

Minutes
Bar Harbor Town Council
By Video Conference
February 16, 2021

I. CALL TO ORDER – 5:00 P.M. - In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Valerie Peacock, Gary Friedmann, Joe Minutolo, Erin Cough, Jill Goldthwait; and Town Manager Cornell Knight.

A. Excused Absence(s) – all present.

II. 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. Comments may be emailed in advance to the Council Chair at jdobbs@barharbormaine.gov to be read during the meeting or through the Zoom webinar using the raise hand function.* – Patrick Kilbride recommended doing an independent, unbiased audit of the solar installations already in place at Public Works and the High School to see if performance is measuring up to the promises or not.

III. APPROVAL OF MINUTES- February 2, 2021 Regular Meeting

Mr. Hochman, with second by Mr. Friedmann, moved to approve the February 2, 2021 Regular Meeting minutes. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough Y

Motion passed 7-0.

IV. ADOPTION OF AGENDA –Mr. Hochman, with second by Ms. Cough, moved to adopt the agenda as presented. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough Y

Motion passed 7-0.

V. FINANCIAL REPORT - *Review and possible motion to accept the financial report as presented.* Finance Director Sarah Gilbert summarized her report. Mr. Hochman, with second by Ms. Cough, moved to accept 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.

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. Statutory Officer – *Possible motion to appoint Michael Gurtler as Local Health Officer.*

B. Connected Communities Microgrid – *Request of Councilors Goldthwait and Friedmann, possible motion that the Town Council sign the letter of support to the Department of Energy as presented.*

Councilor Cough requested removing Item B for discussion. Mr. Hochman, with second by Mr. Minutolo, moved to approve the Consent Agenda as amended. Roll Call Vote:

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

VII. PUBLIC HEARINGS - *Maximum of 3 minutes per person. Comments may be emailed in advance to the Council Chair at jdobbs@barharbormaine.gov to be read during the hearing or through the Zoom webinar using the raise hand function.*

A. FY22 Budget

1. *Public comment on the proposed budget for fiscal year 2022 (July 1, 2021 to June 30, 2022).*

Mr. Knight presented the changes resulting from the Canadian government’s announcement of no cruise ships until 2022. Mr. Hochman, with second by Ms. Cough, moved to amend the FY22 (July 1, 2021 to June 30, 2022) budget as recommended by the Town Manager. Roll Call Vote:

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

Chair Dobbs opened the public hearing. There were no comments.

- 2. *Possible adoption of the proposed budget as presented/amended and recommend it to the Warrant Committee.*

Mr. Hochman, with second by Ms. Cough, moved to adopt the FY22 budget as amended and recommend it to the Warrant Committee. Roll Call Vote:

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

B. LUO Amendment for June 2021 - Public comment and possible motion to sign the order placing the Signage LUO amendment on the June 8, 2021 annual town meeting warrant. Chair Dobbs opened the public hearing. There were no comments.

There is one minor correction to the map legend. Mr. Hochman, with second by Ms. Cough, moved to amend the Signage Order as presented by the Assistant Planner in his 2/12/21 memo. Roll Call Vote:

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

Mr. Hochman, with second by Ms. Cough, moved to sign the amended order placing the Signage LUO amendment on the June 8, 2021 annual town meeting warrant. Roll Call Vote:

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

Order

Of the Bar Harbor Town Council
For the June 8, 2021 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot.

Warrant Article

Article __ LAND USE ORDINANCE AMENDMENT - Signage - Shall an ordinance, dated December 16, 2020, and entitled “An amendment to amend existing regulations regarding certain types

of internally illuminated signs, establish a color temperature limit for externally illuminated signs, amend what types of sign may be replaced without Design Review Board review, and add related definitions,” be enacted?

