

Minutes
Bar Harbor Town Council
January 16, 2018

- I. CALL TO ORDER** – 7:00 P.M. – In attendance were: Councilors Paul Paradis, Gary Friedmann, Stephen Coston, Peter St. Germain, Erin Cough, Judie Noonan, Matthew Hochman; and Town Manager Cornell Knight.

Chair Paradis made opening remarks and gave attendees the opportunity to greet each other and gave notice to the posted Meeting Ground Rules.

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

- 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.* – Resident Jake Jagel suggested in order to keep the public informed that the Town Council’s budget meetings be broadcasted.

- III. APPROVAL OF MINUTES** – *January 2, 2018 Regular Meeting* – Councilor Coston noted ‘allegedly’ was misspelled on the first page. Mr. Coston, with second by Mr. St. Germain, moved to approve the minutes of January 2, 2018 as amended. Motion passed 7-0.

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

- V. FINANCIAL REPORT** - *Review and possible adoption of a motion to accept the financial statements as presented.* – Finance Director Stan Harmon gave a brief overview and noted the changes in the 2018 federal tax law, many taxpayers paid their second half early. Real estate tax collection is up over \$400,000 from a year ago.

Mr. St. Germain, with second by Mr. Hochman, moved to accept the Financial Report as presented in the Finance Director’s memo dated 1/11/18 and thank Stan Harmon. Motion passed 7-0.

- 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. Land Use Ordinance Amendments for June 2018 - *Possible motion to sign the 3 Certifications calling for public hearing on March 20, 2018.*

1. LUO – Timber Harvesting
2. LUO – Shoreland Zoning corrections by DEP
3. LUO – [Integrating Appendix C and district maps into Article III \(130 pages\)](#)

B. Certification of Property Owners and Abutters Mailing Lists – *Possible passage of a motion to sign the certification of the mailing list used for notice of the Planning Board’s January 17, 2018 public hearing on LU-2017-01 Official District Boundary Map amendment: Downtown Residential – Downtown Village*

II, and permit Veterinary Clinic use in Downtown Village II for the June 12, 2018 town meeting warrant.

- C. Maine Service Centers Coalition** - *Possible motion* to adopt a resolution to renew membership and appoint the Town Manager as representative.

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

VII. PUBLIC HEARINGS: (None)

VIII. REGUALR BUSINESS:

- A. Cruise Ship Informational Services** – *Annual report by Chamber of Commerce Director of Visitors Services Melanie Graten on the 2017 cruise tourism season and possible motion to accept.* – Presenter was not in attendance at this time. Mr. St. Germain, with second by Mr. Hochman, moved to table Cruise Ship Informational Services to the end of Regular Business between E and F. Motion passed 7-0.

B. Cruise Ship Committee:

- 1. Annual Report** - *Review of the 2017 Cruise Ship season by Committee Chair Eben Salvatore and possible motion to accept and file report.* – Eben Salvatore reported in addition to the Cruise Ship Committee report, he was pleased to announce Bar Harbor is rated as #2 port, second to San Francisco. He further highlighted action reflecting their Mission statement. The committee recommends amendments to the Cruise Ship Tour Bus Policy that better reflects todays tour bus operations. They approved the proposed FY19 budget as presented to the committee, however, do not recommend a fee increase at this time. Several members of the community toured two of the ships in-port to learn of the environmental challenges and how cruise ship industry handles them. Last recommendation is to extend the 200 passenger per day discretion of the Harbor Master to the entire season rather than only during the summer months. Statistical information is also included in their annual report to Council. Following Council comments, Mr. Friedmann, with second by Mr. St. Germain, moved to thank Eben Salvatore and the Cruise Ship Committee for the presentation and accept the report and place it on file in the town records. Motion passed 7-0.
- 2. Cruise Ship Tour Bus Policy** – *Possible amendments to designate authority for enforcement and amend designated bus parking.* – Mr. Salvatore reported the Committee met with the Police Department officials and Chamber Executive Martha Searchfield as to improvements for next season. The proposed revised bus policy reflects the recommendations.

