~\$2,078,052~~ 2,077,908.
- (3) Expenses. Total appropriations shall be:
 - (a) Operating Fund: ~~\$1,330,551~~ 1,328,664.
 - (b) Capital Fund: ~~\$865,500~~ 865,744.
- (4) Rates.
 - (a) Rate of \$7.80 per 100 cubic feet of water used.
 - (b) Minimum bills.
 - [1] Residential customers: \$46.80 for up to 600 cubic feet of water used per quarter.
 - [2] Nonresidential customers: \$132.60 for up to 1,700 cubic feet of water used per quarter.
 - [3] Unmetered customers: \$101.40 per quarter (based on 1,300 cubic feet of water used).
 - (c) Septic tank pumpage: \$11.22 per 100 gallons.
 - (d) Sludge disposal: \$6.72 per 100 gallons.
 - (e) Connection fee rate (per inch): \$100 per inch diameter of the service connection.
 - (f) Connection fee rate (per gallon): \$10.60 per gallon of sewage per day.
 - (g) Late payment penalty: 7.0% per annum.

[End of Ordinance]

B. FY17 Water Budget Ordinance Amendment - Public comment and possible adoption on the proposed FY17 Water Budget Ordinance amendment.

- Following a brief explanation from the Finance Director Stan Harmon, who highlighted the FY17 budget reflects no increase, however, there was a water rate increase last January. Revenues are projected to increase by 8% due to the assumption of use based on the January rate increase. The operating expenditure is up by 1.4% due to non-cash depreciation expenses from prior capital upgrades. Mr. Harmon noted a section in the Introduction that speaks of Fire Protection for those who previously had questions.

Ms. Greenlee, with second by Mr. St. Germain, moved to adopt the Water Ordinance Amendments, Chapter 201, as proposed and update the water rates effective January 1, 2016 as approved by the Public Utilities Commission. Motion passed 5-0.

Water Budget Ordinance Amendment

Town of Bar Harbor

#2016-03

An Ordinance Amendment to Adopt the Fiscal Year 2017 Water Budget and update the Water rates effective January 1, 2016 as approved by the PUC.

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.

Article III

Water Budget, Rates, Fees and Charges

§ 201-11 Water budget.

A. Budget ~~introduced adopted~~. The fiscal year 2016~~7~~ Water Budget, dated ~~June 21, 2016~~ ~~June 16, 2015~~, is hereby introduced adopted as published and summarized below.

- (1) Cash. Net cash generated is estimated to be ~~\$127,043~~ 37,511.
- (2) Revenues.
 - (a) PUC regulated revenues are estimated to be ~~\$1,919,305~~ 2,073,402.

- (b) Total water revenues are estimated to be ~~\$1,930,105~~ 2,084,202.
- (3) Expenses. The following appropriations are hereby approved:
 - (a) Nonoperating expenses: \$4,600.
 - (b) Salaries and wages: ~~\$291,225~~ 297,674.
 - (c) Payroll benefits: ~~\$141,700~~ 143,900.
 - (d) Contractual services: ~~\$254,766~~ 256,667.
 - (e) Materials and supplies: ~~\$107,400~~ 111,500.
 - (f) Utilities and commodities: ~~\$62,100~~ 59,400.
 - (g) Repairs and maintenance: ~~\$140,800~~ 145,300.
 - (h) Equipment purchases: ~~\$21,600~~ 7,150.
 - (i) Other: insurance, travel, advertising and miscellaneous:
~~\$43,200~~ 42,984.
 - (j) Interest: ~~\$119,736~~ 167,021.
 - (k) Depreciation and amortization: ~~\$284,883~~ 301,883.
 - (l) Capital spending: ~~\$1,848,750~~ 248,300.

§ 201-12 **Water rates.**

- A. Rates adopted. Effective with the approval of the Maine Public Utilities Commission (PUC), the following rates are hereby established, unless otherwise approved by the PUC:
- B. Quarterly and monthly rates for water to metered annual consumers:
 - (1) Quarterly rate:
 - (a) For the first 1,200 cubic feet per quarter: ~~\$56.43~~ 76.17 per quarter.
 - (b) For the next 10,800 cubic feet per quarter: ~~\$3.28~~ 4.42 per 100 cubic feet.
 - (c) For the next 78,000 cubic feet per quarter: ~~\$1.53~~ 2.07 per 100 cubic feet.
 - (d) For all in excess of 90,000 cubic feet per quarter: ~~\$1.04~~ 1.35 per 100 cubic feet.
 - (2) Monthly rate:
 - (a) For the first 400 cubic feet per month: ~~\$18.81~~ 25.39 per month.
 - (b) For the next 3,600 cubic feet per month: ~~\$3.28~~ 4.42 per 100 cubic