Signage

An amendment to amend existing regulations regarding certain types of internally illuminated signs, establish a color temperature limit for externally illuminated signs, amend what types of sign may be replaced without Design Review Board review, and add related definitions

EXPLANATION: This amendment would clarify in the general review standards (§127-67) that uses providing lodging for transients are permitted to have outdoor neon signs; correct the list of internally illuminated signs that are prohibited in all districts by changing Type 2 to Type 3; more clearly delineate where certain subtypes (Type 2-B and Type 5-B) of internally illuminated signs are allowed and prohibited; add an inset map illustration to show where Type 2-B and Type 5-B signs are prohibited; establish a color temperature limit for externally illuminated signs by codifying the limit the board has been recommending; and allow for the replacement of any one, conforming, non-illuminated sign on a particular property without requiring Design Review Board review, broadening an existing exemption that is limited to three specific types of signs.

It would also, in the definitions section (§127-109), create and define a fifth type of internally illuminated sign called push-through lettering; more clearly differentiate the two subtypes of Type 2 internally illuminated signs, as Type 2-A and Type 2-B; and create and define a new type of sign called neon sign, recognizing it is a type of sign that already exists in town under certain circumstances and which is referred to elsewhere in the ordinance but is not presently defined, with the definition including signs designed to simulate the appearance of neon signage.

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

§ 125-67 General review standards.

BB. Signs and advertising. All site plans shall demonstrate that all signs related to the proposed development will comply with the following standards, to which all signs located within the Town of Bar Harbor are subject, regardless of the need for site plan approval. In addition, activities located within the Design Review Overlay District that require a certificate of appropriateness pursuant to Article XIII, Design Review, are subject to additional requirements set forth in the standards of Article XIII.

(3) Prohibitions.

- (a) No sign shall hereafter be erected, altered, or changed except in conformity with the provisions of this chapter.
- (b) No sign, whether new or existing, shall be permitted that causes a traffic, health, or welfare hazard, or results in a nuisance due to illumination, placement, display or manner of construction.
- (c) No sign in a business district shall be located in the rear or side yard of any premises which

abuts a lot in a residential district.

(d) Unless otherwise allowed, signs located on private property shall be related only to goods or services sold or rendered on that property.

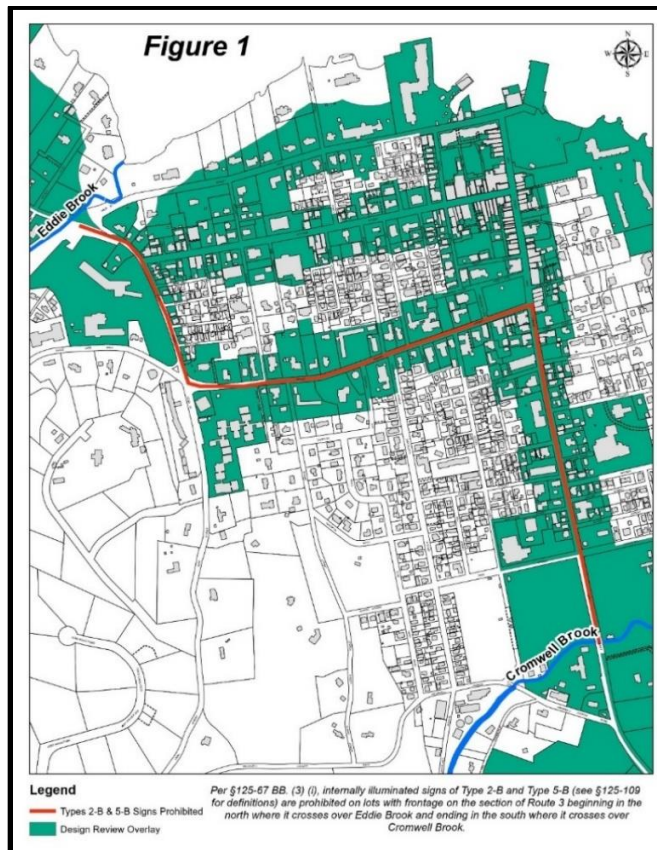
(e) No sign shall have visible moving parts, or blinking, intermittent, or glaring illumination, or consist, in whole or in part, of pennants, ribbons, streamers, spinners or other similar devices. No light-emitting-diode (LED) motion signs are allowed. No sign or other advertisement shall include the use of smoke, vapors, noxious odors or noise. Analog clocks, analog thermometers, flags and banners otherwise permitted shall be allowed as the only exceptions to this subsection.

