

# Minutes

## Bar Harbor Town Council

February 12, 2008

- I. CALL TO ORDER** – 7:00 P.M. – In attendance were Councilors: Ruth Eveland, Robert Garland, Paul Paradis, Julia Schloss, Greg Veilleux, Robert Jordan, Jr.; Town Manager Dana Reed.
- A. Excused Absence(s)** – Mr. Paradis, with second by Mr. Garland, moved to excuse Councilor Ken Smith as provided by Town Charter section C-12.B(1)(d). Motion passed 6-0.
- II. APPROVAL OF MINUTES** – Mr. Paradis, with second by Ms. Schloss, moved to approve the minutes of the January 29, 2009 regular meeting as presented. Motion passed 6-0.
- III. ADOPTION OF AGENDA** – Mr. Paradis, with second by Ms. Schloss, moved to adopt the agenda as presented. Motion passed 6-0.
- IV. FINANCIAL STATEMENTS** (Customarily presented at the second meeting each month)
- V. PUBLIC HEARINGS:**
- A. Special Amusement Permit Renewal: Bar Harbor Inn, Newport Drive, requests a Class 3ad, three or more musicians with amplification and dancing, as submitted by David Witham.** – There being no comments, Mr. Paradis, with second by Ms. Schloss, moved to approve Bar Harbor Inn's Special Amusement Permit Renewal as requested. Motion passed 6-0.
- B. FY09 Budget** – *Public hearing on and tentative adoption of the fiscal year 2009 budget, for the period July 1, 2008 to June 30, 2009.* – Following a summary by the Town Manager, and comments from YMCA supporters and board members requesting reinstatement of the original FY09 proposed YMCA funding, Mr. Paradis, with second by Ms. Schloss, moved to adopt the FY09 Budget as published and recommend it to the Warrant Committee. Motion passed 6-0.
- VI. REGULAR BUSINESS:**
- 1. Statue Restoration** – *Presentation of restored statues by Bar Harbor Historical Society Curator Deborah M. Dyer.* – Curator Deborah Dyer reported in 2007 she approached the MDI high school requesting the return of the statues that were originally given to the Bar Harbor high school, by resident John Fry. Upon receiving her request, on behalf of the Bar Har-

bor Historical Society, she arranged and funded \$10,000 to have them restored and returned to their original location in each stairwell. A brass plate will be placed with each statue name and sculptor's name and date in front of each statue. *POCAHONTAS, sculptor – Joseph Mozier 1870, and HOPE, sculptor-Tadolini 1869.*

Mr. Jordan thanked Ms. Dyer for her hard work. Mr. Paradis stated that Bar Harbor is very lucky to have Debbie Dyer.

**B. Land Use Ordinance Amendments: June 2008** – *Review and possible adoption of a Council Order to place the Wireless Communication Facilities Ordinance on the Warrant for the annual Town Meeting.*

1. *Changes as suggested by Council at the last meeting.* – Mr. Veilleux, with second by Mr. Jordan, moved to reconsider the fifth motion in item J(1) of the January 29, 2008 Council Minutes; the motion to remove the reference to Acadia National Park from the proposed ordinance language made by Mr. Paradis and seconded by Mr. Smith. Following much discussion, Mr. Paradis moved the question. Motion failed for lack of second. Discussion ensued; the main motion failed 2-4 (Nay: Mr. Garland, Ms. Schloss, Mr. Veilleux, Ms. Eveland).
2. *Additional change requested by the Town Manager to continue to exempt facilities attached to existing structures.* – Staff planner, Kris Hultgren and Planning Director Anne Krieg reviewed the proposed change. Following discussion, Mr. Paradis, with second by Mr. Garland, moved to adopt and sign version #2 of the Council Order for the Wireless Communication Facilities Ordinance Amendment. Motion passed 5-1 (Nay: Ms. Schloss).

