

**MINUTES**  
**BOARD OF SELECTMEN MEETING**  
**DAMARISCOTTA TOWN OFFICE**

**December 2, 2020 5:30 p.m.**

**Via Zoom**

**Members:** Roberta Mayer, Chairperson; Louis Abbotoni, Mark Hagar, Daryl Fraser and Josh Pinkham (all via Zoom)

**Members Absent :** None

**Staff Present:** Matt Lutkus, Town Manager; Lynda Letteney, recording secretary; Stan Waltz, Code Enforcement officer; and Bob Faunce, Town Planner.

**Others Present:** Tim Beal; David Levesque; Ann Pinkham; Haas Tobey; Tammy Plummer; Emily Davey; Nancy Dickerson; Sally Beaudette; Valerie Seibel; Susan Murphy; and Evan Houk, Lincoln County News

**I. Public Meeting on the Historic Preservation Ordinance Amendments**

**Chairperson Mayer** began the public meeting asking for a list of attendees to be recorded. She announced that Bob Faunce would be giving a PowerPoint presentation on the latest changes. **Robin** had the Board refer to a letter from the Town Attorney, Amanda Meader, which is a review of the recommendations.

**Bob Faunce** began by saying that there were basically two major changes: 1) exchange "shall" for "should," going back to the original language; and 2) revision to the demolition provisions where only the exterior features are affected. Architectural features were defined as having distinctive architectural features. (Power Point attached) PowerPoint included a map of the current Historic District. "The purpose of the ordinance is to provide a legal framework for the residents of the Town of Damariscotta to protect the historic, architectural and cultural heritage of significant areas, landmarks, and sites in Damariscotta, while accepting as appropriate new construction that is compatible." **Bob** went on to say that the intent of the ordinance is to make sure any construction and/or alterations within the district are compatible with and maintain the essential character of the Main Street Historic District, protecting, preserving and enhancing the exterior appearance and architectural features of the structures.

**Bob** presented several slides showing various architectural features that would help define "historic", and talked about "contributing property" or structures. He defined such structures with time (era built or rebuilt) and other qualifying criteria (location, design, etc.) as "adding to the historic district's sense of time and place and historical development," and/or meeting the National Registry criteria. He went on to distinguish between major and minor changes. A property within the district that does not meet the definition of a contributing property is deemed a "non-contributing" property. "Although changes to a "non-contributing" property may not have historical significance, they may affect the historic integrity of the view scape and the district as a whole."

Bob went over the Certificate of Appropriateness listing several types of alterations that would require this. Essentially any proposal that will change the design, materials, scale, color, or location of exterior building features of a property requires a CoA. **Exemptions** are activities that do not adversely impact the exterior of an historic structure (examples given.) He went on to list 6 or so CoA approved standards as well as ten additional local standards which allow for the HPRC to" modify any local standards provided that any such modification does not have the effect of nullifying the intent and purpose of the ordinance." (See PowerPoint for specifics).

**Demolition and/or Removal of Historic Buildings:** The most important difference between existing demolition provisions (recommended by the Town Attorney) and the currently demolition proposal:

**Existing:** The property owner has made a bona fide and good faith effort to sell the property as an historic property at a reasonable price relative to its *fair market value* (as defined) and that there is no buyer that is willing to repair the property as an historic structure.

**Proposed:** The property owner has made a good faith effort to identify and sell the property to a buyer willing to undertake its repair as an historic structure. Alterations or replacement of non-contributing properties are also limited by the ordinance (see specifics) and generally adhere to making these properties consistent with the historic district.

