

**MINUTES**  
**BOARD OF SELECTMENT MEETING**  
**December 5, 2018 5:30 pm**  
**at the Damariscotta Town Hall**

**Members:** Roberta Mayer, Chairperson; Ronn Orenstein, Vice-Chairperson; Mark Hagar, Amy Leshure; and Louis Abbotoni.

**Members Absent:** None

**Staff Present:** Matt Lutkus, Town Manager; Karen O'Bryan, video recorder; Cheryl Pinkham, Town Treasurer; Bob Faunce, Interim Town Planner

**Others Present:** Haas Tobey, Presenter; Penn Way, business owner; Bruce Rockwood, LUAC;

**I. Pledge of Allegiance**

**II. Call to Order:** Meeting was called to order at 5:30 p.m. by Chairperson Mayer

**III. Minutes:**

The minutes from November 28, 2018, were tabled until the next meeting pending editorial changes.

**IV. Financial Reports**

1. On motion (Leshure/Abbotoni) to approve Payroll Warrant #28 **Vote: 5-0-0**
2. On motion (Leshure/Abbotoni) to approve Accounts Payable Warrant #29 **Vote: 5-0-0**  
(Hagar abstaining)
3. On motion (Abbotoni/Hagar) to approve Accounts Payable Warrant #27 **Vote: 5-0-0**

**V. Presentations: Update From Land Use Advisory Committee (LUAC)**

**Ronn Orenstein** prefaced the presentation stating that the "bylaws task list" was complete. The committee is reviewing the work with Bob Faunce, Town Planner, to ensure clarity and identify duplications. There is a potential for new members from the Bristol Road Committee to work with the town planner. The Site Plan Ordinance is almost complete (in its final draft stage) with last edits being done on the procedural flow chart. This includes erosion and sediment control and a native species list. The Subdivision Ordinance is being reformatted (to be as it is in all state statutes), allowing for some things to be locally edited out. Land Use Ordinance has been reformatted and up-to-date (to the inclusion of adult-use marijuana and medical marijuana ordinances yet to be enacted.)

**Haas Tobey** began the presentation stating that work on this began in 2016 with the George Parker challenge. The Land Use Advisory Committee (LUAC) was formed and charged with developing ordinances which reflect the town's values and life styles and to respond to the 2016 Comprehensive Plan. (1. To protect wetlands from adjacent development, adding value to future development, and hence, increasing the tax base; 2. To protect the water quality in lakes, ponds and streams; 3) To protect the Damariscotta River and its shoreline, incorporating up-to-date methods and technologies for keeping pollutants from entering the river (monitoring of water quality?). Mr. Tobey stated that

implementing the town's values "where culture and nature meet" challenges us to understand what this really means. As we work to draft ordinances that reflect our values, and the goals of the 2016 Comprehensive Plan, it is very important that all stakeholders have input and a clearer understanding of what this means for the Town.

Because LUAC wants to "get it right," they are proposing a community gathering in late March or April 2019 with a pot luck supper and collegial interaction among community members. Participants would identify what they want/need in town ordinances to protect/preserve wildlife habitat. Using a moderator, participants would identify key factors important to habitat preservation, looking at relevant features from ordinances elsewhere. Identifying current practices for: 1.) enjoying recreational activities in nature (scenic views, snowmobiling, hiking, camping, swimming, etc.); 2.) interacting with wildlife (hunting, fishing, tracking, etc.); and, 3.) watching wildlife (birding, sighting of moose, bobcats, bear, lynx, and raccoon etc.). Inclusion of individuals with specific knowledge and experience would be sought to help facilitate the meeting (i.e. DRA/PWA, Twelve Rivers Conservation Initiative, etc.)

LUAC wants to get it right. Toward that end, their goals are:

- 1) to preserve open space, retaining or increasing property value, adding value to future development and, hence, increasing the tax base;
- 2) to provide access to nature-places to connect, to walk to, and to walk through; and
- 3) to do it in the way we, as a community, want it done.