**Order**

Of the Bar Harbor Town Council  
For the June 3, 2008 Town Meeting

It is hereby ordered that the following article be placed on the warrant for the 2008 annual town meeting, with voting thereon to be held by Australian ballot on June 10:

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Warrant Article

**LAND USE ORDINANCE AMENDMENT – Wireless Communication Facilities** – Shall an Ordinance dated January 29, 2008 and entitled “An Ordinance to Amend the Bar Harbor Code, Chapter 125, Land Use Ordinance Section 125-69, Section 125-109, and Appendix C to Add Regulations for Wireless Communication Facilities” be enacted?

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Wireless Communication Facilities Ordinance

**An Amendment to add regulations for wireless communication facilities.**

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

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

**Chapter 125 , LAND USE ORDINANCE**

**ARTICLE V Site Plan Review**

**§ 125-69. Standards for particular uses, structures or activities.**

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

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T. Wireless Communication Facilities

(1) Purpose. The purpose of this section is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the site plan review process upon review of an application for the placement and construction of a wireless communications tower. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

(a) Protect and preserve the aesthetic quality of Bar Harbor as set forth in the goals, policies and objectives of the adopted Bar Harbor Comprehensive Plan.

(b) Protect and preserve the visual character of the nationally designated Acadia All American Road and Acadia National Park.

(c) Protect adjacent properties from potential damage from tower failure, falling ice and to prevent other hazards to public health and safety through careful siting regulations and engineering requirements.

(d) Require co-location on existing and future wireless communication towers and maximize the use of existing and approved towers and other existing structures such as utility poles and buildings to accommodate new communication antennas in order to reduce the number of new towers needed to serve the community's needs.

(2) Exemptions. The following activities and structures are exempt from site plan review:

(a) A ground, building or tower mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is no higher than the maximum height allowed in the district in which it is located, and is not licensed or used for any commercial purpose. The Code Enforcement Officer may permit additional height if, after engineering documentation substantiating the need for the excess height is submitted to and is acceptable to the Code Enforcement Officer, the CEO determines that a height in excess of the maximum height allowed in the district in which it is located is technically necessary to successfully engage in this activity.

(b) Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.

(c) A single ground or building mounted received-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located, with an antenna height not exceeding the maximum height allowed in the district in which it is located.

(d) A ground or building mounted citizens band radio or two-way antenna including any mast, if the height (post, and antenna and support structure if not on the ground) does not exceed the maximum height allowed in the district in which it is located.

(e) A wireless facility that is integrated into an existing or proposed church steeple, flagpole, light standard, power line support device, water tower, or similar structure.

(f) Any municipal, public safety or public works communication facility.

(3) Space Requirements. The maximum height of any tower shall not exceed 125 feet, including antenna arrays and other attachments, subject to the approval of the Planning Board with possible conditions and restrictions to meet the purpose of this ordinance.

(4) Mass of Antennas Per User. The mass of antennas, including required antenna support structures, on a tower shall not exceed nineteen hundred (1,900) cubic feet per array. The Planning Board may allow an increase in the mass if it determines an increase is necessary for the provision of services. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.

(5) Lot Area Requirement. A wireless communications tower may be placed on a legally non-conforming lot that does not meet the dimensional requirements of the districts it is in after a finding by the Board of Appeals that such a tower siting will not jeopardize the health, safety and welfare of surrounding lot owners. This requirement does not apply to towers and antennas that are exempted in section 125-69 (2).

(6) Setbacks.

(a) The center of the base of any wireless communications tower must be set back a minimum of 105% of the tower height, or the required minimum setback of the district in which it is located, whichever is greater.

(b) No part of the structure, including anchors, overhead lines, masts, etc., shall be located in the required district setback or in any required buffer area both on the ground or in the air space above the ground.

(c) Accessory support buildings containing electronic equipment and any other structures accessory to the wireless communications tower shall meet the required district building setback.

