

MINUTES
BOARD OF SELECTMENT MEETING
February 6, 2019 5:30 pm
at the Damariscotta Town Hall

Members: Roberta Mayer, Chairperson; Ronn Orenstein, Vice-Chairperson; Mark Hagar, Amy Leshure; and Louis Abbotoni (via Skype)

Members Absent: None

Staff Present: Matt Lutkus, Town Manager; , Karen O'Bryan, video recorder; Lynda Letteney, recording secretary

Others Present: Haas Tobey, Chris Roberts, Ann Pinkham, George Betke, Al Trescot, Penn Way, Mark Ferrero, and Jessica Picard, Lincoln County News

I. Pledge of Allegiance

II. Community Conversation Regarding Medical Marijuana Ordinance

The Community Conversation portion of the meeting was called to order at 5:30 p.m. by **Chairperson Mayer**. She thanked those present for coming and announced that the discussion of adult-use marijuana ordinance would be held at the February 20th meeting. **Mayer** stated that the order of speaking would be: 1) Damariscotta Residents; 2) Damariscotta Business Owners; and, 3) Other Interested Parties. **Matt Lutkus** gave an overview of the Ordinance as drafted. The draft has been formatted to be in compliance with all other town ordinances. He stated that they had basically used the State Statute and adapted the areas that the State allows for local authority. These are primarily the zoning and licensing areas of the ordinance (location and number of establishments). Some suggestions made from community members. the town cannot control. Overall there were a couple of e-mails received and one detailed letter from **George Betke**. Anyone wishing to review these can come in and view them at the Town Office. With regard to a previous suggestion regarding security systems being linked to the police department, this was eliminated as the police do not have the capacity to do this.

First speaker was **Mark Ferrero** from Nobleboro and a business owner. He felt the basic ordinance could be adhered to, but raised issues with Section 902.11. As a medical caregiver, this goes against the premise of caregiving. Many clients cannot travel to the dispensary and should be afforded the opportunity to have home delivery, the same as a regular pharmacy. This needs clarification as he understands the idea of not being able to set up at a farmer's market per se, but if there is a licensed establishment, can they provide delivery service? **Penn Way**, resident and business owner, commented on this as well, stating that this was an opportunity to expand business and compared it to two pharmacies wanting to open. The town would let the capitalism principles dictate who survived, not regulation. He felt this was not a particularly business-friendly ordinance.

Mark Ferrero then went on to address other items in this section. 902.11(2) Security: He felt video should be retained for one week rather than 30 days. Any issue would be looked at within a week and retaining video for 30 days is very expensive, especially for such a small business. He would recommend one week with it being up to the business to maintain records longer than that. 902.11 (3) Ventilation:

Since the product is in a childproof, sealed container a charcoal can system of ventilation would be sufficient. Since there is no consuming allowed on premises, distinguishing odors are minimal. A Maine licensed engineer to verify odor mitigation seems to be an added financial burden on the owner that is not necessary. He suggested limiting this section to item (3-a) only. Item (4) Loitering in this section also seems superfluous as medical marijuana users are apt to get in and get out. Their use is not primarily carried out in parking lots.

Amy Leshure asked what was the goal of this conversation? **Robin Mayer** stated it was the last community conversation on this topic. The next community conversation will be February 20, 2019, on the Adult-Use Ordinance. **Penn Way** wanted to see a more “embracing” tone to the ordinance and wants to get it going ASAP. **Matt** stated that the target for completion was to have it ready for a June vote. The timeline was pushed back to add additional time for community conversations. However, it could be ready for an April special vote. **Haas Tobey** raised a question about increases to the police blotter. The answer is really unknown. **Mark Ferrero** stated he felt there would be no increase based on the present operation of the medical dispensary already in town. **Robin Mayer** stated that medical use should not be a big deal as far as police activity except for background checks and enforcing the ordinance. The regulations require more personnel time for the code enforcer, fire inspections, etc., but most likely not for police blotter activities.