(f) Outdoor neon signs are prohibited, except that neon signs containing only the words "Vacancy" or "No Vacancy" and limited to a maximum sign area of two square feet are permitted for all transient accommodations, hotels, motels, all bed and breakfasts, and cabins located in business and corridor districts.

(g) No sign shall be erected, painted, drawn or attached to, or on any utility pole, tree, rock or other natural feature, except that this subsection shall not be deemed to prohibit the attachment to rocks of metal commemorative plaques.

(h) Internally illuminated signs of Type 1, cabinet with translucent face, ~~and~~ Type 23, channel letter, and type 4 halo are prohibited in all districts.

(i) Internally illuminated signs of Type 2-B, cabinet with light limiting face, 30% (or less) translucent face/70% (or greater) opaque background field, and Type 5-B, push-through lighting, 30% (or less) translucent/70% (or greater) opaque background field, are prohibited in all districts within the Design Review Overlay District except for lots with frontage on Route 102, ~~or~~ Route 3, or Route 233. They are also prohibited on lots with frontage on the section of Route 3 beginning in the north where it crosses over Eddie Brook and ending in the south where it crosses over Cromwell Brook (as shown in Figure 1).



(j) The color temperature of an externally illuminated sign’s light source shall not exceed 3,000 degrees Kelvin (3,000K).

(6) Signs subject to the review by the Design Review Board for a certificate of appropriateness. All signs listed below are required to receive a certificate of appropriateness from the Design Review Board prior to receiving a building permit if they are located within the identified districts or are associated with a conditionally permitted use. Signs located in all other districts shall receive a building permit from the Code Enforcement Officer prior to installing the sign.

(o) Exemptions. The following activities are not subject to design review:

[1] Replacement of one conforming ~~wall-mounted, hanging, or window~~ non-internally illuminated sign, provided that the replacement sign is equal to or less than the square footage of the existing conforming sign it will replace. The sign may be altered in any code-compliant manner, except that it may not be relocated or enlarged.

[2] A tenant occupying a space with a Design Review Board approved tenant signage plan may replace signage at any time, provided that the new signage will comply with the approved tenant signage plan for the building.

[3] Installation of one twenty-four inch-by thirty-six inch sandwich board sign, provided that it is not located in a public way and is taken inside at the close of business each night.

[4] Installation of lighting for signage, provided that such lighting complies with § 125-67Z.

Article XII. Construction and Definition

§ 125-109 **Definitions.**

The following terms shall have the following meanings:

SIGN, INTERNALLY ILLUMINATED — A sign with a light source incorporated into the body of the sign and where light emanates through, or from, the message of the sign; there are ~~four~~ five types, as follows:

A. **TYPE 1; CABINET WITH TRANSLUCENT FACE** — An internally illuminated sign with a cabinet-style fixture with full or nearly full translucent face(s) and/or sides, through which light from an internal source passes.

B. **TYPE 2; CABINET WITH LIGHT LIMITING FACE** — An internally illuminated sign with an opaque surround cabinet-style fixture with light-limiting translucent face(s), flush translucent sign graphics within an opaque background field, through which light from an internal source passes. This type of sign has two acceptable categories:

(1) **Type 2-A:** Twenty percent (or less) translucent face/80% (or greater) opaque background field.

(2) **Type 2-B:** Thirty percent (or less) translucent face/70% (or greater) opaque background field.

C. **TYPE 3; CHANNEL LETTER** — An internally illuminated sign comprised of three-dimensional sign graphic letters and logos, each with its own internal light source, in which the dimensional faces are internally illuminated and affixed to the sign or structure upon which the channel letters are mounted.

D. **TYPE 4; HALO** — An internally illuminated sign comprised of dimensional sign graphics, which cast a halo-like glow along the sides of the graphics, or cast light backward onto the face of the sign or structure upon which the graphics are mounted.

E. **TYPE 5; PUSH-THROUGH LETTERING** — An internally illuminated sign with an opaque surround cabinet-style fixture with light-limiting translucent face(s), protruding translucent sign graphics within an opaque background field, through which light from an internal source passes. The protruding (push-through) section is limited to one-half inch in depth. This type of sign has two acceptable categories:

(1) Type 5-A: Twenty percent (or less) translucent face/80% (or greater) opaque background field.