(d) If more than one wireless communications tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

(e) If other non-accessory uses are located on the same lot or parcel as a tower, all structures associated with such other uses shall be located a minimum distance of 105% of the tower height from the center of the base of the tower.

(7) Co-location Requirements.

(a) Existing towers. Applicants for site plan review for a new communication tower must send written notice by pre-paid first class United States mail to all other communication tower owners and licensed communication providers in the Town utilizing existing towers, stating their siting needs and/or co-location capabilities in an effort to meet the tower co-location requirement. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new wireless communication tower must include evidence that existing or previously approved towers cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:

[1] Planned, necessary equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment.

[2] Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower, and the interference cannot be prevented or mitigated.

[3] Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively.

[4] Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers.

(b) Construction of new towers. A proposal to construct a new wireless communication tower must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for co-location purposes.

(8) Submissions. In addition to all of the relevant site plan review submission requirements listed in §125-66, the following submissions shall be required unless waived by the Planning Board.

(a) A report from a Registered Professional Engineer in the State of Maine that describes the communications tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s) and volume of antenna(s) that it can accommodate and the basis for the calculation of capacity.

(b) For pole mounted facilities, certification by a Registered Professional Engineer in the State of Maine that the design is adequate to support, without failure, the maximum forces expected from wind, earthquakes, ice/snow loading when the pole is fully loaded with antennas, transmitters, other equipment, and camouflaging, as described in the submitted plan.

(c) Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

(d) Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

(e) Details of all accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

(f) A narrative discussing the extent to which the proposed facility would be visible from a designated scenic resource (see definition) and Acadia National Park, the tree line elevation of vegetation within 300 feet and the distance to the proposed facility from the designated scenic resources noted viewpoints.

(g) A visual impact assessment, which shall include a photo montage, field mock-up, or other techniques, shall be prepared by or on behalf of the applicant which identifies the potential visual impacts at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from Acadia National Park, archaeological and historic resources including historic districts, areas and structures, specifically those listed in the National Register of Historic Places or eligible for inclusion. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communication service.

(h) Site photos showing site vegetation, existing and adjacent structures and views of and from the proposed site. Topography and land uses on the proposed parcel and on abutting properties.

(i) Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

(j) Identify any other communication facilities existing or proposed on the site.

(k) A written description of how the proposed facility fits into the applicant's communications network including a demonstration of a coverage and/or capacity problem, demonstration that all alternatives and existing structures have been identified and fairly rejected, that the proposed height is the minimum height necessary to achieve the targeted coverage area and a description of how other tower heights would change the coverage area. It should also describe reasonable anticipated expansion of the proposed facilities on the proposed site and related facilities in the region and reasonable anticipated changes of technology and their effect on expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information.

(l) A letter of intent that commits the tower owner and successors in interest to:

[1] Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.

[2] Negotiate in good faith for shared use by other parties.

(m) Evidence that co-location on existing or approved towers is not possible per co-location section above or in adjacent towns. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.

(n) Proof of financial capacity to build, maintain, and remove the proposed tower.

(9) Design Standards. The following design standards shall be met by the applicant. The Planning Board, as part of the site plan review process, shall determine if the applicant has complied with these standards. All communication facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end all of the following measures shall be implemented.

(a) Towers shall be constructed of metal or other nonflammable material unless specifically waived by the Planning Board due to technical or engineering reasons.

(b) Accessory facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

(c) Accessory facilities shall be constructed out of non-reflective exterior materials with earth-toned colors or shall be placed underground, if possible.

(d) New accessory facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

(e) All buildings, poles, towers, antenna supports, antennas and other components of each communications facility site shall be initially painted and thereafter repainted as necessary with a matte finish paint. The color(s) selected shall be one that the Planning Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements that will be primarily viewed against soils or trees shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location unless the Planning Board determines that an alternative proposal will minimize visibility.

(f) The applicant shall provide a plan to camouflage the proposed facility to the greatest extent possible.

(g) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and/or community features).

