

BRIDGTON BOARD OF SELECTMEN'S MEETING AGENDA

DATE: Tuesday, November 9, 2021

TIME: 5:00 P.M.

PLACE: Board of Selectmen's Meeting Room, 10 Iredale Street, Bridgton

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1. Call to Order
2. Pledge of Allegiance
3. Approval of Minutes
 - a. October 26, 2021
 - b. November 2, 2021
4. Public Comments on Non-Agenda Items (*Each speaker **may** be limited to 3 minutes.*)
5. Committee/Liaison Reports
6. Correspondence, Presentations and Other Pertinent Information
 - a. Use of Highland Lake Beach Area for Winter Carnival Events
7. Public Hearing at 5:30 P.M. / CANCELLED
 - a. ~~To Accept Oral and Written Comments on a Proposed Community Development Advisory Committee Remote Participation Policy.~~
8. New Business
 - a. Awards and Other Administrative Recommendations
 1. 43 Grover Way, Map 14, Lot 24C
 2. CDBG-CV: Recreation Department Van Purchase
 3. Water Reclamation Department: Truck Purchase
 - b. Permits/Documents Requiring Board Approval
 - c. Selectmen's Concerns
 - d. Town Manager's Report/Deputy Town Manager's Report
9. Old Business (*Board of Selectmen Discussion Only*)
 - a. Wastewater Status Update
10. Treasurer's Warrants
11. Public Comments on Non-Agenda Items (*Each speaker **may** be limited to 3 minutes.*)

12. Dates for the Next Board of Selectmen's Meetings
November 23, 2021
December 14, 2021
December 28, 2021
13. Adjourn

Future Agenda Items:

1. Workshop for Review of Committees

**Town Manager's Notes
Board of Selectmen's Meeting
November 9, 2021**

1. Call to Order

2. Pledge of Allegiance

3. Approval of Minutes

a. October 26, 2021

***Suggested motion:** Move to approve the October 26th Meeting Minutes.*

b. November 2, 2021

***Suggested motion:** Move to approve the November 2nd Meeting Minutes.*

5. Committee/Liaison Reports

6. Correspondence, Presentations and Other Pertinent Information

a. The Chamber of Commerce is requesting use of the Highland Lake Beach for Winter Carnival. A representative will be present.

***Suggested motion:** Move to approve the use of Highland Lake Beach by the Greater Lakes Region Chamber of Commerce for 2022 Winter Carnival.*

8. New Business

a. Awards and Other Administrative Recommendations

1. In your binder, please find the Administrative Consent Agreement between H. Gail Chaiken, Trustee of the H. Gail Chaiken Revocable Living Trust and the Town of Bridgton.

***Motion:** Motion to approve the consent agreement between the Town of Bridgton and H. Gail Chaiken, Trustee of the H. Gail Chaiken Revocable Living Trust.*

2. The unspent CDBG-CV funds were reallocated to the Recreation Department. A previously approved use of the funds was for a passenger van.

***Suggested Motion:** Move to approve the purchase of a passenger van by the Recreation Department using CDBG-CV funds.*

3. The Public Services Department Director's vehicle is currently being used by the Water Reclamation Department Foreman while the Director is on deployment. It is requested that the Town purchase a 2021 Ram 1500 Warlock Quad Cab 4x4 including plow from MacDonald Motors for \$39,920. The new truck will be assigned to the PSD Director and his vehicle will be assigned to the WR Foreman. Please see copies of the email from MacDonald Motors and window sticker. Two dealers submitted quotes. Funding to come from either the Wastewater Reserve or Wastewater Unassigned Fund Balance.

***Suggested motion:** Move to approve the expenditure of up to 39,920 for the purchase of a 2021 Ram 1500 Warlock Quad Cab 4x4 including plow from MacDonald Motors.*

9. Old Business

a. Wastewater Update

Board of Selectmen's Meeting Minutes
October 26, 2021; 5:00 P.M.

Board Members Present: Carmen E. Lone, Chairman; Glenn R. Zaidman, Vice-Chairman; Paul A. Tworog; G. Frederick Packard; Robert J. McHatton, Sr.; G. Frederick Packard.

Administration Present: Town Manager Robert Peabody, Jr.; Deputy Town Manager Georgiann Fleck; Town Clerk Laurie Chadbourne; Community Development Director Linda LaCroix; Recreation Director Gary Colello.

1. Call to Order

Chairman Lone called the meeting to order at 5:00 P.M.

2. Pledge of Allegiance

The Board recited the "Pledge of Allegiance."

3. Approval of Minutes

- a. October 12, 2021
- b. October 19, 2021

Motion was made by Selectman Tworog for approval of the minutes of the October 12, 2021 and October 19, 2021 Board Meetings; second from Selectman Packard. 5 approve/0 oppose

4. Public Comments on Non-Agenda Items

There were no public comments.

