

Minutes
Bar Harbor Town Council
April 19, 2022

I. CALL TO ORDER—7:00 p.m. In attendance were Councilors Jeff Dobbs, Matthew Hochman, Valerie Peacock (via Zoom), Gary Friedmann, Joe Minutolo, Erin Cough (via Zoom), Jill Goldthwait; Town Manager Kevin Sutherland and Town Clerk Liz Graves.

A. Excused Absence(s)—None.

II. READING OF THE MEETING GROUND RULES

III. PUBLIC COMMENT PERIOD - *The Town Council allows at this time up to fifteen minutes of public comment from citizens who are present at the meeting on any subject not on the agenda and not in litigation with a maximum of three minutes per person.*—None.

IV. APPROVAL OF MINUTES

A. April 5, 2022 Regular Meeting—Mr. Hochman, with second by Ms. Cough, moved to approve the April 5, 2022 Regular Meeting minutes as presented. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Cough Y
Motion passed 7-0.

V. ADOPTION OF AGENDA—Without objection, Mr. Hochman requested moving Item X. Executive Session before adjournment. Then Mr. Hochman, with second by Ms. Cough, moved to adopt the agenda as amended. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Cough Y
Motion passed 7-0.

VI. FINANCIAL REPORT—*Review and possible motion to accept*—Finance Director Sarah Gilbert highlighted her report and answered Council questions. Mr. Hochman, with second by Ms. Cough, moved to approve the Financial Report as presented. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y

Cough Y
Motion passed 7-0.

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

A. Vehicles for Hire – *Police Department approved and proof of insurance provided. Possible motion to approve:*

1. **MDI Tours** request for one taxi license renewal as submitted by Matthew Valarik.
2. **At Your Service** request for ten renewal and two new taxi licenses as submitted by Clare Bingham.
3. **Point to Point Taxi** request for three taxi license renewals as submitted by Denise Daugherty.

B. Fire Department

1. *Mutual aid agreement with Southwest Harbor - Tremont Ambulance Service—Possible motion to authorize the Fire Chief to sign the Mutual Aid Agreement with Southwest Harbor – Tremont Ambulance Service on behalf of the Town of Bar Harbor.*
2. *Donation—Possible motion to accept the \$26,000 in donations, thank the donors for the gracious support, and apply the funds to account 1042-5644 for radio replacement and repairs.*
3. *Employee Leasing Agreement with the Town of Mount Desert for Assistant Fire Chief—Possible motion to authorize the Town Manager to sign the Employee Leasing Agreement for Fire/EMS services with Mount Desert.*

C. Property Tax Write Offs—*Possible motion to grant the Tax Collector and Treasurer the discretionary authority to write off any residual tax balances up to \$10.00 for FY22 and prior years.*

D. Statutory Officials—*Possible motion to appoint Christopher Johansen as Shellfish Warden with term expiring March 30, 2025.*

E. State of Maine Primary Election June 2022 – *Possible motion to appoint the Town Clerk as Warden for the June 14, 2022 Primary Election and Special Election for State Senate District 7.*

F. Annual Town Meeting June 2022 – *Possible motion to sign and post:*

1. The Annual Town Meeting Notice of Public Hearing, scheduled for May 17, 2022
2. the Warrant for the June 7 and 14, 2022 Annual Town Meeting

Mr. Hochman, with second by Ms. Cough, moved to approve the consent agenda as published. Roll Call Vote:

Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y

Cough _____ Y
Motion passed 7-0.

VIII. PUBLIC HEARINGS

A. Special Amusement Permit Renewals

- 1. **West Street Hotel, 50 West Street, request for Class 3a, three or more musicians with mechanical amplification as submitted by Patrick Walsh.**—There being no public comment, Mr. Hochman, with second by Ms. Cough, moved to approve the Special Amusement Permit application for West Street Hotel for a Class 3a permit as presented. Roll Call Vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ Y
Friedmann _____ Y
Minutolo _____ Y
Goldthwait _____ Y
Cough _____ Y
Motion passed 7-0.

- 2. **Improv Acadia, 15 Cottage Street 2nd Floor, request for Class 4, any other type of entertainment as submitted by Larrance Fingerhut.**—Larrance Fingerhut attended via Zoom and offered to answer any questions. Mr. Hochman, with second by Ms. Cough, moved to approve the Special Amusement Permit application for ImprovAcadia for a Class 4 permit as presented. Roll Call Vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ Y
Friedmann _____ Y
Minutolo _____ Y
Goldthwait _____ Y
Cough _____ Y
Motion passed 7-0.

IX. REGULAR BUSINESS:

- A. Leary’s Landing**—*Request to allow curbside dining*—Following discussion, Mr. Friedmann, with second by Mr. Hochman, moved to approve Leary’s Landing Irish Pub’s request to rent a portion of the public right of way for the 2022 season with a fee of \$20 per day.