- (c) For the next 26,000 cubic feet per month: ~~\$1.53~~ 2.07 per 100 cubic feet.
 - (d) For all in excess of 30,000 cubic feet per month: ~~\$1.01~~ 1.35 per 100 cubic feet.
- (3) Minimum charges:

Water Allowance

Meter Size (inches)	(cubic feet)		Minimum Charge	
	Quarterly	Monthly	Quarterly	Monthly
5/8	1,200	400	\$56.43 <u>76.17</u>	\$18.81 <u>25.39</u>
3/4	1,800	600	\$76.09 <u>102.69</u>	\$25.36 <u>34.23</u>
1	3,000	1,000	\$115.41 <u>155.73</u>	\$38.47 <u>51.91</u>
1 1/2	6,000	2,000	\$213.72 <u>288.33</u>	\$71.24 <u>96.11</u>
2	9,600	3,200	\$331.69 <u>447.45</u>	\$110.56 <u>149.15</u>
3	18,000	6,000	\$501.90 <u>677.72</u>	\$167.30 <u>225.91</u>
4	30,000	10,000	\$685.03 <u>926.13</u>	\$228.34 <u>308.71</u>
6	60,000	20,000	\$1,142.85 <u>1,547.13</u>	\$380.95 <u>515.71</u>

- (4) Seasonal rates for metered seasonal consumers:

(a) Seasonal rate:

- [1] For the first 1,600 cubic feet per season: ~~\$149.35~~ 201.63 per season.
- [2] For the next 10,400 cubic feet per season: ~~\$6.58~~ 8.87 per 100 cubic feet.
- [3] For the next 78,000 cubic feet per season: ~~\$3.06~~ 4.13 per 100 cubic feet.
- [4] For the next 300,000 cubic feet per season: ~~\$1.53~~ 2.07 per 100 cubic feet.
- [5] For all in excess of 390,000 cubic feet per season: ~~\$1.17~~ 1.58 per

100 cubic feet.

(b) Minimum charges:

Meter Size (inches)	Water Allowance (cubic feet)	Minimum Charge
5/8	1,600	\$149.35 <u>201.63</u>
3/4	2,400	\$201.97 <u>272.66</u>
1	4,000	\$307.21 <u>414.73</u>
1 1/2	8,000	\$570.31 <u>769.92</u>
2	12,800	\$857.92 <u>1,158.19</u>
3	24,000	\$1,201.09 <u>1,621.47</u>
4	40,000	\$1,691.32 <u>2,283.28</u>
6	80,000	\$2,916.91 <u>3,937.81</u>

(5) Private fire protection:

(a) Availability. This rate is available to customers using the Town water service for private fire protection. The following rates apply to fire protection only and include no allowance for water for other than for fire-fighting purposes.

(b) Rates.

[1] Each private hydrant furnished, installed and maintained by the user for private protection shall be charged for per year: ~~\$1,009~~
1,362.

[2] Private fire service rate for automatic sprinklers, standpipes or hose connections to be used only for fire protection inside buildings: a charge per inch of service pipe diameter of ~~\$126.12~~
170. per year.

(6) Public fire protection:

- (a) Availability. This rate is available to the Town of Bar Harbor for municipal fire protection.
- (b) Rates.

[1] For the existing 105 hydrants installed as of January 1, 2009~~16~~, a total annual amount of \$~~410,492~~ 585,602.

[2] Rates for hydrants installed after the effective date of the PUC order shall be determined in accordance with Chapter 690 of the Public Utilities Commission's Rules and Regulations.

[end of ordinance]

IX. **REGULAR BUSINESS:**

- A. **YMCA Fee for Service MOU** – *Annual report of YMCA executive director on the recreation services provided to Bar Harbor residents in 2015 under the terms of our Memorandum of Understanding.* – YMCA Board member Dean Read and new Executive Director Tommy Parham reported 75% of their members are Bar Harbor residents. They serve as the Town's recreational center. As outlined in the MOU, the services they provide were expanded in 2015. An increase in financial aid for summer camp scholarships, free public restrooms; purchased a water fountain with bottle filling station for public use; extended afterschool hours to 5:30 pm to accommodate working families; provide youth t-ball; added another two hours per week of track time use. In 2015, added Free Senior Social, the 'Brew Club', and awarded \$21,293 in scholarships for annual membership to Bar Harbor residents.