5. Committee/Liaison Reports

a. Ordinance Review Committee

Glenn Rudin reviewed the proposed Ordinance Work Proposal in order of priority. Dog Control and Curfew Ordinances have been submitted to the Board. The Committee proposed a workshop session for review of these two ordinances as well as the Consumer Fireworks Ordinance. Mr. Rudin responded to several questions asked by the Board. The Board opted to hold a workshop session on the three ordinances with amendment proposals in January, 2022.

b. Community Development Advisory Committee

CDAC Chairman Ursula Flaherty discussed the financing the mural on the side of Ricky's Diner. Vice-Chairman Zaidman questioned using taxpayer money on private property to which Town Manager Peabody will obtain a legal opinion on this issue. Ms. Flaherty also provided an update of the committee's progress.

Ms. Flaherty reviewed the Conservancy Research Group Statement of Purpose which is a private group of individuals aiming to support moving Bridgton economically forward while preserving those attributes that make Bridgton an outstanding beautiful and successful place in which to live and work. (Continued after public hearing.)

Chairman Lone brought agenda item 7 forward at 5:30 P.M.

7. Public Hearing at 5:30 P.M.

a. New Liquor License Application from Pine Tree State 4-H Club Foundation DBA Magic Lantern

Chairman Lone opened the public hearing at 5:30 P.M. Pine Tree State 4-H Club Foundation Executive Director Susan Jennings was present and reported that the request is for a beer and wine license. The public hearing was closed at 5:32 P.M.

b. Special Amusement Permit Application from Pine Tree State 4-H Club Foundation DBA Magic Lantern
Chairman Lone opened the public hearing at 5:33 P.M. Pine Tree State 4-H Club Foundation Executive Director Susan Jennings reported that the request is for live entertainment from time to time. The public hearing was closed at 5:34 P.M.

8. Action Items Following Public Hearing

a. New Liquor License Application from Pine Tree State 4-H Club Foundation DBA Magic Lantern

Motion was made by Selectman Tworog for approval of a new liquor license from Pine Tree State 4-H Club Foundation DBA Magic Lantern; second from Selectman Packard. Vice-Chairman Zaidman does not support Pine Tree State 4-H Club selling alcohol. 4 approve/1 oppose (Vice-Chairman Zaidman was opposed)

b. Special Amusement Permit Application from Pine Tree State 4-H Club Foundation DBA Magic Lantern

Motion was made by Selectman Tworog to approve a special amusement permit to Pine Tree State 4-H Club Foundation DBA Magic Lantern; second from Selectman Packard. 5 approve/0 oppose

Return to Committee Reports.

Selectman McHatton noted that the Comprehensive Plan was completed eight years ago and must be updated every ten years. Community Development Director LaCroix stated that the Comprehensive Plan is updated by her office and will provide the timeline and process to the Board.

Community Development Director LaCroix requested approval of a CDAC remote participation policy.

Motion was made by Chairman Lone to set a public hearing at the next meeting on the CDAC remote participation policy; second from Selectman Packard. 5 approve/0 oppose

6. Correspondence, Presentations and Other Pertinent Information

There was no correspondence, presentations or other pertinent information.

9. New Business

a. Awards and Other Administrative Recommendations

1. Confirmation of Town Manager's Appointment: Holly Heymann as Finance Director

Motion was made by Selectman Packard to confirm Holly Heymann as Bridgton's Finance Director; second from Selectman McHatton. 5 approve/0 oppose

2. Laundromat Negotiations

Motion was made by Vice-Chairman Zaidman to table this item to a meeting on November 2, 2021 at 4:00 P.M. for a discussion in executive session; second from Selectman Tworog. 5 approve/0 oppose

3. Halloween Street Closing: Elm Street, Bennet, Iredale and Chase Streets

Motion was made by Selectman Packard to close Elm Street, Chase Street, Iredale and Bennett Street from 4PM to 9PM on October 31st for Trick or Treating; second from Vice-Chairman Zaidman.

5 approve/0 oppose

4. CDBG-CV Reallocation

Community Development Administrative Assistant Courtney Kemp requested reallocation of unused funds from two CV programs (\$25,179.33 from the BCC Rental & Utility Project and \$41,000 from the BCC Temporary Shelter Project). These funds would be allocated to the Recreation Department to purchase a van. Ms. Kemp reported that if the funds are accepted, they will need to be spent by December 31st. Recreation Director Colello added that having the ability to transport would be extremely beneficial; training would be provided and a policy would be set up to cover appropriate use. Lengthy discussion ensued regarding fund options. **Motion** was made by Chairman Lone to approve the reallocation of \$25,179.33 from the Bridgton Community Center Rental and Utility Project and \$41,000 from the Bridgton Community Center Temporary Shelter Project to the Town of Bridgton Recreation Department; second from Selectman McHatton. 4 approve/1 oppose (Selectman Tworog was opposed)