(h) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

(i) Only security lighting is permitted. All outdoor lighting shall employ full cut-off (i.e. night-sky friendly) fixtures to prevent or reduce light pollution and glare. Signals, lights, or illumination shall not be permitted on a communications tower unless required by the Federal Communications Commission, Federal Aviation Administration, or other federal agency.

(j) Advertising and commercial signs shall not be permitted on a communications facility.

(k) Guy wires shall not be permitted as part of a communications facility.

(10) Location. All communication facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location.

(a) Communications facilities shall not be sited in areas of high visibility as determined by the Planning Board to meet the purpose of this ordinance unless the facility is designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable. A communications tower that is

located within the viewshed of a scenic vista, scenic landscape, or scenic road as determined by the Planning Board shall not exceed the height of vegetation at the proposed location.

(b) No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

(c) No facility shall be located within a shoreland district.

(d) No facility shall be located within 500 feet of a public school.

(11) Standards. In addition to the criteria and standards listed in §125-67, these additional criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan review of proposed communications facilities.

(a) Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either by landscaping, fencing or other architectural screening.

(b) Antennas shall be as small as technically possible in order to minimize visual impact.

(c) Creative design measures have been employed to camouflage facilities by Integrating them with existing buildings and among other uses.

(d) Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas, open space areas and sites identified on the Favorite Places and Distinctive Features map in the Comprehensive Plan.

(e) Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated and, if technically and financially feasible, the proposed facility is co-located.

(f) Use of an existing community facility site, such as utility poles, has been investigated as a potential site for a tower, antennas and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.

(g) Adequate bonding for removal of the communication tower, required as set forth below in Section 125-69 (T)(13)(c) has been submitted.

(12) Amendments. Any change to proposed towers requires site plan approval. Once a tower has been erected and is operational, changes to the facility that do not increase the height of the facility shall not require site plan approval unless such changes exceed the design criteria and additional standards and criteria previously approved in the original site plan approval. If the height of the facility will not increase and the design standards and additional standards and criteria previously approved in the original site plan approval remain consistent, changes to the facility shall require a permit from the Code Enforcement Officer.

(13) Removal of Communications Facilities.

(a) If the tower ceases to be used or if the use of the tower is abandoned for any reason, it shall be the responsibility of the owner of the facility to notify the Code Enforcement Officer of the date of abandonment or cessation of use. If the owner fails to give the required notice, the CEO shall make a determination of such date, which determination shall be conclusive as to the date of abandonment or cessation of use.

(b) In the case of a tower which is abandoned or the use of which ceases, it shall be removed within one (1) year of its abandonment or cessation of use. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.

(c) At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety outlined in Article IX, Performance Guarantees, of the Land Use Ordinance, to be approved by the Finance Director, in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities as described above, such cost to be determined by an independent Registered Professional Engineer in the State of Maine and the amount shall be acceptable to the town's Financial Director. The bond or other financial surety shall be in effect for as long as the tower is in place.

(d) The bond shall be used by the Town to demolish a tower which is abandoned or the use of which has ceased, accessory facilities and associated abandoned structures only if the owner has not done so within the required one (1) year period.

(e) The owner may apply to the Finance Director for release of the bond at such time that the owner or assigns removes the tower, accessory facilities and associated abandoned structures as described above, and such completed removal is found to be satisfactory by the Code Enforcement Officer. The cost of inspection by the Code Enforcement Officer shall be borne by the owner.

14. Inspections and monitoring. The following procedure shall be undertaken by the owner of the tower.

(a) Inspection of towers by an independent tower inspection firm shall be performed to insure structural integrity. Such inspections shall be performed as follows:

[1] Monopole towers at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

[2] Self-supporting towers at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

(b) The inspection report shall be submitted to the Code Enforcement Officer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection the CEO may require repair or demolition of the tower.

(c) The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO for safety reasons.

