

**MINUTES
BOARD OF SELECTMEN MEETING**

August 19, 2020 5:30 pm

Great Salt Bay School

In Person and Via Zoom

Members: Roberta Mayer, Chairperson; Louis Abbotoni, Mark Hagar, Daryl Fraser and Josh Pinkham

Members Absent : None

Staff Present: Matt Lutkus, Town Manager; Eric Hall, Intern; Robert Faunce, Town Planner; and Lynda Letteney, recording secretary

Others Present: David Levesque(Zoom); Valerie Seaberg; Matt Murphy; Ann Pinkham; Susan Murphy; Marilee Harris; Larry Sidelinger, LCTV; and Evan Houk, Lincoln County News

I. Pledge of Allegiance: The Pledge was recited at 5:33 p.m.

II. Public Meeting on Historic Preservation Ordinance

Chairperson Mayer introduced the topic stating that there had been previous hearings in January and February 2020, and the resulting changes have been put in spreadsheet format for everyone to review.

Mrs. Mayer asked that all speakers use the microphone and stand close to it as LCTV needs clarity to broadcast. Residents and business owners in the proposed district will be allowed to speak first. Abutters with interests will follow. She asked citizens to keep their comments to 3-5 minutes; comments are limited to addressing the revisions as presented. These were discussed 2/5/20, with emails and letters that followed that meeting added to the revision list.

Bob Faunce made a spreadsheet of concerns, and he gave an overview of each as follows:

- 1. Future expansion of district** – language referring to “anyone” and “opt out” have been removed. Any expansion of the district would need a new vote.
- 2. Exceeds UNESCO standards**– relevant Maine law applies (Title 30-A 2101) which gives local governments wide discretion to adopt ordinances such as an historic district where international regulations do not apply.
- 3. 107.7.12c** - If severe damage occurs and the owner can’t afford to restore building to “preservation condition”, will Town off-set property taxes to pay for restoration? Bob has passed on to the Town Manager other town’s tax credit programs (i.e. Castine and York’s) for review.
- 4. What is fair market value?**- 107.12(f) now includes a process for determining fair market value, which is the greater of the assessed value or the value determined by a Maine certified appraiser. It is an involved process.
- 5. Abutters’ notification** – Abutters were not notified as it is not relevant. Section removed.
- 6. Commission members must be residents** – 107.5 now requires members to be residents. 107.5 now requires Selectmen to “strive” to appoint one district property owner to the Commission. If no property owner in the district wants to be a member, this cannot be mandatory.
- 7. Expanding district to include Elm, Vine, Church, Chapman Streets and Bristol Road**- Although this could be a possibility in the future, it is premature to consider these streets at this time, given public

sentiment.

8. Pg. 13 #6 – “not visible on face” has been removed from 107(c) (6) (see flow chart)

9. Delete last clause in #6; then 107.11. (c)(iii) becomes irrelevant – 107.11.(c)(iii) is retained to address non-exempt appendages

10. Too bureaucratic – Given the significance of the image and appearance of Main Street to the Community, it is important to ensure an open and public process when visible changes are proposed to historic buildings and properties. As presented in the 1107.16 flow chart, staff can make an exempt determination, whereupon town historic review will end. If a certificate of appropriateness is needed, the Town Planner will assist any resident in completing the process.

11. No bylaws yet - Bylaws are not typically developed until the ordinance is adopted. Bylaws will represent the working guidelines for the commission on such matters as attendance, voting, conflicts of interest, etc. This is the purview of the Commission when it is constituted.

Public Comment:

Susan Murphy, owner of Cupacity – said she appreciated all the work that has been done. She stated she hasn’t had time to study everything, but #12 was of particular importance to her. She favors not rushing into doing this. She suggested the Board look at a group called Main Street America which is active across the country. It is very organized. Their website is available and addresses exposure; building owners are well-represented.