5. Public Works Department Truck Purchase

Motion was made by Vice-Chairman Zaidman to approve the expenditure of up to \$41,895 for the purchase of a 2021 Ram 2500 Tradesman Regular Cab 4x4 Long Box from MacDonald Motors; second from Selectman McHatton. 5 approve/0 oppose

b. Permits/Documents Requiring Board Approval

1. Certificate of Commitment of Sewer User Rates Commitment #256

Motion was made by Vice-Chairman Zaidman to commit the July 1, 2021 to September 30, 2021 Sewer User Rates Commitment #256 comprising three pages totaling \$2,883.96 to the Treasurer for collection; second from Selectman Packard. 5 approve/0 oppose

2. Victualer's License to Pine Tree State 4-H Club Foundation DBA Magic Lantern

Executive Director Susan Jennings reported that the intention is to keep the same menu. **Motion** was made by Selectman Packard to approve the Victualer's License to Pine Tree State 4-H Club Foundation DBA Magic Lantern; second from Selectman Tworog. 5 approve/0 oppose

c. Selectmen's Concerns

- **Selectman Packard** had no concerns.
- **Selectman Tworog** suggested that the lights at Harmon Field be turned on for Halloween to which Recreation Director Colello confirmed this is already planned.
- **Selectman Tworog** reported that the bottom of Elm Street was flooded to which Town Manager Peabody will review.
- **Vice-Chairman Zaidman** asked for a status update on the grater to which Town Manager Peabody responded that the parts may not arrive until January.
- **Vice-Chairman Zaidman** asked if there have been any updates from the Public Services Director to which Town Manager Peabody responded that David Madsen is scheduled to return in December or January and he has not heard otherwise. Town Manager Peabody added that the foreman's filling in are doing a fantastic job.
- **Selectman McHatton** had no concerns.
- **Chairman Lone** had no concerns.

d. Town Manager's Report/Deputy Town Manager's Report

Deputy Town Manager read the following report into the record:

TOWN OF BRIDGTON DEPUTY TOWN MANAGER'S REPORT

General

There is an opening for a FT Administrative Assistant to the Community Development Director. Submit a cover letter, resume and completed job application to the Community Development Director or email to llacroix@bridgtonmaine.org. The Town Hall will be closed on Friday the 29th through Wednesday the 3rd due to the Halloween events and voting set-up and take-down. Chase Street, Bennett Street and Elm Street (beginning at the Post Office) will be closed on Sunday, October 31st from 4-9p.m. so our trick-or-treaters are safe from vehicular traffic. Salmon Point has closed for the season. Scott Cushing, Manager and Carl Deslauriers, Laborer, intend to come back next year. We look forward to their return. Courtney Kemp's last day as Administrative Assistant to the Community Development Director is Wednesday, October 27th. Courtney began work for the Town of Bridgton in August of 2020 and was a great addition to our office. We wish her luck in her next endeavor.

Town Clerk

Special Circumstances Absentee Voting: the deadline to request an absentee ballot without a reason for the November 2, 2021 Referendum Election is the close of business on Thursday, October 28th. After this deadline voters may request an absentee ballot by completing and signing a Special Circumstances Application. On the application the voter must indicate which of the four allowable reasons to request an absentee ballot after the deadline applies to them, as follows: 1) Unexpected absence from the municipality during the entire time the polls are open on Election Day; or 2) Physical disability; or 3) Incapacity or illness that has resulted in the voter being unable to leave home or a treatment facility; or 4) Inability to travel to the polls if the voter is a resident of a coastal island ward or precinct. If you have any questions, please contact the Town Clerk. * The Town Clerk's Office will be open on Thursday, October 28th from 4:00p.m. to 7:00p.m. for the purpose of accepting voter registration and other election related issues. No other town business will be conducted during this time. * 2022 Dog licenses are available for renewal. Kindly be advised that a later fee will be imposed after January 31, 2022. * Reminder that the 2nd quarter tax installment is due on or before November 15th. * Don't forget to vote – Tuesday, November 2, 2021 at the Town Hall, 8:00a.m. to 8:00p.m.

Public Works Department

Public Works is busy cleaning culverts for free flow. Brush removal at Salmon Point Campground, debris was hauled to Rolfe's. Shoulder work on the Del Chadbourne Road, Kimball Road and Forest Avenue. Sent one employee to Salmon Point Campground to assist in draining the water system for the season. Hauling stock sand and mixing salt. Maine DOT conducted a snow/ice safety class on Tuesday October 12th which all employees of the of PW and Parks attended. Preparing trucks for winter, head gear and sanders on.