George Betke was interested in more detail on the testing phase. **Matt** responded that the State regulates independent labs, which are a separate scientific entity for medical marijuana. They are not required for recreational marijuana. Home grown is not regulated as such, but many growers do use labs to test for hybrid strains. **George** asked why it needs to be part of the ordinance. Response: The ordinance is about testing facilities that might want to set up a facility in Damariscotta. **Mark Ferrero** stated it was a virgin business in Maine. **Amy Leshure** stated she was happy with the sectional designations and numbers on page six of the Medical Marijuana Ordinance. **Mark Hagar** asked who gets a license – how is it determined? **Mark Ferrero** asked if the numbers included theirs, a grandfathered license or if they were in addition to theirs. **Matt Lutkus** stated it included theirs. Audience consensus was to have no limit on testing sites as it was a good business opportunity. **Penn Way** spoke to the zoning restrictions; and, while he understood the town’s reasoning, he felt there should not be any restrictions on zoning for retail medical sales. **Al Trescot** agreed with him and felt there should be no restrictions on retail locations. He felt the town should “let capitalism and competition prevail.”

Mark Hagar asked about testing facility size. **Penn Way** responded that he had seen sites 700-750 sq. ft. and some as large as 3500 sq. ft. in Colorado and New Mexico. They are all pyrex and stainless steel. **Matt Lutkus** asked how people felt about the number of licenses and how to award them. **Mark Ferrero** asked that if it were to be a lottery system, what form would it take? First come-first serve? **Penn Way** said he favored “first to market, wins lottery”. There is a long process to get you license-preliminary from town, state approval of preliminary and final town license. He feels someone who follows all the regulations and gets their “ducks in order” should get the license. To award on the preliminary is premature as someone might not get the State approval and have locked out someone else who can get State approval. **Mark Hagar** asked about fees and what was reasonable. What service center expenses would be incurred? **Penn Way** said there is a budgetary cost- code officer, fire chief, secretarial, etc. He

thought you might be able to capitalize these over 3-5 years. Also he felt volume of business had to be considered. How does it compared to other licenses?

Seeing no other people ready to comment, **Chairperson Mayer** thanked everyone for coming and closed the community conversation at 6:09 p.m.

III. Call to Order

At 6:10 p.m. the regular meeting of the Board of Selectmen was called to order by **Chairperson Robin Mayer**

IV. Minutes:

On motion (Orenstein/Leshure) the minutes of the December 5, 2018 meeting were approved as distributed. Vote: 5-0-0

On motion (Orenstein/Mayer) the minutes of the January 2, 2019 meeting were approved as distributed Vote: 5-0-0

On motion (Orenstein/Mayer) the minutes of the January 16, 2019, meeting were approved with a friendly amendment to change Rep. Dick Devin to Sen. Dana Dow on page 2 paragraph 1 to say, "Sen. Dow stated that he already had a bill in on revenue sharing." Vote: 5-0-0

V. Financial Reports

1. On motion (Leshure/Mayer) to approve Payroll Warrant #39 Vote: 4-0-1
(Abbotoni abstained)

Note: Another police officer has resigned due to personal reasons. We are down to three and the Chief is going to the Police Academy to recruit from the current class.

2. On motion (Mayer/Orenstein) to approve Accounts Payable Warrant #40 Vote: 5-0-0

3. On motion (Mayer/Orenstein) to approve Warrant #41 Vote: 4-0-1
(Hagar abstained)

4. On motion (Orenstein/Mayer) to Approve General Warrant # 42 Vote: 5-0-0

Note: Matt Lutkus commented on the police storage unit. The storage facility and victims have been "made whole" with some funds from a state account for this purpose. We received three years of back rental fees. The question now is what to do with the unclaimed property. The police are considering a storage locker contents sale with the proceeds going to the police capital reserve fund.

VI. Presentations: Jefferson-Nobleboro Transfer Station Recycling

Barry Howell presented on behalf of the Jefferson-Nobleboro Transfer Station (J-NTS). He stated that he was in his sixth year of managing the station, and Damariscotta, Bremen and Newcastle are "fee users" of the facility. Richard Spear is chairperson of the Transfer Station Oversight Committee (TSOC). They have discussed a "Pay to Throw" plan which needs approval of the Transfer Station Committee, All towns need to agree; it would require vehicle inspection; use of non-pay as you go bags; and, additional personnel. It would take 1-2 years to fully implement and be effective. There would be a lot of

expected push back even if all towns agreed. After every meeting there is a written quarterly report. The next meeting is in March, report available in April. Additionally Mr. Howell writes a weekly column in the Lincoln County News called "Waste Watch," which addresses current topics in waste management.