Valerie Seaberg, Damariscotta resident and property owner on Elm Street, spoke next. She presented the Board with a copy of edits from the 6/16/20 copy of the ordinance. She also provided a written list of concerns, to which the Town Planner has already responded. References to “future” are intended to be deleted. She pointed out the title pages don’t match. She addressed page 2 of the written handout 107.12 – demolition of historic structure. Regarding the selling of damaged property at fair market value, and reasonable assurance buyers would restore to original. She felt non-willful damage needs to be addressed (i.e. storm damage). She is concerned that the rights of the individual property owner are being diminished. She also addressed proposed language at the bottom of page 2: **1) add 107.20** – adverse financial impact. If the building is deemed “historic” are there any new taxes? **Matt Lutkus** responded that no specific taxes are levied unless proposed by and voted on by the citizens. **Ms. Seaberg** saw no benefit to the property owner, but there might be a potential adverse financial effect if insurance rates increase because of an historic designation. **2) 107.21** – concern about a “sunset provision” – is it 5 years? **3. Ballot language** –she did not feel it was particularly clear-“all properties” in district, not just “historic” - impacts everyone.

Robin Mayer asked why a “sunset provision” would be needed. **Ms. Seaberg** suggested trying it out for 3-5 years and see how it goes. She wants to see how it works out, especially with regard to compliance. Addressing the outside of buildings, she felt it should all be voluntary if there are no dramatic changes (porches, patios, etc.) She finds telephone poles and wires much more offensive than small design changes. She would like to see all lines put underground if you want to increase historic atmosphere.

Eric Hall introduced **David Levesque**, attending via Zoom, and a property owner in the district. He began by addressing: **1) items 11 & 12 Section 107.5, page 8**. He supports an amendment to this section so that non-residents who own property in the District would be eligible to serve on the

Commission and to make it clear that the Board will strive to appoint at least one commissioner who owns property in the District. **2) Items 14 & 15 page 13 Section 107.09(c)6** He would like the Board to support the amendment of this section to state as follows: "Installation of flagpoles, sculptures, mailboxes, window boxes, gutters, downspouts, and leaders house numbers, garden furniture, solar panels, wind powered units, heat pump inverters and related wall mounted conduits." **3) Item 16, page 16, Section 107.11(c) (1) (ii) Mr. Levesque** supports removing this item from the ordinance. If it is not removed, he suggested the following language: "Non-exempt appendages to a structure should be located to minimize the visual impact on the historic building and should be attached in a manner that does not damage the historic materials and is completely reversible. **4) [Not on spreadsheet] Section 107.12 @ pg. 19:** He thinks this section conflicts with Section 2017-7 of the Property Maintenance Ordinance. Section 107.12 (c) should be amended to not conflict or should be eliminated. Alternately, the Property Maintenance Ordinance could be amended with a provision that exempts property in the district. **5) Section 107.12 (d), pg. 19:** It looks like this section conflicts with the Sign Ordinance Section 107.5. This needs to be amended to not conflict or be eliminated. **6) Spreadsheet Item #9 Mr. Levesque** is concerned about increased financial impact on district residents such as increase in insurance rates and the cost of the process to obtain a COA on downtown property owners. **7) Urgency: Mr. Levesque** recommends amending the Ordinance ASAP. As Bob pointed out previously, there is an Ordinance on the books. It can be improved with amendments. "However, what is going to happen in the interim?" Without a Commission in place, who decides if a current project can be undertaken? He encourages the Board to be "fluid" as the ordinance takes effect. He will send a summary of his points to Matt Lutkus.

Chairperson Mayer asked if there were any questions. **Daryl Fraser** said he had talked to several people who felt this was a burden to property owners. It was well-received; BUT, 107.12 raises concerns about the property owner who cannot afford to rebuild as it was. Adding "within reason" or "not exactly the same, but looks like it fits" might help. **Josh Pinkham** was concerned about this becoming a "special tax district". Reassessment should be that any property assessment should be "fair for all." He is opposed to any "Historic District Tax". **Lou Abbotoni** felt there was no need for a "sunset clause" as it can be amended at any time. **Matt Lutkus** agreed with Lou on the sunset clause. **Robin Mayer** addressed **page 5 107.5** and felt term limits were needed and they should be staggered. She too felt pg. 10 needed work regarding the COA. On page 11 she is concerned about "timing" during construction season. Also, she is not in favor of a clause referring to "having to sell." She was concerned about the timetable presented. Commission needs to address timing of meetings so it doesn't drag out. Page 17: "should" phraseology leaves door open to ignore ordinance. Ordinance should state things as "shall."

