

Minutes
Bar Harbor Town Council
October 18, 2022

- I. CALL TO ORDER** – 6:30 P.M. In attendance were Councilors Valerie Peacock, Matthew Hochman, Joe Minutolo, Jill Goldthwait, Erin Cough, Jeff Dobbs, and Gary Friedmann; Town Manager Kevin Sutherland and Town Clerk Liz Graves.

Ms. Peacock made opening remarks, saying it is prime foliage season and the secret is out about how beautiful it is here this time of year. She said is the last regular meeting before the November election; while the media and the campaigns like to highlight our differences, she finds understanding and connection in the face-to-face conversations. She said she learns a lot from everyone and appreciates the level of engagement that we have in this town.

- II. COMMITTEE APPOINTMENTS** – *Council to consider Appointments Committee recommendations to appoint the following with expiration date of July 31 of the applicable year.* Ms. Peacock noted that the Appointments Committee has interviewed one more candidate since the agenda and packet were published on Friday, Kate Macko for Design Review Board, and asked if the Council is comfortable with taking up the additional nomination this evening. The Council agreed.

1. Board of Appeals: Three-year term

a. Nathan Young

Appointments Committee recommends and Mr. Hochman nominated Nathan Young to the Board of Appeals. Ms. Peacock nominated Cara Ryan. Roll

Call Vote:

Minutolo Ryan
Goldthwait Ryan
Cough Young
Peacock Ryan
Hochman Young
Dobbs Young
Friedmann Ryan

By a vote of 4-3, Cara Ryan was appointed.

2. Design Review Board: Three-year term

a. Mike Rogers

Appointments Committee recommends and Mr. Hochman nominated Mike Rogers to the Design Review Board. Roll Call Vote:

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

By a vote of 7-0, Mike Rogers was appointed.

b. Kate Macko

Appointments Committee recommends and Mr. Hochman nominated Kate Macko to the Design Review Board. Roll Call Vote:

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

By a vote of 7-0, Kate Macko was appointed.

3. Harbor Committee: Three-year term

a. Micala Delepierre

Appointments Committee recommends and Mr. Hochman nominated Micala Delapierre to the Harbor Committee. Roll Call Vote:

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

By a vote of 7-0, Micala Delapierre was appointed.

III. READING OF THE MEETING GROUND RULES

IV. 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.*—Annlinn Kruger again spoke about her graffiti project, accusing Mr. Sutherland of falsifying information, granting improper services, and using town resources for personal use.

Mr. Friedmann said he would like to respond; Ms. Peacock asked to stick to the Rules of Order, and asked Mr. Friedmann to use his Councilor Comments time to respond.

V. APPROVAL OF MINUTES—None.

VI. ADOPTION OF AGENDA—Without objection, Mr. Hochman requested amending the agenda to add item II.B, appointment of Kate Macko to the Design Review Board. Then Mr. Hochman, with second by Ms. Cough, moved to adopt the agenda as amended. Roll Call Vote:

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

Motion passed 7-0.

VII. 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 accept the Financial Report as presented. Roll Call Vote:

Minutolo Y
Goldthwait Y

- Cough _____ Y
- Peacock _____ Y
- Hochman _____ Y
- Dobbs _____ Y
- Friedmann _____ Y

Motion passed 7-0.

VIII. 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. Veterans Day Bell Ringing** – *Possible motion to request Bar Harbor churches and schools sound their bells in observance of Veterans Day, per state statute 30A-MRSA §2901.4.*
- B. Blue Star Memorial Marker**—*Possible motion to approve Bar Harbor Garden Club request to place a sign about the Sundial Lupine Project on town property.*
- C. Council Policies**—*Possible motion to approve amendments to policies reviewed at last meeting.*
 - 1. Investment Policy
 - 2. Cooperating Agencies Policy

Mr. Hochman, with second by Ms. Cough, moved to approve the Consent Agenda as presented. Roll Call Vote:

- Minutolo _____ Y
- Goldthwait _____ Y
- Cough _____ Y
- Peacock _____ Y
- Hochman _____ Y
- Dobbs _____ Y
- Friedmann _____ Y

Motion passed 7-0.