After further discussion, Mr. Friedmann amended his motion to reflect the wording in the Manager’s memo: to approve Leary’s Landing Irish Pub’s request to rent a portion of the public right of way for the 2022 season with a licensing fee of \$20 per day and to authorize the Town Manager to draft and sign an agreement. Roll Call vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ N
Friedmann _____ Y
Minutolo _____ N
Goldthwait _____ Y

Cough _____ N
Motion passed 4-3.

- B. Solar Facility Decommissioning**—*Discuss the Financial Assurance of Performance for the Bar Harbor Community Solar project*—Planning Director Michele Gagnon explained the questions for Council in her memo. Chris Byers of the Biodiversity Research Institute (BRI) also participated in the discussion on behalf of Bar Harbor Community Solar. Following discussion, Ms. Goldthwait, with second by Mr. Hochman, moved to approve the manager and staff pursuing this application within the recommendations made by the Planning office in the memo of April 13. Roll Call Vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ Y
Friedmann _____ Y
Minutolo _____ Y
Goldthwait _____ Y
Cough _____ Y
Motion passed 7-0.

- C. Public Safety Building**—*Cell tower lease agreement*—Fire Chief Matt Bartlett explained the request and answered Council questions. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to authorize the Town Manager to sign the small cell license agreement with New Cingular Wireless PCS, LLC, with modifications as needed at the Manager’s discretion. Roll Call Vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ Y
Friedmann _____ Y
Minutolo _____ Y
Goldthwait _____ Y
Cough _____ Y
Motion passed 7-0.

- D. Vehicles and Traffic Ordinance Amendment**—*Possible motion to schedule a public hearing for May 17*—Mr. Hochman, with second by Ms. Cough, moved to schedule a public hearing for May 17, 2022 to hear comments on amendments to Chapter 194, Vehicles and Traffic Ordinance. Roll Call Vote:

Dobbs _____ Y
Hochman _____ Y
Peacock _____ Y
Friedmann _____ Y
Minutolo _____ Y
Goldthwait _____ Y
Cough _____ Y
Motion passed 7-0.

- E. Council Priorities**—*Follow up from March 8 retreat*—Mr. Sutherland summarized his memo and the notes from the retreat. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to begin a concerted effort to address Infrastructure, Housing, and Tourism Capacity as our community’s top priorities and further ask the Town Manager to

develop goals to address these challenges for Council consideration by the first meeting in July. Roll Call Vote:

- Dobbs Y
 - Hochman Y
 - Peacock Y
 - Friedmann Y
 - Minutolo Y
 - Goldthwait Y
 - Cough Y
- Motion passed 7-0.

F. Council Rules of Order—*Review proposed amendments to the Council rules and possibly schedule a public hearing*—Mr. Sutherland explained the proposed changes. Following discussion, Mr. Hochman, with second by Mr. Friedmann, moved to schedule a public hearing for May 3, 2022 to hear comments on the proposed amendments to the Council Rules of Order. Roll Call Vote:

- Dobbs Y
 - Hochman Y
 - Peacock Y
 - Friedmann Y
 - Minutolo Y
 - Goldthwait Y
 - Cough Y
- Motion passed 7-0.

G. Comprehensive Plan—*Update*—Ms. Peacock said the Existing Conditions Report is being prepared and will be presented to the public for feedback and response, including some public, in-person events and tabling sessions. There are also opportunities for people to engage and provide feedback online.

H. Treasurer’s Warrants—*Request of Treasurer to authorize paid bills.*— Mr. Hochman, with second by Ms. Cough, moved to sign the Treasurer’s warrants for paid bills. Roll Call Vote:

- Dobbs Y
 - Hochman Y
 - Peacock Y
 - Friedmann Y
 - Minutolo Y
 - Goldthwait Y
 - Cough Y
- Motion passed 7-0.

X. TOWN MANAGER’S COMMENTS

Mr. Sutherland shared the highlights of his Manager’s Comments memo published on the Town Manager page of the town website, barharbormaine.gov. Topics include town applications to the Congressional Discretionary Spending program and an update on the Cruise Ship Tour Bus policy, which was amended in December. The May 3 agenda will include discussion with the Conservation Commission on the Open Space Plan and a review of the budget process—an online survey about the new process is now available and will be open until April 26. The memo also includes extensive information about residential speeding complaints.

Mr. Hochman asked if there were any updates on the Lower Main Street sewer project and what it would mean for businesses in the area. Mr. Sutherland said that additional hydraulic modeling in that area a couple of weeks ago indicated it's imperative that we get in there as soon as we possibly can. He's working with staff to make sure we time the work in a way that's doable. He said the town intends to do proactive outreach to share with the community where we are with these projects.