(2) Type 5-B: Thirty percent (or less) translucent face/70% (or greater) opaque background field.

SIGN, NEON — A sign featuring exposed visible tubing illuminated by neon or other fluorescing gas. The term “neon” shall also include light-emitting diode (LED) or similarly lit signs intended to simulate the appearance of neon signage.

C. **Electrical Installations Ordinance Amendment #2021-01** - *Public comment and possible motion to adopt the amendment to Chapter 70 of the Municipal Code.* There being no public comment, Mr. Hochman, with second by Ms. Cough, moved to adopt the amendment to Chapter 70 Electrical Installations of the Municipal Code as presented. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough Y

Motion passed 7-0.

Electrical Installations Ordinance Amendment

Town of Bar Harbor

#2021-01

An amendment to correct a conflict with the Maine Electricians’ Examining Board.

The Town of Bar Harbor hereby ordains that Chapter 70 Electrical Installations of the Town Code is amended as follows:

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

CHAPTER 70 – ELECTRICAL INSTALLATIONS

§ 70-7 Minimum standards for equipment and installations.

The minimum standards for electrical equipment and installations within the territorial limits of the Town of Bar Harbor are the standards contained in the edition of the National Electrical Code, 1990 (1990 Edition) designated as the National Fire Protection Association No. 70 and its subsequent amendments, which code is hereby adopted as adopted by the Maine Electricians’ Examining Board.

[End of Ordinance]

D. Special Amusement Permit Renewals

- 1. **Harborside Hotel & Marina, 55 West Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing 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 the Harborside Hotel & Marina for a Class 3ad permit. Roll Call Vote:

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

- 2. **Holiday Inn Bar Harbor Regency, 123 Eden Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing 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 the Holiday Inn Bar Harbor Regency for a Class 3ad permit.

Roll Call Vote:
Dobbs Y
Hochman Y
Peacock Y
Friedmann Y
Minutolo Y
Goldthwait Y
Cough Y
Motion passed 7-0.

VIII. REGULAR BUSINESS

A1. Connected Communities Microgrid – Request of Councilors Goldthwait and Friedmann, possible motion that the Town Council sign the letter of support to the Department of Energy as presented. Ken Colburn participated to answer some of Councilor Cough’s questions. During discussion, Council agreed to strike “and commitment” from the first line and change “but” to “and” in the last line of the second paragraph. Mr. Hochman, with second by Ms. Goldthwait, moved that the Town Council sign the letter of support to the Department of Energy as amended. Roll Call

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

A. Cruise Ships

1. **Tabled from 2/2/21: Cruise Ship 2021 Season** – *Review request regarding Seabourn Odyssey.* Intercruises has requested the dates be put on hold until further notice. This item is to remain on the table.
2. **American Cruise Lines**
Since the Maine CDC has yet to make a recommendation regarding these ships, Mr. Hochman, with second by Ms. Goldthwait, moved to table this item to the 3/16 meeting. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough Y

Motion passed 7-0.

3. **Cruise Ship Survey** – Patrick Murphy and Jason Edes from Pan Atlantic Research presented the second draft of the survey after incorporating Council recommendations submitted prior to the meeting. Mr. Murphy also spoke to the sampling plan and asked Council to decide whether to include business owners who do not live in town as well as seasonal property owners. Mr. Hochman, with second by Ms. Cough, moved that in addition to local residents and voters of Bar Harbor, the survey include business owners, non-resident business owners and seasonal residents. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann N

Minutolo N

Goldthwait N

Cough Y

Motion passed 4-3 (Nays: Friedmann, Minutolo, Goldthwait).

- B. **Curb Cut** – *Possible motion to approve the curb cut application submitted by Kyle and Marie Yarborough.* Public Works Director Bethany Leavitt presented the application and spoke to the standards of approval, this being the first application since Council changed the policy. Mr. Hochman, with second by Ms. Cough, moved to approve the curb cut application submitted by Kyle and Marie Yarborough. Roll Call Vote:

Dobbs Y

Hochman Y

Peacock Y

Friedmann Y

Minutolo Y

Goldthwait Y

Cough _____ Y
Motion passed 7-0.