(d) Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

(e) The owner of a wireless communications facility shall pay for an independent radio frequency engineer approved by the town in accordance with section 125-65(D) of the Land Use Ordinance to evaluate the electromagnetic radiation emitted from all users of the wireless communications facility every year with the first evaluation occurring within 30 days after transmission begins. The levels of electromagnetic radiation emissions must comply with the most up to date FCC standards at the time of the monitoring test. A report detailing the monitoring test shall be submitted to the Code Enforcement Officer within 30 days of completion

of the monitoring test. Failure to provide required inspection reports in the required time schedule shall be a violation of the Land Use Ordinance.

(f) Should the monitoring of a facility reveal that the electromagnetic radiation emitted from the site exceeds the current FCC standards and guidelines, the owner(s) of all facilities utilizing the site shall be notified. In accordance with FCC requirements, the owner(s) must immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. In addition, the owner(s) shall submit to the Town an analysis of what caused the problem and a plan for the reduction of emissions to a level in compliance with the current FCC standards within 10 business days. Failure to accomplish this reduction of emissions within 15 business days of initial notification of noncompliance shall be a violation of the Land Use Ordinance.

**§ 125-109. Definitions**

The following terms shall have the following meanings:

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ANTENNA ARRAY: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

CO-LOCATION: The use of a communications facility by more than one communications provider.

COMMUNICATIONS FACILITY: Any structure, antenna, tower, or other device which provides the capacity to transmit information through such methods as, but not limited to, radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (MR), common carrier wireless exchange phone services, and personal communications service (PAS) or pager services.

DESIGNATED SCENIC RESOURCE: That specific location, view or corridor, which is identified as a scenic resource in the Town's Comprehensive Plan (Figure II.A.1). Such scenic resources shall consist of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, a lake, or a bay, or a group of objects, such as a downtown skyline or mountain range, or island, resulting in a panoramic view corridor; or
2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

ESSENTIAL SERVICES: The construction, alteration or maintenance of gas, electrical, communication facilities owned by the town, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, generators, wells, well heads and similar accessories but shall include structures which are necessary for the furnishing of such services.

EXPANSION OF A COMMUNICATIONS FACILITY: The addition of towers, increased height and/or increased foot prints of any buildings or structures of the existing facility.

FAA: Federal Aviation Administration or its lawful successor.

FCC: Federal Communications Commission, or its lawful successor.

**Appendix C Table of Permitted Uses**

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<b>District</b>	<b>Wireless Communication Facility</b>
Bar Harbor Corridor	<u>b</u>
Bar Harbor Historic	<u>b</u>
Bar Harbor Historic Corridor	<u>b</u>
Bar Harbor Residential	<u>b</u>
Downtown Business	<u>b</u>
Downtown Residential	<u>b</u>
Educational Institution	<u>b</u>
Emery	<u>b</u>
Hulls Cove Business	<u>b</u>
Hulls Cove Historic	<u>b</u>
Hulls Cove Residential Corridor	<u>b</u>
Hulls Cove Rural	<u>b</u>
Indian Point Residential	<u>b</u>
Indian Point Rural	<u>b</u>
Industrial	<u>b</u>
Ireson Hill Corridor	<u>b</u>
Ireson Hill Residential	<u>b</u>
McFarland Hill Residential	<u>b</u>
McFarland Hill Rural	<u>b</u>
Marine Research	<u>b</u>
Otter Creek	<u>b</u>
Resource Protection	
Salisbury Cove Corridor	<u>b</u>
Salisbury Cove Residential	<u>b</u>
Salisbury Cove Rural	<u>b</u>
Salisbury Cove Village	<u>b</u>
Schooner Head	<u>b</u>
Scientific Research	<u>b</u>
Shoreland General Development I	
Shoreland General Development II	
Shoreland Limited Residential	
Stream Protection	
Town Hill Business	<u>b</u>
Town Hill Residential Corridor	<u>b</u>
Town Hill Residential	<u>b</u>
Town Hill Rural	<u>b</u>

