

Minutes
Bar Harbor Town Council
May 15, 2012

I. **CALL TO ORDER** – 7:00 p.m. – In attendance were Councilors: Ruth Eveland, Robert Garland, Paul Paradis, Peter St. Germain, Enoch Albert, Christopher Walsh, and Jane Disney. Town Manager Dana Reed was absent.

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

II. **APPROVAL OF MINUTES**

A. *May 1, 2012 Regular Meeting*

B. *May 1, 2012 Special Meeting*

C. *May 8, 2012 Special Meeting*

Mr. Paradis, with second by Mr. St. Germain, moved to approve the minutes of the May 1, 2012 Regular Meeting as presented, and the May 1, 2012 and May 8, 2012 Special Meetings as presented. Motion passed 7-0.

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

IV. **FINANCIAL STATEMENTS** – *Review and possible adoption of a motion “to accept the financial statements as presented”.* – Mr. Paradis, with second by Mr. Garland, moved to accept and file the financial statements as presented in the Finance Director’s memo dated May 9, 2012. Motion passed 7-0.

V. **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. **Bus & Taxi License Renewals:** *Possible passage of a motion “to approve four bus licenses for Acadia National Park & Tours, three additional taxi licenses for At Your Service Taxi, one taxi license for Mount Desert Taxi Co., and one taxi license for MOE’Z Taxi”.*

1. **Acadia National Park & Tours** - *Application of Andrew Cough, National Park Tours & Transport, Inc. for four buses.*
2. **At Your Service Taxi** – *Application of Clare Bingham, CJTL, Inc., for three additional taxis.*
3. **Mount Desert Taxi Co.** – *Application of David Leeman for one taxi license.*
4. **MOE’Z Taxi** – *Application of Maureen Leeman for one taxi license.*

B. **Cruise Ship Committee** – *Possible passage of a motion “to accept Alice Long’s letter of resignation from the Cruise Ship Committee and to thank her for her years of service.”*

- C. **Water Division Pump Station Improvements** – *Possible passage of a motion “to approve and sign the June 7 Special Town Meeting Warrant”.*
- D. **Water & Sewer Fee Commitment** – *Possible passage of a motion “to commit the water and sewer fees to the Town Treasurer for collection”.*

Mr. Paradis, with second by Mr. Garland, moved to approve all items on the Consent Agenda as published. Motion passed 7-0.

VI. PUBLIC HEARINGS:

A. Special Amusement Permit Renewals:

- 1. **Mad Hatter Pub and Grill, 116 Cottage Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Anna Hosta.**
- 2. **Bar Harbor Club & Spa, 111 West Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by BHTC 111, LLC, Richard C. Ade.**

The public hearing was opened, there were no comments from the audience, however a letter from a neighbor The Quimby House, owner Tim Ray, was received and noted they called the police several occasions and has lost business because of the noise. Following discussion, Council urged residents to continue to call the police because after a number of warnings within a specified time, the Council would be required to take action.

Mr. Paradis, with second by Mr. Garland, moved to approve the special amusement renewals for Mad Hatter Pub and Grill, and Bar Harbor Club & Spa as advertised. Motion passed 6-1 (Nay: Dr. Disney).

VII. REGULAR BUSINESS:

A. Committee Consultations – *Discussion of current projects, future plans and any support needed from Town Council*

- 1. **Design Review Board** – Chair Todd Hardy and members Barbara Sassaman and Pancho Cole were present. They reported their work with staff and Chamber of Commerce helped work through streamlining their process. They need to look at special circumstance involving the pitching of tents. It is something that is coming up regularly. However, the biggest issue, and they could use some support from Council, is code enforcement. The issue is not with the Code Enforcement Officer who does a good job, it's the process and the length of time. The violations run from small to large with just a few who are repeat offenders. By the time the violation is written, the time to correct it, it doesn't get corrected before the season is over, and then it starts again the following year. Several suggestions were made from the board and Council: a carryover of the number of complaints for each season; a business license that would provide who is the business operator and address, and the license could be revoked if a violation is not corrected; meet with the Business Round

Table to address the situation; or establish a fee that escalates with each notice of violation. It was noted that Council and the board should meet to discuss this topic at a regular or special meeting and maybe include other boards that have similar issues.

