

MINUTES
Bar Harbor Town Council
February 7, 2023

- I. CALL TO ORDER** – 6:34 P.M. In attendance were Councilors Valerie Peacock, Matthew Hochman, Joe Minutolo, Jill Goldthwait, Erin Cough, Gary Friedmann, Interim Town Manager Sarah Gilbert and Town Clerk Liz Graves.

Ms. Peacock made opening remarks. She welcomed Interim Town Manager Sarah Gilbert. She said this past, very cold Saturday was a good excuse to slow down and stay home. After more than a few stressful weeks of town government, a day with her family gave her a chance to slow down and find some perspective. She said there’s no doubt that the intensity of losing a manager, strategizing a lawsuit, building a new school, and building a budget that balances need with cost could lead one to believe that the sky is falling or that our town is falling apart. Or it could also lead one to look around and notice the staff who are working hard to keep the trains on the track and leaning in to solve our challenges, and a Council who continues to show up and slog through the work of finding paths forward in spite of the endless criticism, and a Warrant Committee taking the time to look and listen carefully, and School Committee continuing to advocate for the youth and educators in our community. One might also look around to see community members looking out for neighbors, nonprofits doing amazing work, folks going about their jobs and taking care of their families. One might feel the bitter cold, or one might be in awe of the sea smoke and frosted tips of the Porcupine Islands, and wonder what magic allows a sea dog to survive winters in Maine, and be thankful for a warm place to lay your head. She said ice skating in the Great Meadow was a reminder of some of the many reasons she lives here, and after the past few weeks she needed that reminder. If there’s anything we can all do, it’s to broaden our perspectives, look at things from all angles, the good and the bad. Look for yourself, listen for yourself, she said, and look for the light.

- A. Excused Absence(s)**—Mr. Hochman with second by Ms. Cough, moved to excuse Councilor Jeff Dobbs as provided by Town Charter section C-12.B(1)(d). Roll Call
Vote:

<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>
<u>Cough</u>	<u>Y</u>
<u>Peacock</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Friedmann</u>	<u>Y</u>
<u>Motion passed 6-0.</u>	

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 on any subject not on the agenda and not in litigation with a maximum of three minutes per person.*—Annlinn Kruger spoke about former Town Manager Kevin Sutherland and her graffiti project. Doug Heden spoke about the drainage issue on Atlantic Avenue, saying a solution is not yet agreed on by all parties.

IV. APPROVAL OF MINUTES

- A. January 17, 2023 Regular Meeting**

B. January 23, 2023 Special Meeting

C. January 24, 2023 Budget Workshop with Warrant Committee

D. January 26, 2023 Budget Workshop with Warrant Committee

E. January 26, 2023 Special Meeting

Mr. Hochman with second by Ms. Cough, moved to approve the minutes of the January 17, 2023 Regular Meeting, the January 23 Special Meeting, the January 24 Budget Workshop with the Warrant Committee, the January 26 Budget Workshop with the Warrant Committee, and the January 26, 2023 Special Meeting as presented.

Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

V. ADOPTION OF AGENDA—Mr. Hochman, with second by Ms. Cough, moved to suspend the rules pursuant to Rule 4.M of the Council Rules of Order and amend the agenda to add an executive session pursuant to 1 MRS 405(6)E to discuss with legal counsel rights and responsibilities of the council concerning the conflict of interest advice pertaining to APPLL et al v. Town of Bar Harbor after Item VIII.A.1. Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

Mr. Hochman, with second by Ms. Cough, moved to add “Town Manager Search” under Unfinished Business, Item A. Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

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

Friedmann _____ Y

Motion passed 6-0.

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

A. Council Policies – *Possible motion to approve amendments to the Cable TV Public Access Policy as presented and to update the legislative history for the Councilor-Staff Interaction Policy to reflect that it has been reviewed by Council.*

- 1. **Cable TV Public Access Policy**
- 2. **Councilor-Staff Interactions Policy**

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

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Friedmann _____ Y

Motion passed 6-0.

VII. UNFINISHED BUSINESS

A. Town Manager Search—Ms. Peacock introduced the proposal from Maine Municipal Association and said Dave Barrett is planning to attend the Council meeting on Feb. 21 to discuss the process, including how to involve the public along the way.

Mr. Hochman, with second by Ms. Cough, moved to hire the Maine Municipal Association to conduct the town manager recruitment process as outlined in their proposal dated January 30, 2023. Roll Call Vote:

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Friedmann _____ Y

Motion passed 6-0.

B. Short-Term Rental Registration Ordinance Amendment—*Possible motion to call for a public hearing March 7, 2023.*—Mr. Hochman, with second by Ms. Cough, moved to call for a public hearing March 7, 2023 to hear comment on proposed amendments to Chapter 174 “Short-term Rental Registration” of the Municipal Code. Roll Call Vote:

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Peacock _____ Y

Hochman _____ Y

Friedmann _____ Y

Motion passed 6-0.

C. 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
- Friedmann Y
- Motion passed 6-0.

VIII. NEW BUSINESS

A. APPLL et al vs. Town of Bar Harbor

1. *Update*—Town Attorney Stephen Wagner introduced himself and gave an overview of the activity in the lawsuit and injunction to date. Ms. Goldthwait recommended reading the filings in the case, saying they are easy to understand. The documents were subsequently posted to the town website for ease of access.

