

**Agenda**  
**Board of Selectmen's Meeting**  
**Town of Damariscotta, Maine**  
**September 18, 2019, 5:30 PM**  
**Damariscotta Town Hall**

- I. Pledge of Allegiance**
- II. Call to Order**
- III. Minutes**
- IV. Financial Reports**
  - 1. Payroll Warrant #
  - 2. Accounts Payable Warrant #
- V. Presentations**
  - 1. Results of Shellfish Resilience Study- Kara Pelowe, Darling Center
- VI. Citizen Comments and General Correspondence**
- VII. Town Manager Items**
  - 1. Tenth Anniversary of Heart and Soul Charettes
  - 2. Treasurer's Disbursement Policy
- VIII. Official Action Items**
  - 1. Warrant for Special Town Meeting (Secret Ballot Election) on November 5
  - 2. Corrective Cemetery Deed and Perpetual Care Agreement for Lawrence E. Townley
  - 3. Time, Date, Location for Annual Town Meeting
  - 4. Request for Proposals for Cemetery Landscape Maintenance
- IX. Selectmen's Discussion Items**
- X. Adjournment**

# Town Manager Notes for September 18, 2019 Board of Selectmen's Meeting

## Presentations:

1. **Results of Shellfish Resilience Study- Kara Pelowe, Darling Center** – The Darling Marine Center recently completed a study on the health of the shellfish resources in the tidal areas managed by the Newcastle-Damariscotta Shellfish Committee. The study was funded by a grant from the Broad Reach Fund of the Maine Community Foundation.



Attached are two press releases that provide background information on the project. Dr. Kara Pelowe, who managed the project, will attend the Board meeting on Wednesday to review the results of the study. Members of the Newcastle Select Board and the Newcastle-Damariscotta Shellfish Conservation Committee have been invited to attend Wednesday's meeting.

## Town Manager Items:

1. **Tenth Anniversary of Heart and Soul Charrettes** (verbal)

2. **Treasurer's Disbursement Policy** (final document will be ready for the Selectmen's signatures.)

### **Official Action Items**

1. **Warrant for Special Town Meeting (Secret Ballot Election) on November 5 –**  
Attached is the draft of the Special Town Meeting Warrant for the Town's secret ballot election. During that election, voters will be asked to consider: two ordinances that would provide for the licensing of medical and adult use marijuana establishments, six ordinance amendments related to the zoning of these commercial establishments and an amendment to the adult use licensing ordinance that will allow for the sale of edible marijuana products.

I have drafted a narrative that describes the history of the state legislation and draft Town ordinances and amendments for the Town's website and Facebook page. Once the warrant is approved, I will include the signed Warrant, the narrative and the proposed ordinances and ordinance revisions on the Internet.

**Recommended Action: Approve the attached Special Town Meeting Warrant for a November 5 secret ballot election.**

2. **Corrective Cemetery Deed and Perpetual Care Agreement for Lawrence E. Townley-** The attached corrective cemetery deed and perpetual care agreement are needed due to ledge being found on the cemetery plot that was previously purchased by Mr. Townley. The amount of ledge at this site makes it unusable for any burial other than one for cremated remains. Mr. Townley's original plot is being deeded back to the Town in exchange for the deed for the new plot.

**Recommended Action: Approve the corrective cemetery deed and perpetual care agreement with Lawrence E. Townley.**

3. **Time, Date, Location for 2020 Annual Town Meeting-** At the 2019 Annual Town Meeting, voters approved an article that authorizes the Board to set the date, time and place for the next annual meeting. Town staff is contacting the Great Salt Bay School to find out if the gym is available for this meeting on the second Wednesday of June, 2020. I will have a recommendation for you at Wednesday's meeting.

4. **Request for Proposals for Cemetery Landscape Maintenance-** The current contract for cemetery maintenance expires in November. The Cemetery Committee has begun to update the last Request for Proposals (RFPs) and current contract in anticipation of advertising the RFP on October 7. In order to have enough lead time to achieve this timeline, I am asking the Board to approve the RFP and contract in substantially the same form as the attached documents. In addition, if any of the Selectmen have any edits to the documents, we can incorporate these into the drafts before they are finalized.