XI. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

Mr. Minutolo said it was amazing during the storm today to see some of the manholes on Route 3 boiling over. Clearly the pipes are overwhelmed during a rain event like this one.

Ms. Goldthwait said speeding is a problem in our residential streets. We have the process of putting up the speed recorders and determining that most people really are complying with the speed limit, but the residents feel that a lot of traffic is moving at an unsafe speed. They end up basically being told that it's not a problem, but you're standing in your front yard and you see what you perceive to be unsafe speeds. She said it seems we're not getting to the route of the problem by telling people it's not a problem. Mr. Sutherland said in some cases the streetscape—changing the layout of the street—could help. Ms. Goldthwait said the “traffic calming” work many years ago focused on those types of solutions—physical changes to get people to slow down.

Jill's Weekly Winner is the staff who have set up and learned to use the new hybrid meeting tools. The tools worked well at the Planning Board meeting earlier this month too.

Ms. Peacock read the first few lines of T.S. Eliot's “The Wasteland”:

*April is the cruellest month, breeding
Lilacs out of the dead land, mixing
Memory and desire, stirring
Dull roots with spring rain.*

Ms. Cough said she wants to be sure town projects are also adhering to our Land Use Ordinance and Design Review processes. We make the rules, so we should make sure that we're adhering to them—this hasn't always happened in the past. She said she wants to be sure that the town Higgins Pit solar project will also follow the same LUO rules that have been set out for solar arrays. She shared updates from the Climate Emergency Task Force, including news that we were awarded a six-month AmeriCorps volunteer position and that an Electric Vehicle Car Show is planned for April 24 at the Harborside Hotel.

Mr. Hochman thanked the Public Works staff who were up on Strawberry Hill pulling leaves out of the culverts at lunchtime today to make sure that water was flowing. It's not fun to be standing out there in the pouring rain, but they are out there making sure that things are running smoothly. He said after the Ford Bronco made headlines this week, he'd like to discuss what we can do to discourage vehicle traffic on the sandbar to Bar Island, without interfering with launching kayaks, etc. It seems to be happening more often than it used to that vehicles get stuck and there's a possible environmental impact every time a vehicle is submerged.

XII. EXECUTIVE SESSION—*Consultation between the municipality and its attorney*—Mr. Hochman, with second by Ms. Goldthwait, moved to go into executive session to consult with code enforcement and our attorney related to the prosecution of enforcement matters against O’Halloran, 23 First South Street, and Bar Harbor Jazz Festival, 35 Cottage Street, pursuant to 1 MRSA section 405(6)(H). Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough Y

Motion passed 7-0.

The executive session was held both in person, including Code Enforcement Officer Angela Chamberlain, and using a private Zoom meeting including Councilors Cough and Peacock and attorney Stephen Wagner.

At approximately 9:30 p.m., the five members of the Council present in person returned to regular session.

Mr. Hochman, with second by Ms. Goldthwait, moved to authorize the Town Manager or his designee to enter into a Consent Agreement or Decree to resolve the 23 First South Street Land Use Violation on the terms he deems to be in the best interests of the Town pursuant to Section 125-101(A)(2) of the Land Use Ordinance. Roll Call Vote:

Dobbs Y

Hochman Y

Friedmann Y

Minutolo Y

Goldthwait Y

Motion passed 5-0.

Mr. Hochman, with second by Mr. Minutolo, moved to authorize the Town Manager or his designee to enter into a Consent Agreement or Decree to resolve the 35 Cottage Street violation on the terms he deems to be in the best interests of the Town pursuant to Section 125-101(A)(2) of the Land Use Ordinance. Roll Call Vote:

Dobbs Y

Hochman Y

Friedmann Y

Minutolo Y

Goldthwait Y

Motion passed 5-0.

Mr. Hochman, with second by Ms. Goldthwait, moved to go into executive session to consult with our attorneys related to cruise ship industry negotiations where premature disclosure would disadvantage the municipality pursuant to Title 1 MRSA 405(6)(E). Roll Call Vote:

Dobbs Y

Hochman Y

Friedmann Y

Minutolo Y

Goldthwait Y
Motion passed 5-0.

The executive session was held both in person and over a private Zoom meeting including Councilors Cough and Peacock and attorneys Stephen Wagner and Jonathan Hunter.

At approximately 11:05 p.m., the five members of the Council present in person returned to regular session. No action was taken.

XIII. ADJOURNMENT— Mr. Hochman, with second by Ms. Cough, moved to adjourn at 11:10 p.m. Roll Call Vote:

Dobbs Y
Hochman Y
Friedmann Y
Minutolo Y
Goldthwait Y
Motion passed 5-0.

Elizabeth Graves, Town Clerk