Bob Faunce reiterated that the ordinance on the books now is stricter and will stay in place until it is amended. The Town Meeting will have a Special Election as well as General election on 11/3/20. **Matt Lutkus** said warrants need to be finalized by 9/16/20- notices of public hearings need to be done by 9/2/20. Changes have to be done by 8/19 or by a Special Board meeting on 8/26/20. The Board can direct staff to make amendments in order to make it to the 11/3/20 ballot and vote. Final hearing has to have the ordinance in its final draft form or push back the vote. **Matt** expressed concern over "non-resident" business owners' ability to be on the Commission. He would like to see a residency

requirement waiver, especially since Damariscotta is a service center for the area. Also he favors written notification if a Certificate of Approval is denied. As far as the “should” versus “shall” language, **Matt** felt in some areas, such as aesthetics” are hard to determine. He would like to “sleep” on the proposed changes. The boundaries in Damariscotta would be the same as the federal boundaries as designated already. **Assessor Matt Murphy** added that there was no additional tax for the district. Also nothing in the ordinance forces more insurance coverage. **Bob Faunce** stated that if the ordinance was turned down, the current ordinance stays in place. He also said the Board had the option of going back to committee, but if they did that, it won’t be considered until the next round of Town Meetings/ballot voting. As far as “forced to fix or sell” clause, there is no intent to reduce property value. He does not recommend “watering down” the ordinance as these provisions are common property regulations.

Marilee Harris spoke next, as a property owner and pastor, stating that if the purpose was to maintain the historic district (guidelines and restrictions), there is a real possibility of citizens not being able to reconstruct as before. “What recourse do owners have so they can do it as they can?” **Susan Murphy** wants the language addressed so that owners have knowledge about options. She would like the language clear, so as to help people in varying situations. Hearing from no other speakers, **Chairperson Mayer** closed the public session at 6:07 p.m.

III. The Board of Selectmen’s Meeting was called to order at 6:10 p.m. by **Chairperson Mayer**.

IX. 1. Board Direction on Any Changes to Historic Preservation Ordinance

Josh Pinkham said “We’re not going to make the November ballot. I recommend a Special Town Meeting in December (either the first or second meeting). **Matt Lutkus** said the difficulty with that is that people won’t come out for the Special Town Meeting. Law requires they must vote in person for a Town Meeting. **Robin Mayer** said what if we are in a state of emergency in December? **Matt** responded, “Who knows! We have no expertise in this matter to comment one way or the other. We don’t have to lock into November 3rd.” **Robin** agreed with Josh. “There is a lot of interest in this ordinance; we need to do it right and address the concerns brought forth by those who live here.” **Bob Faunce** said he would get a corrected draft to the Board with the things that were discussed tonight.

IV. Minutes

On motion (Pinkham/Abbotoni) to accept the minutes of the (August 5, 2020) meeting as distributed.

Vote: 5-0-0

V. Financial Reports

1. **On motion (Pinkham/Fraser) to approve Payroll Warrants #7** **Vote: 5-0-0**

2. **On motion (Pinkham/Mayer) to approve Payroll Warrants #8** **Vote: 5-0-0**

3. **On motion (Pinkham/Abbotoni) to approve Accounts Payable Warrants #9** **Vote: 5-0-0**

Chairperson Mayer asked if the solar farm was up and running. **Matt** said yes and they’ll be tracking savings.