2. **Marine Resources Committee** – Chair Chris Petersen reported the last six months they were gearing up for the season with two clam flat surveys: Hulls Cove and Hadley Point conservation area. Hulls Cove was never done and they were surprised to find little to no clams for a closed area. Hadley Point is very health and is thriving. They continue to try and identify the source of pollution of the Northeast Creek closure. Their latest venture is ocean acidification. Two people will train for this testing. The College of the Atlantic has funded two meters for their use.

- B. **Shellfish Conservation Ordinance** – *Review and possible introduction of a Town Code amendment proposed by the Marine Resources Committee.* – Following the review of the proposed amendment requiring commercial diggers to give specific hours of conservation efforts before applying for a local license; Mr. Paradis, with second by Mr. Garland, moved to introduce the Shellfish Conservation Ordinance dated 5-11-12 and schedule a public hearing for June 19, 2012. Motion passed 7-0.

- C. **Citizens United Petition** – *Request of Councilor Albert for Town Council adoption of a “Resolution to Remove Corporate Money From Our Elections”.* – Mr. Albert, with second by Dr. Disney, moved to adopt the following resolution:

Whereas: Citizens of Bar Harbor are concerned that big money from corporate and other sources can unfairly influence our local, state, and federal elections, politicians, and public policy, and the winners in these elections write laws that do- or don't – send funds to our town.

Therefore be it resolved: that the Bar Harbor Town Council stands with communities across the country to defend democracy from the corrupting effects of undue corporate power by amending the United States Constitution to establish that:

Corporations are not entitled to the Constitutional protections or “rights” of natural persons;

Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

And we ~~instruct~~ encourage our state and federal representatives to enact and support resolutions and legislation to advance this effort.

Following a few public comments and discussion, Mr. Garland, with second by Mr. Paradis, moved to amend by changing the word ‘instruct’ to ‘encourage’ in the last sentence. Motion passed 7-0.

The main motion passed 7-0.

A short break was taken at 8:35 p.m. The meeting resumed at 8:42 p.m.

D. Council Rules of Order:

1. **Public Comment Period** – *Request of Councilor Garland.* - Following discussion, Mr. Garland, with second by Mr. Albert, moved to amend the Town Council Rules of Order to add ‘Public Comment Period’ as item II on Council agendas. Motion passed 6-1(Nay: Mr. Paradis).
2. **Council-Staff Interactions** – *Request of Councilor Disney for amendment of the Town Council’s Rules of Order to create standards for councilor interactions with Town employees.* – Following discussion of similar language contained in the Town’s Charter and Ethics Ordinance, except for one line; Dr. Disney, with second by Mr. Walsh, moved to add the section of the City of Saco’s Councilor-Staff Interactions as a new policy to the Town Council Policies. Motion passed 4-3 (Nay: Ms. Eveland, Mr. Paradis, Mr. St. Germain).

New Policy:

Councilor-Staff Interactions

General staff and administrative support to members of the [Town] Council is provided through the Town Manager’s Office. Except for the purposes of inquires, the [Town] Council or any of its members shall deal with [Town] officers and employees who are subject to the direction and supervision of the [Town Manager] solely through the [Town Manager]. [Town] Council or any of its members shall not give orders to any officers or employees either publicly or privately. Sensitivity to the workload of support staff members in the [Town Manager’s] Office is [essential]. Staff members may have other work assigned with high priority. Should requested tasks require significant time commitments, prior consultation with the [Town Manager] is requested.