Cruise Ship Tour Bus Policy

Town of Bar Harbor

In order to address traffic and congestion problems in the vicinity of the Town Pier, the following policy is hereby adopted:

1. These rules shall be enforced by officers and/or designated employees of the Bar Harbor Police Department. It is understood that the BHPD may apply alternative rules to address unique conditions at their discretion.
2. ~~1.~~ Cruise ship tour buses may utilize the parking lot on the south side of West Street between Agamont Lane and Main Street.
3. ~~2.~~ Cruise ship tour buses may utilize the parking spaces ~~for a 2-bus loading zone located~~ on the West side of Agamont Park on Main Street at its intersection with West Street until 11am, motor coaches shall be parked as far towards West Street as practical. After 11AM there shall be no tour bus parking on Main Street.
4. ~~3.~~ Cruise ship tour buses may utilize the Newport Drive Parking Lot as operationally necessary at the discretion of the Bar Harbor Police Department.
5. Motor Coaches may utilize parking spaces for 2 busses on the North side of West Street beginning at the entrance to the Harborside Hotel as needed.
6. ~~4.~~ Overflow cruise ship tour buses ~~may~~ shall queue between the Park Street athletic fields as operationally necessary at the discretion of the Bar Harbor Police Department.
7. ~~5.~~ Cruise ship tour buses shall turn off their engines at all times except when underway. Exceptions shall be permitted to accommodate special circumstances such as wheel chair lift operation.
8. ~~6.~~ When utilizing the drop-off area on the South side of Mt. Desert Street ~~at its intersection with Main Street, motor coaches shall be parked as far towards Main Street as practical.~~ motor coaches shall park within areas designated by BHPD.
9. ~~7.~~ No more than two motor coaches at a time shall be allowed at the drop-off area on the south side of Mt. Desert Street ~~at its intersection with Main Street.~~
10. ~~8.~~ Motor coach drop-off areas shall not be used unless drop-off personnel are present and wearing identifying clothing.
11. ~~9.~~ Drop-off coning and signage shall be stored out of view from the public way when not in use.
12. ~~10.~~ Prior to the first Cruise Ship visit of each season, staff shall ensure that a mandatory meeting of the Bar Harbor Police, Bar Harbor Chamber of Commerce, tour operators, and motor coach companies is held to ensure that all parties are aware of policies and procedures regarding Cruise Ship Motor Coach tour operations.

Ms. Cough requested review of parking space at the foot of Agamont Park and Main Street, the coned off area for bus loading. She suggested buses queue on Agamont Lane to free up those parking spaces and open up the pier access from West Street.

Mr. Hochman, with second by Mr. St. Germain, moved to approve the amendments to the Cruise Ship Tour Bus Policy as recommended by the Cruise Ship Committee. Motion passed 7-0.

Ms. Cough, with second by Ms. Noonan, moved that the Cruise Ship Committee review bus queuing/loading on the east side of Agamont Park by the end of 2018 cruise ship season. Motion passed 7-0.

C. Bond for Ferry Terminal Purchase – *Possible motion to sign the bond Order for the purchase of the ferry terminal property and place on the June 12, 2018 town meeting warrant.* – MDOT option agreement includes the condition the Town must issue the appropriate warrant article for inclusion in the annual June 2018 town meeting warrant, no later than January 30, 2018, and the voters must vote in favor of the Bond for the transaction to move forward to purchase.

Resident Jake Jagel inquired why the bond issue is on a secret ballot and would the recommendations from the Warrant Committee and Town Council appear on the ballot. Town Manager and Council responded, foremost there is a lot of interest and it’s the best way to obtain the largest voter participation, and the recommendations would appear.

Dessa Dancy emailed the Council prior to the meeting with concerns. She provided an alternate course of action to Council’s.

Following comments, Mr. St. Germain, with second by Ms. Cough, moved to sign the Order as presented, place it on the June 12, 2018 town meeting warrant and forward to the Maine Department of Transportation. Motion passed 6-1 (Nay: Mr. Friedmann).