Following comments and expression of appreciation from Council, Mr. Friedmann, with second by Mr. St. Germain, moved to accept the YMCA annual report. Motion passed 5-0.

- B. **Parking Space Requests:** *Parking & Traffic Committee discussed and denied the following requests -*

1. *Request of Joshua Ehrlich to remove one parking space at the corner of Cottage Street and Greeley Avenue.* – The Parking and Traffic Committee denied the request because it did not meet the ordinance requirements and they do not have the authority to waive it.

Mr. Ehrlich and neighbors stated the need for safety. The site is obstructed with larger vehicles parked in the first space thus hindering view of oncoming traffic. The building at the corner also contributes to the poor line of site and safety is further compromised by the tight entrance to Greeley Avenue.

Following discussion and comments from the public, Mr. Friedmann, with second by Ms. Greenlee, moved to accept the proposal to eliminate the parking space at the corner of Greeley and Cottage Street.

Motion failed 2-3 (Nay: Mr. Paradis, Mr. St. Germain, Mr. Hochman). Councilors Paradis and St. Germain were reluctant to support the request without changing the standard.

2. *Request of Ann Zoidis to restore non-compliant handicap parking spaces on Cottage Street.* – The Committee also denied this request because it cannot meet the ADA standards. Once a non-conforming space has been removed during road repair, it's required to be upgraded. Ms. Zoidis looked into ADA requirements and suggested checking into waivers. She noted Bar Harbor's number of handicap parking spaces fall short of the ADA requirement of one handicap space for every twenty-five spaces.

Following comments from residents Noreen Hunter, Joe Cough, Jeff Dobbs, Chamber Executive Director Martha Searchfield and Council; Mr. Hochman, with second by Ms. Greenlee, moved to reinstate the two handicap parking spaces on Cottage Street in front of the Criterion Theatre. Motion passed 3-2 (Nay: Mr. Paradis, Mr. St. Germain).

- C. **November 2016 Warrant: Land Use Ordinance Amendments** – *Update from Planning Director and possible motion to certify LUO amendments for November 2016 and schedule public hearing for August 16, 2016.* – Planning Director Robert Osborne summarized the Planning Board's public hearing and board debate on the proposed Parking ordinance amendments. The Planning Board recommended by a vote of 3 to 2 in favor of combining draft orders b through e into one article, then order f not be presented in November but in June to see how voters vote in November. Draft order a is recommended to move forward as presented.

The reason for postponing draft order f is because it eliminates the only two districts that allow parking garages, and before eliminating the use to nowhere, it's thought to wait and see if voters vote the use elsewhere.

Combining draft orders b through e eliminates picking and choosing different districts and use, this will first clarify which districts it's allowed. This article restores the use in three districts: Bar Harbor Gateway, Downtown Village I and Downtown Village II districts, and adds the use in two additional districts: Educational Institutional district and Scientific Research for Eleemosynary Purposes district.

Following comments from the public, Planning Board members, and Council; Mr. Friedman, with second by Mr. St. Germain, moved to certify and sign the Parking Ordinance Amendments to the Land Use Ordinance as recommended by the Planning Board for the November 2016 Warrant and schedule a public hearing on the warrant for August 16, 2016 at 7 pm. Motion passed 5-0.

- D. **Solar Farm** – *Possible motion to move site from ground mount to pole barn roof.* – Town Manager Cornell Knight provided a brief explanation of wetlands and setback issues which generated the request from ReVision

Energy to relocate the site and the need for one more utility pole. Following comments from the public and Council; Mr. St. Germain, with second by Mr. Hochman, moved to allow the solar farm installation on the roof of the pole barn at the Public Works Facility. Motion passed 5-0.