Discussion ensued. **Robin Mayer** asked if this meeting/gathering was to revise those ordinances ready for vote. Also she was unclear as to what form it would take. **Mr. Tobey** felt the June meeting would be to gather information and that we would need to take into consideration what other meetings are happening and what notice needs to be given. Again, LUAC feels it is necessary to get a better sense of the community's wants/needs. Cheryl Pinkham has prepared a calendar with upcoming meetings and timeline dates for notification deadlines which will be helpful for planning purposes. **Mr. Tobey** asked **Bruce Rockwood** (LUAC Chairperson) if a couple ordinances would be ready by a March meeting. **Matt Lutkus** felt for the smaller items, the Board of Selectmen and LUAC could move them up to the March 20<sup>th</sup> Special Town Meeting. **Mr. Rockwood** felt deadlines for the subdivision ordinances could be ready by later in March, given the timeline needed for the Planning Board review and approval by Board of Selectmen and public notice. Foremost for LUAC, is doing it right and not to rush process. **Matt Lutkus** said it could be later in March. **Haas Tobey** reminded everyone that some of these had been slated for October 2017, but due to delays and challenges, they just got settled last week. The historic Preservation Ordinance preserves the value of Damariscotta as a destination for tourism and a place favorable for raising families. Despite the Historic Preservation Ordinance being worked on since 2016, it was felt the Site Plan Ordinance and the Subdivision Ordinance were pretty much ready to be approved and could come forward in March. **Amanda Meader**, the town's legal advisor, specified both ordinances have been put in PDF format and are available for review. They are now both consistent with state definitions. **Bob Faunce** is available as a resource as well for final approval.

**Matt Lutkus** said that the Bristol Road Community Association was ready to address the Complete Streets Proposal. Before they began, **Penn Way** asked a question about non-historical buildings in a historical

district. Case in point, his building was built in 1992, does it have to comply with the “consistent with historic look” provision? Response: There are no exemptions. If a building in that area wants to make changes, they must be consistent with the “look of downtown.” The ordinance is based on geographic area, not individual buildings, so changes must be consistent with other buildings. Historic buildings outside the designated area need an historic preservation ordinance with demolition delay provision. There are examples of these ordinances in Augusta, Castine, etc. This is an ongoing conversation that reflects strict rules versus what fits into the town design. **Hass Tobey** gave an example of how the town spent extra money to make sure the new public toilet facilities conformed to this “look”.

**Anton Lahnston** acted as spokesperson for the Bristol Road Community Association and Complete Streets Proposal. They met last week with Matt with several items on the agenda which resulted in a formative conversation. The first item was regarding the sidewalk on Bristol Road. Matt gave them the proposal and this seems to be moving forward in a timely fashion.

The second item was regarding the Complete Streets Proposal which was first brought up in July. Matt suggested that there may be a way to have LUAC and Complete Streets work together. The State of Maine already has Complete Streets guidelines and felt the two groups might build upon those. **Mr. Lahnston** stated they were not looking for a new committee, but rather a place where their input could be considered. **Ronn Orenstein** mentioned that Bristol Road Committee could possibly become part of Complete Streets. **Mr. Lahnston** felt they didn’t want to lose their identity, nor did he have the authority to say yes; but, discussion within their group would be a worthy of endeavor. **Robin Mayer** asked if there would be any value to the committee to see the final draft. If so, she could send it. Ann Jackson stated that the ordinance had a philosophical component and she felt public safety was part and parcel of the discussion.

**Mr. Rockwood** stated that LUAC was reviewing the drafts, and LUAC was recruiting new members before the Land Use Ordinance was finalized. **Ronn Orenstein** said these were not mutually exclusive concerns. **Matt Lutkus** stated the Town could not support another committee (doesn’t have staff time and resources) but there is a lot of overlap between the two (LUAC and Complete Streets.) **Robin Mayer** did a quick recap stating that Complete Streets and LUAC had much in common and safety was included in the ordinance. **Bob Faunce** said that he was “results oriented” and he wants the ordinances done and in place ASAP. These are in such a format now as to be enacted and can serve as a framework to be worked on later for “tweaking”. “Tweaking” examples could include sidewalks and landscaping regulations if not there. **Ronn Orenstein** raised the question of street design elements in a subdivision. **Bob Faunce** explained there was already a section on standards for street design including right-of-way and sidewalks. This could be strengthened later if needed. (i.e. adding pedestrian access would not be a new policy, just an addendum.) He added that Complete Streets was usually applied in urban and suburban areas, not rural. He recommended continuing the conversation after basic ordinances are approved. **Hass Tobey** expressed concern for habitat stating that Complete Streets favored pathways instead of paved sidewalks where feasible. **Robin Mayer** thanked the committee for its hard work and would like to have a copy of the drafts they worked on.

## **VI. Citizen Comments and General Correspondence:**

**Mrs. Mayer** received a citizen comment via e-mail regarding intoxicated/impaired driving laws. She has sent a note to the Police Chief and was informed that the police will enforce all laws. Holidays are a particularly vulnerable time for Driving Under the Influence (DUI) and citizenry is reminded Driving While Impaired includes substances other than just alcohol.