IX. PUBLIC HEARINGS

- A. Special Town Meeting November 8, 2022** – *Public comment on the following ballot articles:*
 - 1. Article 2 — LUO Amendment – Removal of the Two-thirds Majority Vote Requirement to Amend the Land Use Ordinance—Ruth Eveland offered comment.
 - 2. Article 3 – Citizen Petition for LUO Amendment – Daily Limits on Cruise Ship Disembarkations Ordinance—Charles Sidman, Will Schott, Doris Plumer, Diane Vreeland, and Dee Karnofsky offered comment.
 - 3. Article 4 – Citizen Petition for LUO Amendment – Marijuana Stores Ordinance—No public comment.
 - 4. Article 5 – Citizens’ Petition for Adult Use Marijuana Store Licensing Ordinance—Phil Payne and Will Schott offered comment.
 - 5. Article 6 –LUO Amendment – Appendix A—Historic Properties—Will Schott offered comment.
- B. Long-Term Rental Housing Ordinance Amendment #2022-06**—*Public comment and possible adoption of the ordinance amendment.*—Will Schott, Sally Crock and Charles Sidman offered comment. Code Enforcement Officer Angela Chamberlain

and Fire Chief Matt Bartlett answered Council questions. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to adopt an amendment to the Municipal Code to add a Chapter titled ‘Long-Term Rental Housing’ as presented.

Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Dobbs Y

Friedmann Y

Motion passed 7-0.

Long-Term Rental Housing Ordinance Amendment

Town of Bar Harbor

2022-06

An amendment to the Town Code to enact a Long-Term Rental Housing Ordinance.

The Town of Bar Harbor hereby ordains that Chapter 130, Long-Term Rental Housing, of the Town Code is appended as follows:

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

Chapter 130 Long-Term Rental Housing

§ 130.1 Purpose; intent

The purpose of this ordinance is to maintain a registry of all long-term rental (LTR) housing that requires registration and gathers relevant associated data to assist the Town with understanding the nature of the existing rental housing stock and its characteristics, and in formulating housing policies.

§ 130.2 Definitions

Compensation

Payments made for the residential rental of a dwelling unit including, but not limited to, money, services, trade, or a combination thereof.

Dwelling

A building or portion thereof used exclusively for residential occupancy and containing one or more dwelling units.

Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities. Recreational vehicles are not residential dwelling units.

Long-Term Rental (LTR) Housing

Any dwelling unit that is rented or available for rent for a period of 30 consecutive days or more, in exchange for compensation.

§ 130.3 Applicability

- A. The provisions of this chapter apply to all LTR housing, including but not limited to: dwellings and dwelling units.

- B. The provisions of this chapter do not apply to the YWCA Mount Desert Island, Short-Term Rentals, Employee Living Quarters, Shared Accommodations, any type of transient accommodation of less than 30 days, government regulated housing under HUD regulations, campgrounds, on-campus college dormitories, convalescent and/or congregate housing, and nursing homes; all as defined in Chapter 125 of the Bar Harbor Municipal Code.

§ 130.4 Registration required

A valid LTR registration issued under the terms of this chapter is required. No person, including without limitation a property owner, owner’s associate, real estate broker, or property manager, shall allow any rental housing to be occupied, let or offer any rental housing to another person for occupancy unless the owner has a valid registration under the terms of this chapter. Any person renting without a registration is in violation of these provisions.

§ 130.5 Issuance of registration; transferability

A registration pursuant to this chapter shall be issued to the property owner of record. One registration shall be issued for each dwelling being offered separately for rent as a LTR. No transfer of registration is allowed between property owners or properties.