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**C. School Reorganization:**

1. *Status report by Council's representative to the Reorganization Planning Committee, Councilor Bob Garland.* – Councilor Garland reported that the four island towns were shouldering the issue. The Regional Planning Committee (RPC) has requested funding for attorney fees from each town to support the effort to draft language to amend the current legislation to include some local control and allow structuring similar to that which the RPC proposed.
2. *Funding request by the Reorganization Planning Committee for legal assistance to draft legislation.* – Mr. Paradis, with second by Ms. Eveland, moved to contribute up to \$5,000 toward paying 25% of whatever balance of these expenses remain after the Union 98 schools' discretionary resources are depleted and to transfer an appropriation of \$5,000 from the General Fund Contingency account 1036-5906, to the Legal Counsel "Other Professional Services" account 1018-5334.

Following much discussion, Mr. Paradis called to move the question. Motion failed due to lack of a second.

Mr. Garland, with second by Ms. Schloss, moved to amend the motion by striking the first portion of the original motion so the motion now reads: Move to transfer an appropriation of \$5,000 from the General Fund Contingency account 1036-5906, to the Legal Counsel "Other Professional Services" account 1018-5334. Discussion ensued, Mr. Jordan, with second by Ms. Schloss, moved the question. Motion passed 6-0. Mr. Garland's motion to amend the main motion passed 4-2 (Nay: Mr. Veilleux, Mr. Paradis). The main motion, as amended by Mr. Garland, passed 6-0.

- D. Hancock County Transportation Advisory Committee – Request of the Maine Department of Transportation, through the Hancock County Planning Commission, for appointment of a representative.** – Mr. Paradis, with second by Ms. Schloss, moved to appoint Planning Director Anne Krieg to the Hancock County Transportation Advisory Committee. Motion passed 6-0.

**E. Cruise Ship Study Task Force, Chair Paul Paradis:**

1. *Report and possible action on a task force recommendation to limit the maximum number of passengers per day.* – Mr. Garland, with second by Mr. Veilleux, moved to reverse items E(1) and E(2) on the agenda. Motion passed 6-0.

Following Councilor Paradis' report of AAPA seminar and the Cruise Ship Study Task Force recommendations, Mr. Paradis put forth action on

the task force recommendations. Mr. Paradis, with second by Ms. Schloss, moved to migrate from a number of ships cap to a passenger cap. Motion passed 6-0.

- a.) Mr. Paradis, with second by Mr. Garland, moved to use the lower berth method of determining ship capacity. Motion passed 6-0.
- b.) Mr. Paradis, with second by Mr. Garland, moved for the purposes of passenger caps, to count passengers from ships occupying town anchorages only and not those tied to the Town Pier. Motion passed 6-0.
- c.) Cruise Ship Season dates and respective passenger caps:
  - 1.) Mr. Paradis, with second by Mr. Garland, moved to set the Cruise Ship Spring Season dates of May 1 through June 30 with a passenger cap of 5,500 passengers. Motion passed 6-0.
  - 2.) Mr. Paradis, with second by Mr. Garland, moved to set the Cruise Ship Summer Season dates of July 1 through August 31 with a passenger cap of 3,500 +/- 200 passengers at the Harbor Master's discretion. Motion passed 6-0.
  - 3.) Mr. Paradis moved to set the Cruise Ship Fall Season dates of September 1 thru November 10 with a passenger cap of 5,500 passengers. Motion died for lack of a second.
  - 4.) Mr. Paradis, with second by Mr. Veilleux, moved to set the Cruise Ship Fall Season dates of September 1 thru a target date of October 31, with actual end date at the discretion of the Harbor Master to accommodate late October cruise ship itineraries, with a passenger cap of 5,500 passengers. Motion passed 6-0.
- d.) Mr. Paradis, with second by Mr. Garland, moved to implement these passenger caps for the 2010 Cruise Ship season beginning May 1, 2010. Motion passed 6-0.
- e.) Mr. Paradis, with second by Mr. Veilleux, moved to review the passenger caps, as well as future recommendations from the CSTF, at the end of the fall season by an ad hoc committee similar in makeup to the current CSTF. This committee will then forward any recommendations to the Town Council for review. This review will commence with the 2009 season. The current CSTF should serve as the reviewing committee while in existence. Motion passed 6-0.