**Recommended Action: Approve the attached draft Request for Proposals for Cemetery Landscape Maintenance Services with the proviso that the final documents will remain substantially the same as the attached drafts.**

## Press Release

### DMC invites harvesters to take part in shellfish project

For Immediate Release: July 1, 2019

Contact: Linda Healy, UMaine Darling Marine Center

Phone: 207-563-8220

Email: [lhealy@maine.edu](mailto:lhealy@maine.edu)

Image by Jessica Stumper

Caption: Darling Marine Center researchers take a break from shellfish surveys in the upper Damariscotta River Estuary.



WALPOLE, Maine — Scientists at the University of Maine Darling Marine Center invite current and past shellfish license-holders to participate in shellfish surveys in July on Damariscotta tidal flats. These surveys will help inform future stewardship of the shellfish resources managed jointly by the towns of Damariscotta and Newcastle.

The survey team, which is led by Kara Pellowe, a researcher at the DMC, is gathering data during the low tides in order to assess the abundance, composition and size of soft-shell clams and other shellfish harvested in this area.

“Our flats support a variety of shellfish, including softshell clams, quahogs, razor clams, blue mussels, American oysters and European oysters,” Pellowe observed.

This research is a part of a project led by the Town of Damariscotta and is entitled ‘An assessment of shellfish resources for coastal resilience and management: Documenting historical and current trends in the Damariscotta and Sheepscot River tidewater flats.’ Town Manager Matt Lutkus submitted a proposal to the Broad Reach Fund in January 2019 on behalf of the Damariscotta/Newcastle Joint Shellfish Committee. The town was awarded \$13,173 to conduct the work, which is also being matched with additional, in kind contributions from shellfish committee members and other volunteers, the town of Damariscotta and the University of Maine.

The project is of 15 statewide, thanks to a collaborative initiative involving the Broad Reach Fund of the Maine Community Foundation, the Maine Shellfish Advisory Council, the University of Maine’s Department of Communication and Journalism and Senator George J. Mitchell Center for Sustainability Solutions. More information on the initiative is available at the Maine Shellfish Restoration and Resilience Project website at <https://umaine.edu/shellfish-restoration/>

Local harvesters have recently noted interannual fluctuations in shellfish resources. Without the resources to conduct population surveys, the Shellfish Committee and the towns of Damariscotta and Newcastle have had to update shellfish management without critical scientific data. This summer’s surveys are a step towards filling data gap, to inform development of strategies that enhance productivity of the wild shellfish resource and coastal community resilience more broadly.

Lutkus noted, ““This collaborative project is gathering some of the first data on the health of these populations and will hopefully contribute to more proactive management in the future. I’m looking forward to learning of the team’s results.”

Survey participants will be paid \$100 per day, for hands-on assistance on select dates: July 5-12, July 18-19 and July 23-26.

DMC researchers also invite current or past shellfish harvesters to take part in 30-minute interviews about their experiences, knowledge and concerns related to the area’s shellfish resources. Information gathered during these conversations will be integrated with the biological survey data and presented to the towns’ joint shellfish committee in the early fall. For more information or to volunteer, contact Pellowe at 303.895.7674.

Founded in 1965, the Darling Marine Center’s mission is to connect people to the ocean. The center’s researchers, staff and students work alongside fishermen, aquaculture

entrepreneurs, marine industry professionals and other members of the community in Maine and around the world. More information is available at [dmc.umaine.edu](http://dmc.umaine.edu).

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Media release

Sept. 9, 2019

Contact: Jessica Stumper, [Jessica.stumper@maine.edu](mailto:Jessica.stumper@maine.edu), 207.563.8135

### **Pellowe to present shellfish study findings Sept. 18 in Damariscotta**

Kara Pellowe, who recently earned her doctorate at the University of Maine and now is a postdoctoral researcher, will present results of a summer shellfish project at 5:30 p.m. Sept. 18 at the Damariscotta Town Office.

In July, Pellowe and others gathered data at low tide to assess the abundance, composition and size of soft-shell clams and other shellfish in intertidal flats managed by the towns of Damariscotta and Newcastle.

“Our flats support a variety of shellfish, including soft-shell clams, quahogs, razor clams, blue mussels, American oysters and European oysters,” said Pellowe in July.

The research was conducted to inform stewardship of the shellfish resources managed jointly by the towns of Damariscotta and Newcastle.

“This collaborative project is gathering some of the first data on the health of these populations and will hopefully contribute to more proactive management in the future,” said Damariscotta town manager Matt Lutkus in July. “I’m looking forward to learning of the team’s results.”