- E. **Payments in Lieu of Taxes** – *Request of Councilors Disney and Walsh for active solicitation of PILTs from tax exempt, non-profit organizations.* – Following discussion of challenging economic times for all, including non-profits, and who will be responsible in the upkeep of contact information and insertion; Dr. Disney, with second by Mr. Walsh, moved that this letter go to the Town Manager as a potential template as the PILT letter to be mailed out at tax bill time. Motion passed 4-3 (Nay: Mr. Garland, Mr. Paradis, Ms. Eveland). Councilor Walsh stated he would process the initial letter, the first mail out at the time the tax bills are sent and a second time just before budget season. Then depending on whether or not PILT payments are received, it can be decided as to whether or not to continue or discontinue the letter.
- F. **Regional Fire/EMS Training Facility** – *Request of the League of Towns for an indication if the Town Council feels that further investigation of a Regional Fire/EMS Training Facility should be pursued.* – Following a

brief explanation from Assistant Fire Chief Matt Bartlett, Mr. St. Germain, with second by Dr. Disney, moved to support further investigation of cost for a regional fire facility and support fundraising soft costs of this project. Motion passed 7-0.

- G. **FY12/FY13 Audit** – *Review and possible acceptance of a proposal from James W. Wadman, CPA, to conduct annual audits of the Town’s financial statements for the years ending June 30, 2012 and June 30, 2013.* – Mr. Paradis, with second by Mr. St. Germain, moved to accept the April 30, 2012 proposal from the firm of James W. Wadman, CPA, to perform Town audits for the fiscal years ending June 30, 2012, in the amount of \$14,495, and for June 30, 2013, in the amount of \$14,855, plus an additional fee of \$1,285 for each year in which our audit is required to comply with Federal Single Audit Act requirements. Motion passed 7-0.
- H. **Maine Municipal Association** – *Request of MMA for nomination of candidates to serve on the Legislative Policy Committee.* – There was no action.
- I. **Treasurer’s Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Mr. Garland, moved to sign the Treasurer’s warrant for paid bills. Motion passed 7-0.

VIII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Dr. Disney expressed her appreciation to serve and participate on the Town Council. She offered suggestions for new Councilors and for the seating Councilors to embrace new ideas and new ways of doing things, and shared the learning curve that she experienced. She left with a reminder for Council to carefully balance between economic development, the culture and character of the town and in development keeping environmental goals in mind and on Council’s list.

Mr. Walsh announced the he would miss Jane on the Town Council, and he would miss serving with Enoch and appreciated him doing his homework. He thought Enoch brought fresh ideas and he regrets supporting the question asked of each potential councilor if they would seek running for the seat in June; he hopes Enoch would consider it in the future.

Mr. Walsh requested the July 17th agenda include meeting with the Design Review Board and the Business Round Table to address concerns brought up at tonight’s meeting regarding enforcement issues.

Mr. Albert thanked all who helped him with the steep learning curve. He expressed his appreciation for all the work that the Councilors do.

Mr. Garland also thanked Jane and Enoch for their time served and expressed that both were a tremendous asset to this board.

Mr. Paradis announced he wanted to make everyone aware of a public session scheduled for Thursday May 31, at 5:00 p.m. for B&A to show the options being considered for the Ferry Terminal and a chance for the public to comment prior to the final report being issued approximately 4 to 6 weeks later.

Mr. St. Germain wished both Jane and Enoch good luck and thanked them for their service.

Ms. Eveland announced several important dates and meetings that might be of interest: The League of Towns Collaboration Meeting on May 16th at 5:30 p.m. at the Somesville Fire Station; Annual Open Town Meeting June 5th; June 7th a special Town Meeting at 7:00 p.m.; Annual Town Meeting ballot on June 12th; May 25th at 7:00 p.m. Candidates Night; and May 29th public discussion of the Backyard Parking Garage at 5:00 p.m.

IX. EXECUTIVE SESSION:

A. **Town Manager's Contract** – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)*
– Mr. Paradis, with second by Mr. Garland, moved to go into executive session, at 10:03 p.m. following a break, to discuss the employment of an individual public official, as permitted by 1 MRSA 405.6.A. Motion passed 7-0. Council entered into executive session at 10:12 p.m. and came out of executive session at 10:31 p.m.

X. **ADJOURNMENT** – Mr. Paradis, with second by Mr. Garland, moved to adjourn at 10:31 p.m. Motion passed 7-0.

Patricia A. Gray Town Clerk