**Robin** asked for comments from the public beginning with property owners, then residents, then any others. **David Levesque** was the first speaker. He was concerned about Attorney Meader's recommendation of "should" replacing "shall" as he felt there was increased legal exposure with the change. However, he felt "it go either way" and felt "should" as best as it kept the intent of the ordinance. **Sally Beaudette** described herself as a "recalcitrant owner" who is opposed to "shall". "Shall" works for land use ordinances; this ordinance is far more subjective; proposals vary and "should" works better with subjective issues. She is concerned about enforcement with the word "shall". She would like to see as many of the Commission as possible be composed of local people. **Valerie Seibel** was next to speak. Referring to the Commission on page 2, she asked how much assistance the Commission was ready to give the citizenry. **Bob Faunce** said "to the best of our ability", including deciding what to do ourselves and what to pass it on to another entity. Steps that could be taken include 1) talk to the Code Enforcement officer; 2) talk with the property owner regarding an architect or engineer to evaluate; and/or 3) hold workshops for the Commission regarding rules and regulations. **Valerie Siebel** clarified saying, "then the Commission would be available to help gather information for owners? I have a couple big properties and I do not have replacement insurance; it is too expensive if I have to replace the facade to its original state. It seems to be a lot more of the burden is on the property owner." **Matt Lutkus** suggested getting an insurance expert to evaluate, focusing on the exterior only. **Valerie** asked if there was a disaster, as she reads the ordinance, she couldn't put up regular siding and would have to restore historic siding. Also, does that create tax changes?

**Bob Faunce** gave an example for a roof blown off in high winds. The slate roof is gone; replacement could be material that looks like slate but is less costly. **Robin Mayer** at this point asked if there were any questions from the Board. **Bob Faunce** said there was a recommendation to expand the Commission from 3 to 5. **Chairperson Mayer** asked if there were any other comments from the selectmen in relation to Amanda's remarks and/or from the Perkins/Thompson legal opinions. Hearing none, she closed the public session at 6:11 p.m. and opened the Board of Selectmen's meeting immediately afterwards,

## **II. Call to Order**

The Board of Selectmen's Meeting was called to order following the public meeting at 6:11 p.m. by **Chairperson Mayer** who suggested moving Action Item 1 to the next slot on the agenda, so those only interested in this item could leave after the vote.

## **III. Official Action Items**

### **1. Board Direction on Historic Preservation Amendments**

**Daryl Fraser** opened the discussion commenting that in reference to 107.12 he was glad it was

reworked. He felt it kept the burden low for property owners. In the worst case scenario, an owner, without replacement insurance, might be forced to sell. This section has been reworked so the Commission has some leeway, avoiding the “you can’t make me sell” controversy. This allows wiggle room for the Commission. **Lou Abbotoni** commented. “If Valerie doesn’t have replacement insurance, we can’t protect her from her own decisions.” **Robin** added that how helpful the Commission can be remains to be seen; but, she felt they might be able to help find grant funding for someone needing to restore a building in the district. **Josh Pinkham** echoed Daryl’s sentiments agreeing that as long as there was wiggle room against forcing a sale he was okay with it. Also, as far as “shall” and “should”, he felt they could go back and forth on it, but it was best to go with the Town’s attorney’s recommendation.

**Robin** added that the district might expand in the future, and there might be an effect on private versus business interests. **Mark Hagar** agrees with Daryl and Josh. Additionally, he is in favor of a 5 member Commission, with three members being town residents. **Robin** referred everyone to page 8 where the Commission make up is addressed. **Matt Lutkus** asked for clarification on Damariscotta residents: not all owners live in Damariscotta. Should it read “preference given to Damariscotta residents”? **Robin** continued stating she had said that it should be “shall”, feeling there was no leeway for the Commission if it said “should”. **Robin** also asked Bob if it weakens the ordinance by not including “non-contributing” buildings. Should they be included? **Bob** responded he had not focused on that element.