4. **On motion (Pinkham/Abbotoni) to approve Accounts Payable Warrants #10** **Vote: 5-0-0**

VI. Presentations - None

VII. Citizen Comments and General Correspondence - None

VIII. Town Manager's Items

1. Follow-Up on Selection of Waterfront Project Consultant Team

Bob Faunce made calls on references with very positive results. One reference was from the National Conservancy in Connecticut and the other from the Hampton, N.H. Public Works. Both gave strong endorsements. The next phase is negotiations; Robin, George P. and Bob F. will serve on that team. Timeliness is the issue. Richard Hornberger of the EDA was okay with the process.

2. Date for Annual Goal Setting Workshop

Matt was happy with the accomplishments of the Board/Town this year – Bristol Rd., Grant application, and Capital projects. He will draft a set of goals to work from at a workshop scheduled for the first meeting in October.

3. Location for September Meetings

Matt is recommending continuing with meetings in the GSB Gym for September 2nd and September 16th.
On motion (Mayer/Abbotoni) to hold September Board of Selectmen meetings at the Great Salt Bay School Gym

Vote: 5-0-0

Mrs. Mayer thanked Mark Hagar and Larry Sidelinger (LCTV) for all their help and assistance in making the gym use a feasible option for meetings.

4. Report on Municipal Service Fees for Tax-Exempt Organizations (Eric Hall, Management Intern) Item postponed until September 2, 2020 meeting.

IX. Official Action Items

1. Changes to Historic Preservation Ordinance - Taken up earlier in meeting

2. Wright-Pierce Task Order 6-Amendment #3- Revisions to Restroom Design

This is primarily a paperwork detail. The addendum to the Task Order will go out to bid Monday or Tuesday. The bid will be extended until 9/10/20 with 4 items.

On motion (Pinkham/Fraser) to approve the new bid order extended to 9/10/20.

Vote: 5-0-0

3. Contractor for Waterfront Sanitary Sewer Line Project

This has been narrowed to three contractors: Buck, Chase and Hagar. The Great Salt Bay Sanitation District is to tie in and abandon the collection lines in existence now. **Matt** is asking for a Special Board Meeting at the Town Hall at 5:30 pm. on 8/26/20 to select a contractor for the sewer project.

On motion (Mayer/Abbotoni) to hold a Special Town Meeting at the Town Hall 8/26/20 at 5:30 p.m.

Vote: 5-0-0

X. Selectmen's Discussion Items

Josh Pinkham – Thanks to Bob Faunce and Larry Sidelinger for their work.

Daryl Fraser - No issues

Lou Abbotoni – Nothing

Mark Hagar – Mark had questions regarding Two Rod Road. There were concerns, especially after a severe rain event, about washouts. **Hugh Priebe** said there was a 33ft. right-of-way. **Matt Lutkus** responded that the home owners association never transferred ownership, and they should ask for an article to make the right-of-way 55 ft.

Robin Mayer – reminder about Drive-In movie night in the municipal parking lot Thursday, 8/20/20.

XI. Adjournment

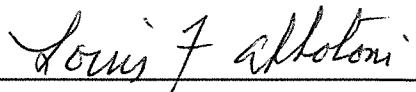
On motion (Pinkham/Fraser) to adjourn the Board of Selectmen's meeting at 7:00 p.m. Vote: 5-0-0


Respectfully submitted,

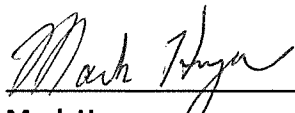
Lynda L. Letteney
Recording Secretary

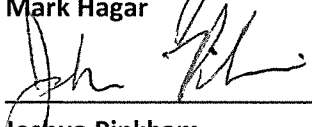
We, the undersigned, do hereby approve as written, or with corrections as noted, the minutes of the above-designated Board of Selectmen meeting August 19, 2020.


Roberta Mayer, Chairperson


Louis Abbotoni


Daryl Fraser


Mark Hagar


Joshua Pinkham

Town of Damariscotta, Board of Selectmen, signed this date: September 3, 2020