EXECUTIVE SESSION—APPLL et al v. Town of Bar Harbor—Mr. Hochman, with second by of interest advice Ms. Cough, moved to enter into executive session pursuant to 1 MRS 405(6)E to discuss with legal counsel rights and responsibilities of the council concerning the conflict pertaining to APPLL et al v. Town of Bar Harbor. Roll Call Vote:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y
- Friedmann Y
- Motion passed 6-0.

Mr. Wagner, Ms. Gilbert and Ms. Graves participated in the executive session. Council returned to regular session at 7:35 p.m.

NEW BUSINESS, CONT.

2. *Conflict of interest advice.*—Following discussion, as Council liason, Mr. Hochman agreed to ask the Cruise Ship Committee chair not to call a meeting for the next few months.

B. FY2024 Budget—*Discussion of desired changes.*—Ms. Peacock introduced the discussion. Ms. Gilbert gave an update on use of fund balance, estimated cruise ship passenger numbers, and possible uses of American Rescue Plan Act funds and answered Council questions.

Council discussed service enhancements, revenues and expenses and compiled a list of possible motions for future votes. Planning Director Michele Gagnon, Police Captain David Kerns, Fire Chief Matt Bartlett and Public Works Director Bethany Leavitt participated in the discussion.

C. Legislation—*Update on pending bills of interest.*—Ms. Goldthwait shared a list of municipal bills that might be of interest. LD166, sponsored by Rep. Lynne Williams at the town’s request, is the bill that would expand the allowable uses of funds from parking revenue, adding “to acquire, construct, maintain and operate capital infrastructure projects” to the list. She said she sent written testimony and Bar Harbor

resident Earl Brechlin was the only person to testify on the bill at the committee hearing, via Zoom. She distributed proposed testimony for the Feb. 8 hearing on one of the bills related to the new state Property Tax Stabilization Program. She noted that the bill creating the program last year passed without something called a “mandate preamble,” which she said technically makes the program voluntary for towns.

IX. TOWN MANAGER’S COMMENTS

Ms. Gilbert shared news that the town has received a \$200,000 grant from the federal government to develop a Regional Comprehensive Transportation Action Plan for safer walking paths, bikeways, etc. The funding is just for the plan, which a consultant would be hired to create, but the Federal Highway Administration has said there will be many grant opportunities for the implementation of the plan. She thanked Public Works Director Bethany Leavitt, Police Chief Jim Willis and Police Captain Dave Kerns for assisting with the grant application. She said the town’s match will be \$50,000 over five years, and that can be funded through the CIP program. The town has five years to spend the money for this implementation plan.

X. COUNCIL COMMENTS

Mr. Minutolo recommended an article in Maine Town and City magazine about challenges facing the lobster industry. He said other towns have made contributions to support the industry in lawsuits challenging the regulations and Bar Harbor might want to consider doing so.

Mr. Hochman thanked everyone who opened up their homes and businesses to their neighbors during the extreme cold this past weekend. He acknowledged the passing of Agnes “the bagel lady” Smit. He expressed frustration with hearing, at public comment, fellow councilors accused of acting in a way that’s contrary to the town residents’ wishes.

Mr. Friedmann thanked the department heads and Ms. Gilbert for pulling together and putting in long hours to keep our town going. He noted that budget questions are not personal, but that he feels a responsibility to look at every angle and look under every stone for potential savings for taxpayers.

Ms. Peacock said she had the pleasure of spending the day in the eighth grade at Conners Emerson to talk about our form of government in the Town of Bar Harbor. The class has become involved in discussions about Glen Mary. She said a broader review of the town’s Ethics Ordinance and discussions about revisions to the ordinance are planned for March.

XI. EXECUTIVE SESSION

A. Sick Leave Transfer—Mr. Hochman, with second by Ms. Cough, moved to enter executive session as permitted by 1 MRSA §405(6)(A) for discussion or consideration of a personnel matter. Roll Call Vote:

- Minutolo Y
- Goldthwait Y
- Cough Y
- Peacock Y
- Hochman Y
- Friedmann Y
- Motion passed 6-0.

Bethany Leavitt and Ms. Gilbert participated in the Executive Session. Council returned to regular session at 10:23 p.m.

Mr. Hochman, with second by Ms. Cough, moved to approve the sick leave transfer requested in a memo dated January 27, 2023 with the following conditions:

1. The Finance Director shall transfer up to 240 hours as needed.
2. Transferred leave will be considered qualifying leave under the Family Medical Leave Act.
3. Transferred leave may not be used by the employee until all available sick leave and accrued vacation leave have been used.
4. No additional sick leave will accrue while the transferred leave is being used.
5. Consistent with the Town policy on leaves of absence, vacation leave will not be earned for the period in which the transferred leave is used.

Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

B. Personnel Matter—Mr. Hochman, with second by Ms. Cough, moved to enter executive session as permitted by 1 MRSA §405(6)(A) for discussion or consideration of a personnel matter. Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

Ms. Gilbert and Ms. Graves participated in the Executive Session. Council returned to regular session at 10:39 p.m.

XII. ADJOURNMENT— Mr. Hochman with second by Ms. Cough, moved to adjourn the meeting at 10:40 p.m. Roll Call Vote:

Minutolo Y

Goldthwait Y

Cough Y

Peacock Y

Hochman Y

Friedmann Y

Motion passed 6-0.

Elizabeth N. Graves, Town Clerk