Matt Lutkus asked about the success in recycling. Mr. Howell stated 35-40% was considered good. He commented that we have dedicated recyclers at this station. If we go to pay-to-throw we may do better, but how much is the question. Actually, food waste is the biggest part of the waste stream. Many do home composting. Food is heavy and is about 20-30% of the daily tonnage, averaging 200-300 lbs per week. He feels this is the place where we could do better. While he feels they have taken a more aggressive approach to dealing with chronic non-recyclers, they are not in favor of a "NO-Don't Do It" approach. The STOC approved a more aggressive approach in the form of seeing people before they unload, having employees offer to help unload recyclables in specific bins. For example, if they notice electronics in the load, they offer to take them to appropriate bins before they go in the hopper.

Amy Leshure asked about plastics. Lincoln County handles recycling of plastics, but they have to pay to get rid of it. China is not taking it anymore and there are no other avenues to get rid of it. Single stream facilities are having a hard time as well, needing more personnel because it has to be "clean" before it can be bought. It is not even a break even proposition anymore. After trying for years to get people and the TSOC on board, it is hard to break new habits. People want to recycle their plastics. There may be a time when certain plastic numbers won't be around, but it looks to be a long time coming. **Robin Mayer** asked if Mr. Howell knew of any transfer stations that used pay-to-throw. He responded that he knew Waldoboro had voted it down. He stated that even if they were very aggressive, they would need more staff to increase monitoring. Non-paid for bags would need to get 6 cents per pound if not in compliance. Most often what happens is that those bags get dumped elsewhere- commercial dumpsters, road side, other peoples' barrels, etc. **Amy Leshure** stated that Warren does this-you purchase bags; she believes Belfast uses a sticker program. **Mr. Howell** reiterated that it still comes down to manpower. A clerk has to check stickers on vehicles (different colors for different towns); you'd need a gate further down the road; and, even if all 5 towns and the TSOC agreed, it still doesn't solve the problem of buying fewer bags than needed. Another issue is monitoring of out-of-state/town visitors. We are a high rental area in the summer and fall. Even if property owners leave the sticker for renters, how do you monitor that? They had a "sticker day" in October- 650 different cars came on a Saturday and only one out-of-towner all day.

Mark Hagar asked, based on population, what is the fee per person. **Mr. Howell** said it is based on the last census. So, the 2010 census gave a population of 2,218; the cost being \$117,000 divided by the population equals about \$50 per person. Visitors and renters are not figured in as they use the home/camp owners' sticker. Biggest recyclers are electronics, paint, metal, and used oil. **Randy Clark** of Salt Bay Garbologist, stated that commercial businesses pay for their own trash; commercial haulers don't pay for residential trash. Those that service both make a residential run and then a commercial run separately. Regional Rubbish does not come to the station. **Matt** said that regarding commercial trash the town is happy the way it is going. Small businesses are hard to monitor, but suspects comingling of residential and commercial waste is on a very small scale. **Robin Mayer** brought up an

article "Navigating the Garbage Maze". There is a Municipal Review Committee where 115 towns are behind the building of "Fiber Right", a waste-to-energy facility that produces gas energy. It is currently one year behind schedule. It is a \$69 million facility in Hampden. Waldoboro is one of the 115 communities that will send their trash there. Damariscotta was not a member of the Review Committee. Members will realize a lower cost than those who join later. Our community said "no" to the initial project, as it was not a proven, reliable enterprise on a large scale. We saved \$20K last year doing it the way we are. Just a heads up, no matter what you do, costs are going up significantly. Fiber Right is an enzyme digestive system that produces gas. Mr. Howell recommended delaying a year and continuing to use landfill until Fiber Right is built and ready. Mrs. Mayer thanked Mr. Howell for his presentation and question/answer session.