Order

Of the Bar Harbor Town Council
For the June 12, 2018 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting therein to be held by Australian ballot.

Warrant Article

Article ____ FERRY TERMINAL LAND PURCHASE – Shall the Town of Bar Harbor:

1. **Authorize** the Town Council to provide for purchase of the former Ferry Terminal property, said project, known as the **Ferry Terminal Purchase** to include the following:

- Purchase of land, including any facilities previously built and located in the tidal zone
- Identified by Town Tax Map 231, Lot 004 at 121 Eden Street
- Other activities or expenses that are reasonably related to the project

2. **Appropriate** the sum of Three Million Five Hundred Thousand dollars (\$3,500,000) to provide for the costs of said project, including closing costs and all transaction costs;

3. **Authorize** the Treasurer and Chair of the Town Council, acting pursuant to the provisions of 30-A M.R.S.A. Section 5772, to issue general obligation securities of the Town of Bar Harbor (with or without call provisions and with or without premium, and including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000); and

4. **Delegate** the discretion to fix the date(s), maturity(ies), interest rate(s), denominations(s), place(s) of payment, form and other details of said securities, including execution and delivery of said securities on behalf of the Town of Bar Harbor, and to provide for the sale thereof, to the Treasurer and Chair of the Town Council.

FINANCIAL STATEMENT

As of June 5, 2018

1. Total Town Indebtedness- Principal

A. Bonds outstanding and unpaid	\$18,648,778
B. Bonds authorized and unissued (June 2018)	- 0
C. Bonds to be issued if this article is approved:	\$ 3,500,000

2. Costs

At an estimated interest rate of 3.50% for a twenty (20) year maturity, the estimated costs for this bond issue will be:

Principal:	\$3,500,000
Interest:	<u>\$1,425,275</u>
<u>Total Debt Service:</u>	<u>\$4,925,275</u>

3. Validity

The validity of the bond and of the voters’ ratification of the bond may not be affected by any error in the above statements. If the actual amount of the total debt service for the bond issues varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/

 Stanley W. Harmon
 Treasurer
 Town of Bar Harbor

Explanation:

The Town Council exercised the option to purchase the Ferry Terminal lot from the Maine Department of Transportation which requires a Town Meeting vote by June 2018. Although there was a lower price option available with a requirement of maritime transportation use within five years, the Town Council decided to purchase the lot for \$3.5 million with “no strings attached” from MDOT after the purchase. A General Obligation bond is being considered which places the taxpayers responsible for the debt services over the 20 year payback period. A business plan is being developed based upon the Ferry Terminal Property Advisory Committee’s recommendations.

D. Moratorium: Marijuana – Possible motion to enact emergency marijuana moratorium ordinance. – This Emergency Marijuana Moratorium for retail marijuana establishments, retail marijuana social clubs, and retail marijuana stores is to protect the town and the health and welfare of its citizens in the event the legislature fails to take appropriate action prior to February 1, 2018.

Mr. St. Germain, with second by Mr. Coston, moved to approve the Emergency Marijuana Moratorium Ordinance as presented effective immediately upon approval and schedule a public hearing on a 180 moratorium for February 6, 2018.

Discussion ensued. Mr. Hochman, with second by Mr. St. Germain, moved to move the question. Motion passed 5-2 (Nay: Mr. Friedmann, Mr. Paradis).

Main Motion passed 6-1 (Nay: Mr. Friedmann).

**MUNICIPALITY OF THE TOWN OF BAR HARBOR EMERGENCYMORATORIUM
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL
MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the "Marijuana Legalization Act," has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (hereinafter, "Act") authorizes a municipality to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within its jurisdiction; and

WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. § 2421 - 2430B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, Bar Harbor's current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores retail marijuana social clubs within the Municipality of the Town of Bar Harbor raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in the Town of Bar Harbor; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Municipality's police and fire departments; and the adequacy of the Municipality's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within the

Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, the Municipality needs time to review the Act and to review its own ordinances to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, the Municipality's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the Town Council and the administration and the planning board, with the professional advice and assistance of the police department, shall study Bar Harbor's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in Bar Harbor; and