**Sally Beaudette** said that she would like to see more succinct language defining where the district is. Bob referred to the map. **Robin** stated there would be a public hearing in the near future. **Matt Lutkus** volunteered to send Sally a list of all properties within the district. **Susan Murphy** just joined in, stating she was having spotty internet reception. She wanted to know if the Board had looked at the submission from another attorney that she had asked to review the ordinance. **Robin** said that she and Amanda Meader had reviewed it. While **Robin** expressed appreciation for Susan’s input, they will go with the Town attorney’s input. **Susan Murphy** asked, “Did it influence you at all?” **Robin** said most of the outside attorney’s references were to federal regulations and guidelines, and the LUAC had already addressed them. **Matt Lutkus** added that Amanda did not reflect agreement or not; rather she deemed the present wording as “legally defensible.” **Susan Murphy** added that she feared “vagueness” on the Town’s part could get us in trouble. **Robin** added they deferred to regional planning and other regulations, so no changes were made. **Robin** said the present draft with minor changes is presented for approval. **Haas Tobey** said a lot of issues have been discussed over the last 4 years and reworked and reworded. The three members of the Council met and agree it should be 5 members. **Daryl** asked about the timeline and whether there were by-laws for the Commission. **Bob** responded this would be completed as soon as possible; as the commission develops, so will the by-laws. **Robin** added that special meetings of the Commission will be called to get started referencing p.14 – 107.11(c).

**On motion (Mayer/Pinkham) to accept the listed changes to the current draft and accept the draft as final: 1) change “shall” to “should” throughout the document; 2) increase the membership from 3 to 5 on the Commission; 3) use the more lenient demolition standards and 4) change Board to Commission and/or use the HPRC acronym throughout for consistency. Vote: 4-0-0 (Abbotoni had left the meeting)**

**Sally Beaudette** commented after the vote that the meeting was very helpful. She would appreciate a copy of the actual map of the district as her computer quit on her before the end of the printing. **Matt** said he would send it.

#### **IV. Minutes**

**On motion (Mayer/Fraser) to approve the minutes of 11/18/20 as distributed. Vote: 3-0-1**

(Hagar abstaining)

**V. Financial Reports**

**1. On motion (Pinkham/Mayer) to approve Payroll Warrants #30 & #31.**

**Vote: 3-0-1**

(Pinkham abstaining)

**2. On motion (Fraser/Mayer) to approve Accounts Payable Warrant #30** **Vote: 4-0-0**

**Discussion before vote:** Last meeting there was discussion to wait until Matt Lutkus had proposals before taking action on the computers (3). **Mark** suggested, and felt strongly, that Matt Lutkus should have a Town computer for all Town work. **Matt Lutkus** said that Lou made the motion at the last meeting, so he'd need to withdraw the motion, and he had left the meeting tonight. However, a \$5000 threshold was also included in the approval. **Matt** said he did not need the access everyone else does with special programs. His personal iphone and ipad do the job and he gets \$30/month to help defray the cost of these. He doesn't see the need to spend another \$1900. **Mark Hagar** disagreed, as a public official he should be using the computers and equipment the Town provides. **Robin** agreed with Mark. **Mark** continued saying this was not just for Matt; going forward with any new Town official, use of personal computers, ipads, phones are all subject to the "Freedom of Information Act". His phone and personal computer are vulnerable and subject to search if they have been used for Town business. It really should be a matter of public policy. **Matt** said he can't invite to Zoom meetings from his personal computer, so it would be used; however, he would like the flexibility to use the ipad and iphone as needed.

**VI. Presentations: None**

**VII. Citizens Comments and General Correspondence**

1. A thank you note was received from Coastal Rivers 2000
2. Matt received notice from CLC Ambulance of the increase in the budget for 2021. (Same as Board was notified about last meeting)

**VIII. Town Manager's Items**

**1. Capital Projects**

a. **Matt** had a meeting today with the consultants on the Waterfront Project. (Lou and Haas Tobey were on the call as well.) They received an update on the work. Now they are focusing on the flood wall. Hydrological analysis is still being done. They will have recommendations by the end of January.

b. **Sewer Project** has had a glitch in finding one of the lines, but should be remedied soon.

c. **Restroom Project** is on schedule.

d. **LED Contract** – The paperwork is done; awaiting CMP. Project completion by mid-December, weather permitting.