- E. **FY17 Budget** – *Request of Fire Chief Bartlett to combine the FY17 budgets of Fire and Ambulance Division.* – Fire Chief Bartlett’s request to combine the two budgets will match actual day to day operations and increases efficiency in payroll. Mr. St. Germain, with second by Ms. Greenlee, moved to consolidate the Ambulance Division budget #1040 into the Fire Department budget #1042. Motion passes 5-0.
- F. **Parking Solutions Task Force** – *Possible amendment to Parking Solutions Task Force Bylaws to include representation from Acadia National Park.* – Informal request from ANP Management Assistant John Kelly for a seat on the Parking Solutions Task Force. He stated that ANP is also working on parking solutions and traffic management. Council expressed the need for two-way conversation and equal opportunity to participate in the Park’s parking and traffic management plan since decisions made by either entity could potentially impact the other. Discussion ensued, Mr. Friedmann, with second by Mr. Hochman, moved to amend the Parking Solution Task Force Bylaws membership to include one additional seat for a non-voting representative from Acadia National Park. Motion passed 3-2 (Nay: Mr. Paradis, Mr. St. Germain).

Ms. Greenlee moved to amend the motion for voting member. Motion failed due to lack of second.

- G. **Appointments Policy Amendment** – *Possible motion to approve the amendment dated 07/15/16, deleting the number of terms a member may serve.* – Mr. Hochman, with second by Ms. Greenlee, moved to amend the Appointments Policy by deleting the sentence that limits serving to three consecutive terms. Motion passed 5-0.

Appointments Policy Town of Bar Harbor

Appointments Policy

The Appointments Committee shall consist of 3 Councilors appointed by the Council Chair annually at the organizational meeting held every June. Terms shall be for one year. Appointments Committee members may serve a maximum of two consecutive terms, and may serve again after a lapse in service of three years. The Town Clerk shall annually advertise all expiring terms on standing boards and committees. The advertising shall be in the local newspaper, on the Town’s website and on the cable tv access channel. Service as an alternate member shall not count toward the terms allowed as a regular voting member.

Interested citizens, including incumbents up for reappointment shall fill out an application supplied by the Town Clerk.

~~A citizen may serve up to 3 full consecutive terms as a regular member of a standing board or committee.~~

The Appointments Committee shall seek to meet with all prospective appointees in order to discuss special qualifications, expertise and interest of applicants. A telephone interview is acceptable.

The Appointments Committee recommendations will be in the form of nominations to the Town Council at a regular meeting. The nominations are not limited to the number of vacancies on a given board or committee. The Appointments Committee may also choose not to make nominations and request that the Town Council repost the vacancies. This does not preclude another Councilor from making a nomination from the list of interviewed applicants. A nomination to a board or committee does not require a second.

In the event an incumbent member of a board or committee has not reapplied for a position and the member's term has expired, the position will be considered vacant upon the expiration of the term.

Unless otherwise specified in the Code of the Town of Bar Harbor, the Town Council may remove any board or committee member and appoint a successor for the unexpired term of any member who fails to attend four consecutive regular meetings or fails to attend seventy-five percent of all meetings during the preceding 12 month period. The Town Council may waive attendance provisions for due cause. Attendance records will be part of the Appointments Committee review process.

All newly appointed members of a board or committee shall take the Ethics Ordinance Quiz. The quiz shall be repeated by all members at least every three years. All members of boards and committees must be sworn in by the Town Clerk prior to the first meeting in order to participate and have voting rights.

H. **Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. Friedmann, with second by Mr. St. Germain, moved to sign the Treasurer's Warrant for paid bills. Motion passed 5-0.

X. **TOWN MANAGER'S COMMENTS** – Mr. Knight reminded Council that next meeting, August 2nd, the workshop with Town Attorney Ed Bearor on roles and responsibilities of Town Councilors starts at 5:45 p.m.

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

Mr. St. Germain suggested contacting the Town Attorney and inquire if he has heard of the ADA waiver for handicap parking.

Mr. Friedmann questioned what happened at the Route 3 Reconstruction Meeting, he was unavailable to attend. Does the design offer a friendly, inviting feel? He questioned if the pedestrian path is something other than asphalt; and if not, can a change order be made? Staff responded; any change order at this stage is a cost to the town. In addition, Mr. Friedmann received comments that people would like to see the planting of trees for a more welcoming look. Staff responded; it is not likely since it would require additional property causing delays and additional costs.

He gave thanks to the Council for once again supporting the efforts of a solar farm.

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

XIII. **ADJOURNMENT** – Mr. St. Germain, with second by Mr. Hochman, moved to adjourn the meeting at 9:50 p.m. Motion passed 5-0.

Patricia A. Gray, Town Clerk