§ 130.6 Renewal; registration term

Each year, the property owner of record shall submit a registration application for each dwelling unit being rented as a LTR. All registrations expire on December 31.

§ 130.7 Fees

There is no fee associated with the registration process.

§ 130.8 Failure to register

Beginning January 1, 2024, failure to register annually, on or before February 28, will result in a “failure to register” fine as follows:

- A. Registration filed in March: \$50.00.
- B. Registration filed between April 1 and July 31: \$100.00 per month or portion thereof.
- C. Registration filed between August 1 and December 31: \$200.00 per month or portion thereof.

§ 130.9 Application for registration

A registration application shall be made to the Code Enforcement Officer on forms provided by the Code Enforcement Officer for such purpose and shall include the minimum following information:

- A. Property owner name, mailing address, contact information, and email address;
- B. Name of primary party responsible for the property, mailing address, contact information, and email address;
- C. Street address of the property;
- D. Map and lot number;
- E. Number and type of long-term rental units on the property;
- F. Number of bedrooms in each unit;
- G. Other information as deemed relevant to the housing characteristics.

§ 130.10 Authority to issue registrations

The Code Enforcement Officer shall have the authority to issue LTR registrations and enforce the provisions of this chapter.

§ 130.11 Inspections

Inspections are not currently required for LTRs.

§ 130.12 Violations and penalties

Violation of operating without a registration.

It shall be a violation of this chapter for any person to advertise for rent, rent, or operate a LTR without a valid registration. The provisions of this chapter shall be enforced by the Code Enforcement Officer pursuant to Chapter 125, Article X of this Code and 30-A M.R.S.A. § 4452, as the same may be amended.

§ 130.13 Appeals

In accordance with the process outlined in § 125-103, the Board of Appeals may, upon written application of an aggrieved party received by the Planning Department within 30 days of any decision or enforcement action by a municipal body or official who interprets this chapter, hear appeals from such decision. For purposes of this section, the term "decision" is limited to an order, decision, ruling, or enforcement action made in writing.

§ 130.14 Severability

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held invalid or unconstitutional or if the application of this chapter to any person or circumstances is held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this chapter.

[End of ordinance]

X. UNFINISHED BUSINESS

A. Fiber Network for Town Facilities – Possible contract with Consolidated Communications.—Elizabeth McCarthy and Ian Silberman of Consolidated Communications, with Technology Systems Administrator Steve Cornell, presented the proposal and answered Council questions. Following discussion, Mr. Friedmann, with second by Mr. Hochman, moved to authorize the Town Manager to sign necessary documents with Consolidated Communications for build out of Fiber to municipal facilities. Roll Call Vote:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y
- Dobbs Y
- Friedmann Y

Motion passed 7-0.

B. Communications—*Discussion of website re-design working group and Councilor involvement.*—Communications Coordinator Maya Caines explained the work of the website redesign team and answered Council questions. Following discussion, Ms. Cough, with second by Mr. Dobbs, moved to appoint Councilor Hochman to the website redesign team. Roll Call Vote:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y

Dobbs _____ Y

Friedmann _____ Y

Motion passed 7-0.

- C. Emergency Operations Plan**—*Discussion and vote on revised document.*—Fire Chief Matt Bartlett and Town Clerk Liz Graves presented the updated plan and answered Council questions. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to accept the revised Emergency Operations Plan as presented. Roll Call Vote:

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Dobbs _____ Y

Friedmann _____ Y

Motion passed 7-0.

- D. Open Table MDI**—*Request to close Maple Street between Cottage St. and Brewer Ave. for an event on November 11, 2022.*—Police Chief Jim Willis discussed the request and process to date. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to authorize town staff to close Maple Avenue between Cottage Street and Brewer Avenue on November 11, 2022 for the Open Table MDI event. Roll Call Vote:

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Dobbs _____ Y

Friedmann _____ Y

Motion passed 7-0.