2. *Report on the recent American Association of Port Authorities' Cruise Seminar.* – Councilor Paradis reported that it was a worthwhile trip. The industry is seeking Bar Harbor and eagerly offered to participate in the

town's pain and assist in any way for solutions. They are willing to come to Bar Harbor to discuss issues such as the bus congestion, the impact on the infrastructure. While they do not favor a passenger cap, they understand it. They receive comments from passengers and would like to pass them on and together resolve issues for both parties. He complimented Amy Powers with Cruise Maine in her efforts to connect Bar Harbor with VIP's of the cruise industry. Both she and the organization represent Bar Harbor very well.

Council took a break at 10:00 p.m. and reconvened at 10:07 p.m.

**F. Maine Service Centers Coalition** – *Possible appointment of a representative and alternate.* – Mr. Paradis, with second by Ms. Schloss, moved to appoint Town Manager Dana Reed as the representative from Bar Harbor to the Maine Service Centers Coalition. Motion passed 6-0.

**G. Council Rules of Order** – *Possible amendment to adopt Roberts Rules.* – Mr. Paradis, with second by Mr. Veilleux, moved to adopt the proposed change to the Rules of Order as presented and amended as follows: change 3(D) to be a majority; remove in 4(B): "That is, three is the minimum number of votes required to pass a motion"; change title of 4(F) to read: "Motion to Lay on the Table"; and amend language in 4(H) to reflect the votes needed to enter into executive session in all possible scenarios. Motion passed 6-0.

**H. Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Mr. Veilleux, moved to sign the Treasurer's warrant for paid bills. Motion passed 6-0.

## VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

**Ms. Schloss** reported that the February Economic Development stakeholder's meeting was a good meeting and was well attended.

**Mr. Jordan** referenced a recent article regarding the residents of Madawaska and how we should be consciences of how people working together can make things work.

He thanked the Town Highway crew for staying ahead of the storms. He also thanked Debbie Dyer for her contributions to the Town.

He requested a meeting with Dana Reed and Chip Reeves to discuss transfer station issues. In addition, he would like to share with them some thoughts of the YMCA funding and working it through the Parks and Recreation committee.

He also thanked Pat Gray for her services in registering people at the Democratic caucus, who waited until the last minute.

**Mr. Veilleux** thanked the Conservation Commission for the “Cool Cities” presentation.

**Mr. Paradis** welcomed our new Wastewater Division crewmember Robert Bonilla who starts February 19.

He also commented that we should be proud of Council’s work together during the budget process, and proud of our Town Manager for putting it all together as directed to him by Council.

**Ms. Eveland** also thanked the Conservation Commission for the “Cool Cities” presentation and invited them to make any suggestions or recommendations to the Council.

She also reported the Ethics Commission held their organizational meeting and will return to the Town Council with ambiguous items for consideration.

#### **VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:**

**A. Cell Phone Tower Lease** – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.)* – Mr. Paradis, with second by Mr. Garland, moved to enter executive session at 10:35 p.m. as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 6-0. Following a two minutes pause, Council entered into executive session. Council came out of executive session at 10:55 p.m. Mr. Paradis, with second by Mr. Garland, moved to authorize the Town Manager to sign a site lease with Verizon Wireless for an antenna at the downtown fire station. Motion passed 5-1 (Nay: Ms. Schloss).

**IX. ADJOURNMENT** – Mr. Paradis, with second by Mr. Veilleux, moved to adjourn at 10:56 p.m. Motion passed unanimously, 6-0.

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Paul Paradis, Secretary