VII. Citizen Comments and General Correspondence:

Penn Way asked who was in charge of the Christmas decorations in town. He felt the C-1 district was looking very shabby with wreaths and garlands brown and haggard. **Matt** responded that the Chamber of Commerce and Twin Village Association were responsible. **Chris Roberts** was present and said he would address it with them

VIII. Town Manager Items

1. Waterfront Project Update

Matt Lutkus reported that approximately 20-25 people attended the January 17, 2019 public meeting on the planned waterfront improvements. Matt Lutkus reviewed the preliminary plans and the overall scope of the project while Travis Prior described the design details. Board members have a copy of the preliminary plans in their Board packet. Leanne Libby from the Sanitary District talked to the January 17th meeting group about privately owned sanitary sewer lines that should be replaced at the same time as the parking lot and storm drainage system are replaced. **Matt** is setting up meetings with business owners who have sewer lines under the parking lot in an effort to facilitate a coordinated sewer line replacement project. Straw vote at this meeting indicated: 1) most want to continue to have reconstruction of the pavement and storm drainage as the priority; 2) most do not want a walkway through the parking lot; 3) most do not want additional green space "islands" added to the area; and 4) a majority prefer June Alley to Taco Alley for a pedestrian walkway. In subsequent meetings with business owners adjacent to June Alley, they are not interested currently in having June Alley be a pedestrian-only walkway. Matt has asked Wright-Pierce to proceed with the bid documents. The plan is to have these completed next month, a competitive bid process in March, and re-construction of the parking lot and storm drainage system starting this coming fall after Pumpkinfest.

Matt felt we probably won't have the money to do the walkway right away. He stated that businesses are responsible for their own sewer lines to the collector line for the Sanitary District. One solution for avoiding individual lines across the parking lot is to consider a collector line jointly owned by the businesses, which connects all the businesses and then that collector goes to the Sanitation Department collector line. **Mark Hagar** felt it was a Sanitation Department vs. Town issue as to who takes responsibility for the lines. The Town took on the parking lot and he feels the Town should help business owners. **Matt Lutkus** stated that if you look at the history, the parking lot fill was from the DOE

when they were bypassing Old Route 1. There is a provision that if the Town didn't use it for the parking lot, it reverts to the previous owners of businesses. Who pays for the connector line is a question that needs clarification. Bottom line, it is much more economical to replace lines before parking lot is fixed and repaved. **Penn Way** felt a jointly owned collector line puts too much liability on each business if one business causes clogged lines. There are several restaurants that feed into the described area. It was brought up that the Town owns the surface and the Sanitary District is responsible from the connector line to the main sewer line, but is not responsible for the service lines. By having all service lines jointly connect to a common connector line to the Sanitary Department's connector would make the most sense. A gentlemen named Gordon asked which lines needed replacement **Matt** responded that those adjacent to the parking area.

Matt continued. Lines from businesses are owned by businesses. In 1986 there was major parking lot work done and no one replaced anything. Now is the time to do it. In December, an x-ray report from inspection of the service lines in businesses to the connector line on the far side of the parking line had several observations. Some pipes are clay and deteriorating, some are PVC, some are too murky or blocked to assess. Additionally there are many "T joints making x-ray difficult to complete. Because of the varying degree of repair/replacement needed, it would be most beneficial to do it all at once before the pavement is placed. **Matt and LeeAnna Libby** talked with the DEP to see if the Town could be an intermediary for a low interest, long term loan from them [interest at 1-1.5%]. **Penn Way** expressed understanding of what we need to do, but reminded everyone that the businesses were not a condo association and this plan was fraught with problems. **Robin Mayer** said that by the next business meeting, Leanne would have lots of answers. **Penn Way** suggested that a tax abatement might be the way to go if you are asking for such a contribution. **Robin Mayer** brought up the traffic on Water Street, suggesting making it one-way in the summer. **Matt** suggested making it start next to "Stars". **Penn Way** asked about the idea of year round heat so bathrooms can be available year round. **Matt** said it is equipped to be heated, but the first year will be May-October, and budgeting for year round would be in the next fiscal year if feasible. The only added costs would be utility costs and maintenance.