WHEREAS, it is anticipated that such a study, review, and development of recommended changes to existing ordinances or adoption of new ordinances will take at least sixty (60) days from the date this Emergency Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social Clubs is enacted;

WHEREAS, in the judgment of the Bar Harbor Town Council, the foregoing findings and conclusions constitute an emergency within the meaning of Article III, section C-16 of the Town Charter requiring immediate legislative action;

NOW, THEREFORE, be it ordained by the Bar Harbor Town Council, that the following Emergency Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

This Emergency Moratorium Ordinance shall take effect, once enacted by the Town Council, but shall be applicable as expressly provided below. The moratorium shall remain in effect for sixty (60) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town's current ordinances or drafting new ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of

marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town of Bar Harbor in responding to the same; and the adequacy of the Town's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in Bar Harbor.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40) (41), that may be proposed to be located within Bar Harbor on or after the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Town of Bar Harbor on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Emergency Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Emergency Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the Town's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

- E. FY19 Budget** – *Town Manager’s introduction to the proposed FY19 Budget.* – Town Manager Cornell Knight recapped his budget message summarizing the expenditures and revenues contributing to the overall estimated tax increase of 4.4%. Proposed budget includes one additional fire personnel, three bonds: ferry terminal purchase, parking meters, school renovations, and the Jesup Library request for additional \$75,000. Revenues up in excise tax by 1.6%, ambulance billing stabilized for the first time in four years, and less fund balance used to offset taxes. Details of the budget and full summary of the Town Manager’s memo is available on the Town’s website under the Finance Department FY19 Budget. He announced budget review begins Thursday at 6 pm.

Councilor Friedmann requested the budget meetings be broadcast, if personnel is available.

- A. Cruise Ship Informational Services** – *Annual report by Chamber of Commerce Director of Visitors Services Martha Searchfield on the 2017 cruise tourism season and possible motion to accept.* – Chamber Executive Director Martha Searchfield reported another great season. A lot of positive comments about the Town and the people. Bus drop offs continue to be monitored for improvements. The Route 3 construction did impact the timing of arrivals and departures and expect the same next year. Great cooperation with the Police Department and their willingness to be present during the drop offs to ensure public safety.

Further, she was pleased to announce the partnership with Acadia National Park this winter season, a representative is present at the visitor center on 2 Cottage. It works well for the visitors for one stop information. This will continue until mid-April and resume next November.

Chamber continues to see an increase in visitors during the off-season and interest in winter and early spring activities.

Mr. St. Germain, with second by Mr. Hochman, moved to thank Martha Searchfield and the Bar Harbor Chamber of Commerce for the review and accept the report and place it on file in the town records. Motion passed 7-0.

- F. Treasurer’s Warrants** – *Request of Treasurer to authorize paid bills.* – Mr. St. Germain, with second by Mr. Hochman, moved to sign the Treasurer’s warrants for paid bills. Motion passed 7-0.

IX. TOWN MANAGER’S COMMENTS – None this evening.

X. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

Ms. Cough requested an update from Representative Brian Hubbell, who was present, on the Bar Harbor Port Authority legislation hearing. The vote ought to pass was 10 to 2.

Ms. Noonan announced she would not be available for the first budget meeting, and to please channel thoughts and prayers on her behalf on Thursday, she was having surgery.

Mr. Hochman thanked those who participated in the Dr. Martin Luther King events this week-end.

He requested MDOT look into guardrails along the shore on Route 3 in Hulls Cove. Mr. Knight reported guardrails did not meet DOT standards however, MDOT is looking at some type of barrier.

Mr. Friedmann, Mr. Coston, Mr. St. Germain, Mr. Paradis wished Councilor Noonan the best of luck Thursday.

XI. EXECUTIVE SESSION: (None)

XII. ADJOURNMENT – Mr. St. Germain, with second by Mr. Hochman, moved to adjourn at 9:00 p.m. Motion passed 7-0.

Patricia A. Gray, Town Clerk