## **VII. Town Manager Items**

### **1. Adult-Use and Medical Marijuana Ordinance Decision Spreadsheets**

Matt Lutkus gave an overview of where the state and local laws are at present. He provided a spreadsheet summarizing the provisions in the State legislation that fall within the purview of local decision-making authority. There have been several changes in State law which provide for more local control over medical marijuana. He has posted the three draft ordinances on the website for review before the January 2, 2019, public conversation. State regulations are still under review and anything the town passes is contingent upon the State's final legislation. Tentative public hearings before the Board of Selectmen and Planning Board are slated for February with special town meeting scheduled for March. **Chairperson Mayer** asked why there was no fee listed for a tier 4 operation (pg. 3 spreadsheet)? **Matt** explained that a grow operation the size of over 20,000 sq. ft. was unlikely at this time. **Penn Way** asked if any working committees, with participants familiar with the industry, had been formed to help with these regulations. He also stated that a 20K sq. ft. grow operation was not unusual in the industry. **Mrs. Mayer** said these were based on staff recommendations and were a starting point for the hearings. **Bob Faunce** added that the town's legal advisor, **Amanda Meader**, made recommendations for the ordinance (Land Use) and it had been reformatted with the marijuana component pending the March hearing.

### **2. Timeline for Consideration of ordinances at the Annual Town Meeting**

Hearings will be held January 2, 2019; in February (TBA) and final discussion and vote at March 20, 2019 Special Town Meeting

### **3. Local Option Sales Tax**

Maine Municipal Association (MMA) has rough drafts for Local Option Sales Tax (LOST) bills. **Matt** said there was an advantage for Damariscotta to get on board with larger communities for more leverage, if they choose to do this. By joining with larger community efforts, we could work from one of their models. Portland's mayor has asked for a bill and it has been sponsored by Rep. Sylvester. He is not aware of any local towns currently pressing for this. Services provided to hospitals, the boat landing, police department (summer influx) and emergency services are examples of non-profit use of town resources for which there is no additional revenue. **Mark Hagar** commented that this type of tax had always been defeated in the past. For us, some of the tax would offset county taxes. Service Center towns provide services for those who do not pay into town taxes (i.e. hospital, fire, emergency services, etc.) If we give back some to surrounding towns it defeats the purpose. **Mark** was suggesting 75% stay local and give 25% shared with surrounding towns. This was not to be greedy, but to offset actual expenses. **Lou Abbotoni** said in reality most of it would come from tourists. **Penn Way** said it may be self-defeating. In today's age of online shopping, why not use Amazon – no shipping, there in 2 days, and no local tax. Additionally, Amazon is targeting sales to New England. **Chairperson Mayer** said if

Rockland and Bath had no local tax, many local residents may choose to shop there. **Amy Leshure** added that Damariscotta had mostly specialty stores with items not offered on Amazon. **Penn Way** had previously mentioned that between 2010 and 2017 local taxes had increased 28%. He felt with a high mil rate, adding more taxes to solve revenue problems was ludicrous. He felt new businesses would go elsewhere. **Mrs. Mayer** added that with the increase in minimum wage, she has noticed menu items in local restaurants have gone up. **Amy Leshure** asked **Penn** what percentage of his businesses were locally supported. He estimated 50% for the ice cream and 70% for the other. **Ronn Orenstein** stated that we have a revenue issue, but developable land was limited. **Mark Hagar** made the point that as a service center, we will need more housing, but that increases school costs and enrollment. The State's 1 cent increase gets back to the town in revenue sharing. Some, including **Amy Leshure**, did not feel we would get more revenue sharing. **Chairperson Mayer** asked if we should wait and see what Portland does and monitor legislation. She felt the Board should sit and wait instead of having Matt and Amanda using their time on this. At the last state-wide meeting for service centers **Mark** and **Matt** were charged with a draft for service centers. Since then, MMA and Portland have revised and submitted bills. The environment on this is changing and other bills are being proposed. Since all bills had to be in by 12/22/18, and Sen. Dana Dow has a copy of Damariscotta's, **Mark** felt all three would be combined.