*Founded in 1965, the Darling Marine Center’s mission is to connect people to the ocean. The center’s researchers, staff and students work alongside fishermen, aquaculture entrepreneurs, marine industry professionals and other members of the community in Maine and around the world. More information is available at [dmc.umaine.edu](http://dmc.umaine.edu)*

**TOWN OF DAMARISCOTTA  
WARRANT  
FOR  
SPECIAL TOWN MEETING  
November 5, 2019**

**LINCOLN, SS**

**STATE OF MAINE**

**TO:** Jason Warlick, a Constable for the Town of Damariscotta in the County of Lincoln.

**GREETINGS:**

In the name of the State of Maine, you are hereby required to notify and warn the voters of the Town of Damariscotta, in said County, qualified by law to vote in Town Affairs, to assemble at the Damariscotta Municipal Building on 21 School Street in said Town, on Tuesday, the 5<sup>th</sup> day of November A.D. 2019 at 8 AM to choose a moderator and then and there to act on Article 1 through 4.

The polls will be open at 8 AM and will close at 8 PM.

**ARTICLE 1.** To choose a Moderator to preside at said meeting.

**ARTICLE 2.** Shall the Town vote to enact an ordinance entitled, "Comprehensive Land Use Regulations for Medical Marijuana" effective January 6, 2020? Copies of these proposed ordinance amendments are on file with the Town Clerk at Town Hall.

**ARTICLE 3.** Shall the Town vote to enact an ordinance entitled, "Medical Marijuana Licensing Ordinance," effective January 6, 2020? A copy of this proposed ordinance is on file with the Town Clerk at Town Hall.

**ARTICLE 4.** Shall the Town vote to enact an ordinance entitled, "Comprehensive Land Use Regulations for Adult Use Marijuana" effective January 6, 2020? If this Article is approved, the revisions so adopted shall not supersede but shall be in addition to any revisions approved in Article 2 of this Warrant. Copies of these proposed ordinance amendments are on file with the Town Clerk at Town Hall.

**ARTICLE 5.** Shall the Town vote to enact an ordinance entitled, "Adult Use Marijuana Licensing Ordinance," effective January 6, 2020? A copy of this proposed ordinance is on file with the Town Clerk at Town Hall.



**ARTICLE 6.** If Article 5 is approved, shall the Town vote to enact an ordinance entitled “Adult Use Marijuana Licensing Ordinance Amendment to Include Edible Marijuana Sales,” effective January 6, 2020? A copy of this proposed ordinance is on file with the Town Clerk at Town Hall.

Given under our hands at said Damariscotta, Maine this 18th day of September, A.D., 2019.

\_\_\_\_\_  
Robin Mayer Chairman

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

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

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

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

Board of Selectmen  
Damariscotta, Maine

\_\_\_\_\_  
Attest: Matthew J. Lutkus

**Town of Damariscotta**  
**REQUEST FOR PROPOSALS – CEMETERY LANDSCAPE MAINTENANCE**  
**SERVICES**  
**October 7, 2019RFP#2019-1 CEM**

The Town of Damariscotta is seeking proposals from qualified landscape maintenance contractors to provide mowing and other related maintenance services for the Town's Hillside, Walpole and Bethlehem Cemeteries. The term of the contract shall be for the season April 15 to November 30, 2020 with an option for the Selectmen to extend the contract for an additional two seasons. A copy of the draft contract is attached.

In order to be considered for this services contract, an original and three copies of the firm's proposal must be delivered to the Damariscotta Town Manager's Office, 21 School Street, Damariscotta, Maine no later than 1 PM, October 31, 2019. All proposals will be opened at this time and will subsequently be reviewed by the Town's Cemetery Committee which shall provide the Board of Selectmen with a recommendation on an award of a cemetery landscape services contract.

All firms wishing to be considered for this contract with the Town are required to attend the mandatory walk-through of the three Town cemeteries that will be conducted by the Cemetery Committee. The walk-through will take place at 1 PM, October 22, 2019 beginning at the Church Street entrance to Hillside Cemetery. In the event of inclement weather, the walk-through will take place on October 24 at the same time and location. Potential bidders should contact the Town Manager prior to the scheduled walk-through if there is a question on whether the October 22 walk-through will be postponed.

The Town's intent is to ensure high quality landscape maintenance services in accordance with its legal and moral obligation to provide for the perpetual care of cemetery grounds. The specific requirements for cemetery landscape contractors are detailed in the attached contract. The provisions of this contract should be reviewed closely prior to the submittal of proposals.