2. Status of Paving Project RFP

Matt Lutkus is currently working with the Public Works Department on a Request for Proposals for the Town's 2019 paving projects. Included in the list of projects is the repaving of Belvedere Extension which was postponed from two years ago. Other planned paving projects are contingent upon the 2020FY Budget. These were identified by PWD as priorities and include: Church Street from Pleasant to Hillside; the 300 foot section of Chapman nearest School Street; sections of Pine Ridge Road and Hammond Road. The draft RFP is currently being reviewed by PWD. He hopes to have this e-mailed to the Board prior to the February 20th Board meeting with plenty of time for review and comment before final approval. Currently there is \$43K in reserves of which \$15-\$19K would be for Belvedere Extension. The rest would be done as budget allows beginning after July 1st in the FY 2020 budget.

On motion (Leshure/Orenstein) to approve 6 road paving projects as submitted

Vote: 5-0-0

3. Community Conversation on Adult-Use Recreational Marijuana

Conversation scheduled for February 20, 2019 before the regularly scheduled Board of Selectmen meeting at 5:30 p.m.

4. Board of Selectmen E-Mails

As of 2/8/19 your old e-mail address will not be usable. Use the new g-mail address provided. **Pen Way** asked about archiving of town business e-mails. Matt Lutkus responded that all historical correspondence is archived. There will be a website update and MMA (Maine Municipal Association) will be notified. Matt will ask Fred (IT specialist) if forwarding is available.

VIII. Official Action Items

1. Town Fee and Fine Schedule

To make it easier for citizens to access the fees and fines authorized by the town, a Fee and Fine Schedule has been developed. These come from previously approved ordinances. Administrative fees (copying/notary) are on page 2. By eliminating specific fees from the reformatted ordinances and placing them on a schedule, it gives the Board the ability to charge amounts periodically as needed without rewriting the entire ordinance. Fees listed are those previously approved by the Board and a number of fees set administratively.

On motion (Mayer/Orenstein) to approve the fee and fine schedule.

Vote: 6-0-0

2. Budget Committee Appointment

The Budget Committee currently has one regular position vacancy and two alternate vacancies. There were 2 applicants for the regular position, one of which agreed to come in for an interview. **Robin Mayer and Matt Lutkus** interviewed the candidate and were impressed with his background and enthusiasm. As resident of Bristol Road, Mr. Matthew Farrell is new to the area and brings a wealth of knowledge with him. Importantly, he is available for the scheduled Budget Committee meetings this spring regarding the FY2020 budget.

On motion (Orenstein/Mayer) to appoint Matthew Farrell to the Budget Committee, filling out the current term vacancy.

Vote: 5-0-0

IX. Selectmen's Discussion Items

1. **Lou Abbotoni** made a point of personal interest. His son Scott has been selected as President of the Maine Water Association.

2. **Robin Mayer** commented on the new District Attorney's policy on how criminal cases need to be handled. Based on a news article, she reportedly is meeting with all police departments in her district. Robin pointed out the OUI and other policy changes. She will send these via g-mail with a link to specific policies. These appear to be more lenient than previous policies. Article appeared in Village Soup 2/6/19.

3. **Matt Lutkus** reminded the Board that nomination papers for re-election and/or first time election to Town positions will be available 2/28/19. **Deadline for submission is 4/16/19 at 5:30 p.m.**

Currently there are 2 openings for selectmen; 1 for school board; and, 1 for the Great Salt Bay Sanitation Department.

X. Adjournment

On motion (Orenstein/Hagar) the meeting was adjourned at 8:48 p.m.

Vote: 5-0-0


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.



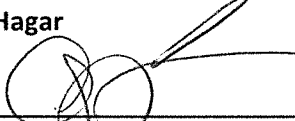
Roberta Mayer, Chairperson



Ronn Orenstein, Vice-Chairperson



Mark Hagar



Amy Leshure

Louis F. Abbotoni

Town of Damariscotta, Board of Selectmen, signed this date: _____