Discussion continued on alternate revenue sources. **Penn Way** asked if paid parking had been considered vs. cost of enforcement. **Chairperson Mayer** said it had been tried in the past and was a break even proposition. **Matt Lutkus** said he would share the memo with the coalition that **Amanda Meader** had sent to the Board addressing elements needed in a bill rather than draft a bill themselves. **Penn Way** was interested in what rate the Board was proposing. **Mark Hagar** said 60% of one cent would go to the county and 40% would stay local. A rough estimate would generate 420+K locally and 1.5 million to the county. **Mark** said that Damariscotta needs about one half million to offset service center costs. He felt we needed to be fair in doing this; currently only 11 states don't have local sales tax. **Amy Leshure** asked about a time window when it would be imposed, such as May-Oct. **Mark** felt that sent conflicting messages. (open for business vs taxing tourists) **Matt Lutkus** felt it could be explored further.

**Robin Mayer** felt that in light of MMA bills and Amanda's work, **Matt** and **Mark** should take our 3 to the coalition meeting, but we shouldn't do any more work on them until some others are settled. They should represent the view that we support the legislation, but that we will hold until further information is available. **Mark Hagar** reiterated that Dana Dow could present a different concept, but with our version included, or not do anything at all. **Robin Mayer** said there seemed to be agreement for the earmarking of funds, but wants to maintain local control on how it is used. She was looking for direction for Matt and Mark at the next coalition meeting. **Matt** stated he felt that since nothing has been decided and it is not going to the voters yet, the town could support authority for legislation. **Mark** restated that the ideas are on paper; just not in ordinance form yet.

#### **4. Waterfront Project Plans Review**

A Special Town Meeting will be held December 17, 2018, in the cafeteria at Great Salt Bay School at 5:30 p.m.

### **5. Meeting with Lincolnville/Tidewater Telecommunications (LTT)**

Matt met with representatives of Lincolnville/Tidewater Telecom regarding security hook-ups to the new restrooms. The Oyster Festival donated \$1000 to this project, for cameras and a security plan. They also talked about Wi-Fi service for transient boaters who use the public dock and moorings. LTT was not aware of anyone locally providing ongoing service, but was aware Rockland Harbor provided temporary service during the Lobster Festival. LTT and Matt agreed it was a nice service to be able to provide and more research is needed as new technologies are constantly being developed. Matt also commented on what a great community partner LTT is, giving an example of the sidewalk work on Elm Street that needed a pole moved to complete the project. He felt there was a great symbiotic relationship between the Town and LTT.

## **VIII. Official Action Items**

### **1. Warrant for December 19, 2018 Special Town Meeting**

Ronn Orenstein spoke to this issue stating that although the basic structure is as it was presented previously, the conformity to the downtown architectural design was important for the Town to do, showing they were willing to set the example based on existing ordinances.

**On motion (Orenstein/Abbotoni) to approve the attached warrant for a December 19, 2018, Special Town Meeting for consideration of a supplemental budget request for the construction of the downtown restroom.**

**Vote: 5-0-0**

### **2. Date, Time, and Location for Annual Town Meeting**

**On motion (Mayer/Abbotoni) to set the time, date and location for the Annual Town Meeting on Wednesday, June 12, 2019, at 6 p.m. at the Great Salt Bay Community School**

**Vote: 5-0-0**

### **3. Appointment to the Public Works Committee**

**On motion (Orenstein/Hagar) to appoint Louis Abbotoni to the Public Works Committee** **Vote: 4-0-1 (Abbotoni abstained)**

## **IX. Selectmen's Discussion Items**

**1. Mark Hagar will attend the Service Centers Meeting with Matt in Augusta on December 19<sup>th</sup> but will not be able to attend the Selectmen's meeting that evening.**

**2. Robin Mayer is planning on attending the Raise the Floor Coalition meeting December 20<sup>th</sup> in Augusta regarding school funding. She is looking to share a ride if anyone else wished to attend.**

## **X. Adjournment**

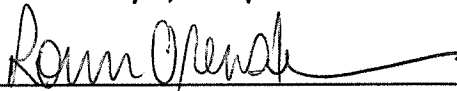
**On motion (Hagar/Abbotoni) the meeting adjourned at 7:05 p.m.**

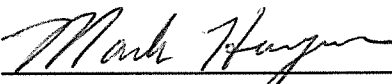
Respectfully submitted,

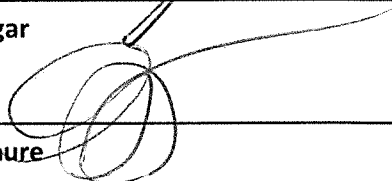
Lynda L. Letteney  
Recording Secretary

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

  
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Roberta Mayer, Chairperson

  
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Ronn Orenstein, Vice-Chairperson

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

  
\_\_\_\_\_  
Amy Leshure

\_\_\_\_\_  
Louis F. Abbotoni

Town of Damariscotta, Board of Selectmen, signed this date: \_\_\_\_\_