- E. Vehicles and Traffic Ordinance Amendment**—*Possible motion to set a public hearing for November 15, 2022.*—Chief Willis explained the development of the planned winter parking permit system, which would allow the current blanket ban on overnight parking in the winter to be lifted, and answered Council questions. Public Works Director Bethany Leavitt participated in the discussion. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to set a public hearing for November 15, 2022 on proposed amendments to Chapter 194, Vehicles and Traffic Ordinance. Roll Call Vote:

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Dobbs _____ Y

Friedmann _____ Y

Motion passed 7-0.

- F. Long-Term Rental Registration Task Force**—*Possible motion to revise bylaws.*—Ms. Peacock explained the request to pause the work of the task force for a

year to collect information from registrations, and reconvene in early 2024. Mr. Hochman, with second by Ms. Cough, moved to update the Long-Term Rental Registration Task Force Roles & Responsibilities as presented. Roll Call Vote:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y
- Dobbs Y
- Friedmann Y

Motion passed 7-0.

G. Treasurer’s Warrant—*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:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y
- Dobbs Y
- Friedmann Y

Motion passed 7-0.

XI. NEW BUSINESS

A. Council Policies—*First reading of proposed changes*

1. **Consent Agreement**—Code Enforcement Officer Angela Chamberlain explained the proposed changes and answered questions. Council made a few suggestions for additional edits.
2. **Utility Location**—Public Works Director Bethany Leavitt discussed the proposal and answered Council questions. Revisions include requiring permits for replacement poles, which are not currently required. She asked if the Council would like to include an application fee and/or a reserve payment.
3. **Curb Cut**—Ms. Leavitt said the policy had been revised just before she began work with the town. The proposed draft defines the locations where an application is needed, which is those where paid and permit parking is impacted. It also adds the ability to look at factors other than parking, under standards for approval. Mr. Sutherland asked about adding an option for staff review only, for non-controversial applications. Mr. Hochman asked if a curb cut no longer needed can be automatically reclaimed.
4. **Road and Sidewalk Opening**—Ms. Leavitt explained the changes to make the policy better match current practice. These include removing the fee amount from the policy, since it is set annually during the budget process, and adding a timeline for duration of the work.
5. **Personnel Rules**—Mr. Sutherland explained the further changes since Sept. 20 approval. Council was comfortable with the change from three to five days for bereavement leave. Other changes include clarification in the political activities section and revision of the dress code section.

XII. TOWN MANAGER’S COMMENTS

Mr. Sutherland said a staff appreciation pizza party is planned for Thursday, October 20 from 12:00 to 2:00 p.m. at the Village Green. He invited Councilors to come by and thank staff for what they do. New employees and employee anniversaries will be recognized. The municipal building offices will be closed from 12-1 so staff who serve the public have the chance to participate as well.

XIII. COUNCIL COMMENTS

Ms. Goldthwait asked whether it would be helpful to have a sandwich board sign outside the town office, as many towns do, to announce meeting dates, etc. She also expressed concern and frustration with the comments being made in the public comment period. She said she thinks they are unfair and inaccurate, and yet it is a forum in which no one can raise a question about it or speak to any other side of it. It was painful to hear some of the comments that were made and simply have to let them be out there.

She said her own opinion is that we were confronted with a situation that we hadn’t been before, that town staff worked together to sort out the details, that a resolution was reached with which the person involved agreed. She said she doesn’t understand this campaign at public comment period to describe it in a very different way.

Ms. Cough said she thinks that there is an intention to have comments pulled from this Council that will make the Council sound like it is a unified body, or that one person is speaking for the Council. She said we allow public comment as a form of freedom of speech. Freedom of speech has a line.

She also recognized the upcoming election and encouraged everyone to reach out to Councilors, or the Clerk or the Manager, to ask about the issues.