RFP responders may be asked to meet with the Cemetery Committee to describe their proposals in further detail. The Town reserves the right to reject any or all proposals, to waive any formality or technicality in the submissions, and to accept any proposal as may be deemed by the Selectmen to be in the best interests of the Town.

RFP Information requirements of proposers:

- 1) Brief description of the landscape firm's ownership, including identification of any affiliated companies.
- 2) Number of full-time and seasonal personnel that are regularly employed at the firm.
- 3) A listing of the equipment that will be used to provide the landscape services described in the attached contract.

- 4) Brief description of similar services that the contractor has provided during the past five years.
- 5) A list with contact information of five client references
- 6) Any other information which would be of assistance to the Town Manager, Cemetery Committee and Board of Selectmen evaluating the firm's responses and its qualifications to provide the services described above.

Responses to the RFP will be evaluated by the Town Manager, Cemetery Committee and the Board of Selectmen on the basis of:

- 1) The completeness and adequacy of responses to the questions in the RFP, and any additional information supporting the firm's candidacy.
- 2) Evidence of quality work that the contractor has provided for other clients
- 3) The cost of services

For further information regarding this RFP, contact Matt Lutkus, Town Manager, at [mlutkus@damariscotttame.com](mailto:mlutkus@damariscotttame.com) or 207-563-5168.

Draft Contract attached

TOWN OF DAMARISCOTTA  
CEMETERY MOWING & MAINTENANCE CONTRACT  
APRIL 2020

This Agreement entered into and executed by and between the Inhabitants of the Town of Damariscotta, by its Board of Selectmen (hereinafter the "Town") and \_\_\_\_\_ (hereinafter the "Contractor").

Witness that in consideration of mutual covenants made herein, the parties agree as follows:

1. Services:

The Contractor agrees:

- Mowing and grounds maintenance of the Bethlehem Cemetery, Hillside Cemetery, and Walpole Cemetery will be performed from April 15 through November 30.. One (1) spring cleanup of sticks, branches, leaves, stones, dead flowers, discarded containers, minor brush cutting, etc., will be completed. One (1) fall cleanup of sticks and branches. All grass shall be kept to a height not to exceed three (3) inches.
- Mow and trim to all property boundaries, including stone walls, picket fences, or other boundaries.
- Mow and trim between all fences (stone, picket, or chain) and adjoining paved roads.
- Trim around every individual gravestone without scoring, chipping, or otherwise damaging. This includes, but is not limited to, headstones, footstones, flush stones, family monuments, and curbing around lots.
- Trim around every individual veteran's flag.
- Trim around all temporary surveyor flags without disturbing their locations.
- Ensure no clippings are left lying on stones, using blower as needed.
- Follow existing earth contours when mowing (no scalping).
- Keep tree sprouts trimmed to prevent growth.
- Restore chain fences to closed position when leaving Bethlehem Cemetery.
- Trim fieldstone steps at Walpole.
- Keep an area at least two feet wide cleared of all growth other than grass outside the granite block wall at Walpole.
- Spring and fall cleanups include all ground within property boundaries, including stone walls, picket fences, or other boundaries, and between any such fence and adjacent paved road.
- Spring and fall cleanups include removal of debris from stone walls.
- Spring cleanup includes removal of winter sand from granite steps leading to arch at Walpole.
- All grass clippings, brush cutting and other debris, whether from routine mowing or from spring and fall cleanups, to be removed from Cemetery property and disposed of properly. Nothing is to be dumped on adjoining property.
- Temporary storage of grass clippings may be allowed at Bethlehem and Hillside Cemeteries at designated locations with the approval of Town officials. No clippings shall be left at Walpole Cemetery. All clippings are to be removed from Hillside Cemetery twice each year on or about July 1 and November 15.

- Promptly report to Cemetery Committee or Town Manager items needing Town attention, such as damaged gravestones, fallen trees, major limbs down, and collapsed graves.
- Cut or arrange for the cutting of grass/hay in the unsold portion of Hillside Annex 2 at least twice per year.
- The contractor shall ensure that surveyor rebar and white blocks at Hillside and Bethlehem Cemeteries and wooden stakes at Hillside Cemetery are in place before and after mowing.

2. Term of Contract: This contract shall extend through November 30, 2020. At the Selectmen's option, this agreement may be extended for two years, April 15, 2021 to November 30, 2021 and April 15, 2022 to November 30, 2022. The contractor shall provide the Town with a proposed updated payment schedule for the years 2021 and 2022 no later than November 15, 2020. The Selectmen shall notify the Contractor of its exercise of option no later than December 15, 2020.