- C. Vacation Rental Ordinance Amendment** – *Review proposed changes regarding inspections and possible motion to schedule a public hearing for March 16, 2021.* Code Enforcement Officer Angie Chamberlain presented the proposed changes. Mr. Hochman, with second by Ms. Cough, moved to schedule a public hearing for March 16, 2021 to hear comments on proposed changes to Chapter 190 Vacation Rentals.

Roll Call Vote:

Dobbs _____ Y

Hochman _____ Y

Peacock _____ Y

Friedmann _____ Y

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Motion passed 7-0.

- D. Vacation Rentals** – *Next steps, Planning Director Michele Gagnon.* Ms. Gagnon presented her memo and answered Council questions. Ms. Gagnon will work with the Town Manager on bringing changes to Chapters 125 and 190 back to Council. The recommendation is to replace the straw poll with a POLCO survey. Mr. Friedmann, with second by Mr. Hochman, moved to seek public opinion on vacation rental transferability as proposed by the Planning Director. Roll Call Vote:

Dobbs _____ Y

Hochman _____ Y

Peacock _____ Y

Friedmann _____ Y

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Motion passed 7-0.

- E. Resolution: Recycling** – *Request by Councilor Peacock.* Ms. Peacock presented the resolution. During discussion there were some questions that could not be answered at this time. Ms. Goldthwait, with second by Mr. Hochman, moved to table this item to the next meeting. Roll Call Vote:

Dobbs _____ Y

Hochman _____ Y

Peacock _____ Y

Friedmann _____ Y

Minutolo _____ Y

Goldthwait _____ Y

Cough _____ Y

Motion passed 7-0.

- F. 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:

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

IX. TOWN MANAGER’S COMMENTS – Mr. Knight reminded Council of their workshop on marijuana next Tuesday, February 23 at 5:00pm. We will have the town attorney there.

X. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

Mr. Minutolo spoke about a local options tax to see if we should reach out to other tourist-based communities to add pressure to that topic. It could be a letter or outreach to the other communities who might want to get behind this too. Mr. Knight responded that Bar Harbor is a member of the Maine Service Centers Coalition and that is on their agenda. As a member we have a lobbyist who is following this. This is a group of about 30 municipalities working on a number of issues and local options tax is one of them.

Mr. Friedmann recently put in a level two electric vehicle charger at his home and was stunned he had to pay a minimum set electrical permit fee of \$102 in Bar Harbor. Even if someone wants to just put an outside plug on their house, which takes an electrician maybe 2 hours, they are hit with a punitive charge, a one size fits all fee. In the future we want to encourage homeowners to put in EV charging stations, not discourage them. Its about a 25% bump on what the electrician charged for time and labor. Many other towns have no fees or only have fees if they have electrical inspectors and they range from \$25-\$75. Maybe Council is willing to talk about a significant reduction for electrical fees, not just for EVs. Maybe projects for less than \$500 the fee could be reduced to \$25 or no fee for EV charging stations. The inspector doesn’t come out and look at it and it will be pretty standard.

Ms. Cough wished Happy Fat Tuesday, end of Mardi Gras, tomorrow is Ash Wednesday and Lent, just so you all know.

Mr. Hochman apologized for being late, he had internet issues. And speaking of internet issues, he got 2 messages during the meeting that people are having trouble with the feed on Town Hall Streams. He also wished everyone a Happy Lunar New Year and Happy Fat Tuesday.

Ms. Peacock was thinking about the data on tourism and cruise ships and the survey questions and rating quality of life in Bar Harbor, how town used to be, how town is now. Maybe we can think about data and understanding tourism in general, what data we might want to collect, the effects of tourism on the year-round community and land-based vs cruise ship tourism.

Mr. Dobbs wanted to know why he was asked to mute his mic. The response was there was noise and system sounds coming through his mic.

XI. EXECUTIVE SESSION: (None)

XII. ADJOURNMENT – Mr. Hochman, with second by Ms. Cough, moved to adjourn at 8:11p.m. Roll Call Vote:

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

Sharon M Linscott, Town Clerk