Mr. Hochman said he enjoyed the recent Maine Municipal Association training for Planning Boards and Boards of Appeals, which Ms. Cough and Ms. Peacock also attended. He thanked Mr. Sutherland for attending the groundbreaking for the new childcare facility at the Jackson Lab.

Mr. Dobbs said he wants our Town Manager to know the Council is behind him 100 percent.

Mr. Friedmann said he recently went to Nova Scotia on the CAT. People in Yarmouth, he said, wanted people in Bar Harbor to know that the ferry is a huge economic driver for their community. He also asked that the next time the MRC presents the town an opportunity to weigh in on its work, that the Council take advantage of it. He referenced a letter from a group called Don’t Waste ME, which makes a case for a different approach to waste management.

He said he believes that this situation with Annlinn Kruger needs a response from Council. Not just because she shows up here and repeatedly levels accusations about Council and about the manager, but because this week Councilors received a letter signed by members of the MDI community including Bar Harbor residents. That demands a response from Council. He read the following statement that he said is not meant to reflect the Council, but it reflects his own views and he thinks is important for the community to hear:

I want to speak to two distinct issues that Annlinn has raised in recent weeks, the political activities of Leonard Leo and her treatment by town officials during her protests. On the first issue, I, too, am very concerned about Leonard Leo’s dark money campaigns to undermine progressive legislation and to use the courts to promulgate policies contrary to the values of a substantial majority of Americans. On

the second issue, I want to apologize on behalf of the town for mistakes that were made by our employees that were hurtful to Annlinn and/or her campaign. These mistakes have been addressed by Town Council. It's the job of Council to provide constructive feedback to the Town Manager, and we've done so in this case. I believe the Council believes that Kevin Sutherland is an extremely effective, honest, and valuable leader. All town employees are going to make some mistakes in the course of their work, which is often extremely demanding, complex, and stressful. It's time to move on from internecine conflict and refocus on how to counter Leonard Leo's growing influence in realms beyond the Town of Bar Harbor and MDI. I believe that part of living in a small town is the recognition that we're all in this together, that we must support each other and work together to tackle the tough challenges that lie ahead. We can and must treat each other as friends. We can and must work out our differences with kindness and generosity. In this spirit of fostering constructive dialogue I ask for an end to further harsh or antagonistic criticisms of our Town Manager or members of the Town Council.

Ms. Peacock said the town has signed several Memoranda of Agreement with cruise lines; about three-quarters of all of the lines that visit Bar Harbor are complete. She said she knows there are people that didn't think the companies would sign them, and they are signing them. The next Council meeting is the retreat on the priorities, Nov. 1 at 5:30 p.m. in the Public Works conference room with dinner. Before that meeting are the two public engagement events on the Comprehensive Plan, October 25 and 26. She said it's clear from anyone you talk to that there are lots of challenges here, lots of problems, lots of strengths, lots of opportunities—and it's also clear that these are very interconnected. She hopes every Councilor will attend one of those events to participate, listen, and talk to folks who are there. She encouraged Councilors to think about whose voices need to be heard and actively make invitations to participate. She said it was fun to see that MDI Marathon return this past weekend.

From the position as chair, she noted that interacting with the community using the formal rules and processes is challenging. She said people are looking for us to follow those rules, and when we don't follow them it comes back to us. But other times, it often feels not casual enough or not organic enough, and she catches herself answering questions because that's how she wants to interact with people. She said her goal is to be transparent and consistent with applying the rules, so that we're doing things the way we want to do them. However, it also means that some of the forms are not getting us where we want to get to. Public hearings are not dialogues; it's a one-way ticket. She would love to find ways to have more opportunity for dialogue. Sorting out individual opinions from speaking for the Council is challenging, too.

XIV. ADJOURNMENT—Mr. Hochman, with second by Ms. Cough, moved to adjourn at 9:22 p.m. Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Dobbs Y

Friedmann Y

Motion passed 7-0.

Elizabeth N. Graves, Town Clerk