**2. Office Computers-** they have been ordered

**3. Working Community Challenge Grant** – Through the Federal Reserve in Boston, 3 Lincoln County communities are eligible for economic opportunity grants. Through the Regional Planning Commission and the Economic Development Administration \$375,000 will be available for the whole county. Details are still murky.

**4. New Year's Eve** – **Matt** told the Board that there are no funds to give any bonuses to staff, but with all the extra work the staff has had to do between elections and Covid-19, he would like to give

them December 31, 2020, as a paid day off. **Josh Pinkham** suggested making it a half day.

**On motion (Mayer/Hagar) to award December 31, 2020 as a paid day off for Town staff as compensation for extra work/time working with the elections and Covid-19 guidelines. Vote: 3-0-1 (Pinkham abstaining)**

**IX. Official Action Items**

**2. Quitclaim Deed for Heater Road Ownership** - There are 5 owners plus the Town. You need all property owners and the Town to agree for a quitclaim. Once all owners sign off for the Town to take ownership of the road, it will be complete. **Mark Hagar** asked, "So we took ownership?" **Matt** replied, "This is contingent upon acceptance by all owners." It will be "for use as a Town way." With the office being open "by appointment only", **Josh** asked if warrants would be signed outside. **Matt** suggested that he sign the payroll warrants, then have the Board countersign once they are fully open again.

**On motion (Mayer/Hagar) to accept a quitclaim deed for Heater Road Ownership Vote: 4-0-0**

**3. 2020-2021 Goals and Action Plan -**

**On motion (Fraser/Pinkham) to accept the Goals and Action Plan as revised at the last Board workshop (November 18, 2020) Vote: 4-0-0**

**4. Contract for Propane and Fuel Oil for Town Facilities –**

**On motion (Hagar/Pinkham) to waive Charter bid guidelines and accept the contract from Colby & Gale. Vote: 3-0-1**

**(Fraser abstaining)**

**X. Selectmen's Discussion Items**

**Daryl Fraser** - felt there was a lot of good work done on the Historic Preservation Ordinance and thanked all of those who contributed to the final draft.

**Josh Pinkham** – is wishing Lou a speedy recovery; wash your hands and stay safe

**Mark Hagar** – wanted to thank all involved in the reverse parade and the downtown tree decorations.

**Robin Mayer** – commented on how nice downtown looks; the drive-in movie was packed. She wanted to echo Mark's comments about the reverse parade. She also wanted to wish Lou well; encouraging everyone to wear masks and stay well.

**Matt Lutkus** added that the government climate change report is out and there is a nice blurb about Damariscotta.

**XI. Adjournment**

**On motion (Pinkham/Mayer) to adjourn the Board of Selectmen's meeting at 7:15 pm. Vote: 4-0-0**

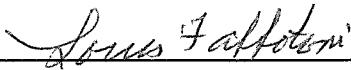
**Respectfully submitted,**

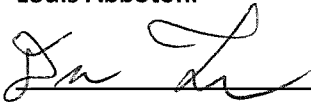
**Lynda L. Letteney**

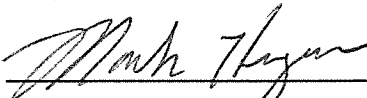
**Recording Secretary**

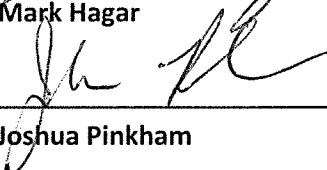
**We, the undersigned, do hereby approve as written, or with corrections as noted, the minutes of the above-designated Board of Selectmen meeting December 4, 2020.**

  
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Roberta Mayer, Chairperson

  
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Louis Abbotoni

  
\_\_\_\_\_  
Daryl Fraser

  
\_\_\_\_\_  
Mark Hagar

  
\_\_\_\_\_  
Joshua Pinkham

Town of Damariscotta, Board of Selectmen, signed this date: 12-16-2020