3. Insurance: Prior to this contractor being executed, the Contractor will certify to the Town that it has obtained general liability insurance, motor vehicle liability insurance, and workers' compensation insurance to include employers' liability insurance in an amount of no less than one million dollars (\$1,000,000). The contractor shall name the Town as an additional insured with respect to general liability. The Contractor must provide the Town with evidence, satisfactory to the Town Manager, of all named insureds. Such certification shall include a provision that the Town will be given thirty (30) days' notice of insurer's intention to cancel said coverage.

4. Equipment: Contractor shall have sufficient equipment, including backup equipment, to perform the services of the contract.

5. Payment: The Town agrees to pay the Contractor \$\_\_\_\_\_ for the 2020 season.

It is further agreed that payments to the contractor shall be paid on a monthly basis during the mowing season of each calendar year, with the first payment on or about May 1 and the final payment on or about December 1, as follows:

<u>Month</u>	
May	\$
June	
August	
September	
October	
November	
December	
TOTAL	\$

6. Initial Payments and Final Payments: Initial payment each year will be held until the Contractor has provided proof of conditions of this contract, which shall include but not be limited to general liability insurance, motor vehicle liability insurance, and workers' compensation insurance coverage, as well as completion of spring cleanup to the satisfaction of the Cemetery Committee. Final payment each year will be withheld until fall cleanup is completed to the satisfaction of the Cemetery Committee.

7. Review: The Contractor shall complete this work to the satisfaction of the Cemetery Committee and the Town Manager.

8. Independent Contractor: The Contractor and any agents and employees of the Contractor, in the performance of the contract, shall act in an independent capacity as independent contractors or the agents or employees of an independent contractor and not as officers or employees or agents of the municipality.

9. Contractor's Labor: For any manpower furnished to fulfill the obligations of this contract, the Contractor shall be responsible for assuring that all manpower is in compliance with applicable state and federal labor laws, including but not limited to workers' compensation law, employment security law and minimum wage law.

10. Indemnification Clause: The Contractor shall indemnify and hold harmless the Town and its officers, officials, agents and employees from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property included the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent actor or omission of the Contractor(s) or any of its officers, agents, employees, representatives, subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The Contractor(s) shall, at its own expense and cost, defend and protect said indemnified parties against all of such claims and demands. The contractor's obligations to indemnify as described in this section shall continue in full force and effect following termination or substitution under the contract and until such time as the municipal officers send the contractor a written notice notifying him that he is released from his obligation to indemnify, or until the date upon which the contract would have expired, whichever occurs first.

11. Breach: If the Contractor fails to perform according to any of the terms or conditions of this contract at the time and in the manner specified, such failure to perform shall constitute a breach of contract.

12. Notice of Breach: In the event of a breach, the Town Manager shall immediately give verbal notice to the Contractor and order him to perform within a reasonable time. If the Contractor fails or refuses to perform within the time specified by the Town manager, the municipal officers shall have the following remedies in addition to any other remedies available at law or equity:

- A. The Town may terminate the contract by sending a written notice of termination to the Contractor;
- B. The Town may hire a substitute contractor to perform the Contractor's duties and obligations for any period of time; and
- C. The Town may deduct and withhold any amount due to the Contractor for prior work and apply that amount to any cost incurred by the Town as the result of termination or substitution.

13. Remedies Cumulative: The rights and remedies hereby created are cumulative, and the use of one remedy shall not be taken to exclude or waive the right to use of another.

14 .Service Notices: In any case where desirable for the Town to serve upon the Contractor any notice or demand, it shall be sufficient to send a written or printed copy of said notice or demand, by certified mail, return receipt requested, postage prepared, addressed to:

\_\_\_\_\_

In any case where desirable for the Contractor to give or serve upon the Town any notice or demand, it shall be sufficient to send a written or printed copy of said notice or demand, by certified mail, return receipt requested, postage prepaid, addressed to:

Town Manager  
Town of Damariscotta  
21 School Street  
Damariscotta, ME 04543

15 . Severability: In the event any term, condition or provision of this contract is held invalid by a court of competent jurisdiction, the invalidity of any such term, condition or provision shall in no way affect any other term, condition or provision herein contained.

IN WITNESS WHEREOF, the parties of this Agreement have executed the same on the \_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_  
Matthew J. Lutkus, Town Manager

\_\_\_\_\_  
Contractor