Bridgton Recreation

There will be a Haunted Walk and Zombie Laser Tag at the Bridgton Town Hall and Ice Rink on Friday, Saturday, and Sunday 6:30p.m. to 9:30p.m. (Laser tag is Friday and Sunday only) Pre-register required for laser tag. This is a Rec Dept fundraiser so there is a \$5.00 per person charge for the haunted walk and an additional \$7.00 for the laser tag. For additional information please refer to our website at www.bridgtonmaine.org or call Rec Director, Gary Colello, at 647-1126.

Code Enforcement

The Code Enforcement Office reports that 26 building permits were issued for the month of September (32 last year) with 175 total to date (192 last year). 21 plumbing permits were issued for the month of September (17 last year). Pending at the Planning Board is a 25 lot subdivision, Pleasant Mountain Outlook Subdivision, submitted by Geoff Homer. Approved by Department Review is Wild North Counseling, a home counseling business, owned by Samantha Blackadar.

Parks Department

Removal of the town docks will take place between October 4th and November 15th. The dams are at their target level

with Highland Lake dam at its construction level and Woods Pond at its normal winter level. The dams are currently open and will be monitored throughout the storm.

Bridgton Police Department

Tomorrow, Wednesday, is the Law Enforcement Torch Run for Special Olympics. The program which began in 1981 was brought to Maine by Bridgton PD Chief Bob Bell and Special Olympics Maine president Mickey Boutilier in 1985, every year since, the Bridgton PD has taken part in the run and organized various fundraisers to support Special Olympics. The run begins at 8:00a.m. at the Old Town Hall, down Main Street, and turning up Harrison Road. Bridgton PD is proud to continue in the tradition of supporting the amazing athletes of Special Olympics Maine. We would like to thank Peter Dumont, Head Custodian, who did a great job in taking the Special Olympics Torch, which had become battered over years of use, and took the time to take the dents out and give it new paint...it looks great! This past Saturday, Officers Smolinsky and George took part in the National Drug Take Back held at the Bridgton Community Center. Bridgton PD also offers a drug disposal box located in the Police Department lobby open Mon-Fri 8-4. Officer George assisted the LR Vocational Center with instructing for the law enforcement program. ACO Carl Hoskins has tendered his resignation and accepted the position of Animal Humane Agent with the Maine Department of Animal Welfare. Carl served the Town of Bridgton for 3 years as Animal Control Officer. We would like to thank Carl for his dedication and service and we wish him all the best as he furthers his career in Animal Welfare. Bridgton PD is currently working with neighboring Animal Control Officers to provide coverage until a longer term solution is reached. Officer McCloud has just finished week ten of the eighteen week police academy. Bridgton PD staff will be on hand on

Halloween night along with other members of Public Safety handing out candy and other treats in the PD parking area.

Health Officer

Catherine Pinkham, Health Officer, reports that she has picked up the Town of Waterford and also serves the Town of Harrison. She is proud to announce that she will be working the Navigator program with Carmen Lone. She just finished the CDC briefing and continues to monitor COVID 19. As of October 20th the State reports 647 new cases, 7 deaths, 69 in the ICU and 199 in the hospital.

Revenue and Expenditure report for month ending September 30, 2021 is a benchmark of 25% with revenues at 30.43% and expenditures at 26.83%.

Until next time....be safe and be well.

Respectfully submitted,

Georgiann M. Fleck, Deputy Town Manager

10. Old Business

a. Wastewater Status Update

Town Manager Peabody provided a brief wastewater status update.

b. Streetscape: Upper and Lower Main Street Status Update

Town Manager Peabody reported that these projects are complete.

c. Update on Net Energy Billing Solar Project

Community Development Director LaCroix provided a brief update on the net energy billing solar project.

d. Update on Bridgton-Fryeburg Regional Broadband Initiative

Community Development Director LaCroix provided a brief update on the Bridgton Fryeburg Regional Broadband Initiative.

Community Development Director Lacroix provided a brief update on the Resilience Pilot Project.

Community Development Director LaCroix reported that she will be serving on the Community Development Block Grant Oversight Committee. Town Manager Peabody requested that Director LaCroix explore the possibility of using CDBG funds for the sidewalk on Elm Street.

11. Treasurer's Warrants

Motion was made by Selectman Packard for approval of Treasurer's Warrants numbered 37, 38, 39, 40, 41, 42, 43 and 44; second from Vice-Chairman Zaidman. 5 approve/0 oppose

12. Public Comments on Non-Agenda Items

Representing the Recycling Committee, Sally Chappell, reported that the Committee has put together a one-page public information document and requested that copies be made to distribute at the polls on Tuesday, November 2, 2021. Town Clerk Chadbourne will place the document on a public table.

Deb Brusini asked if there is somewhere they can put out a summary of the consolidated land use to which Chairman Lone suggested putting this on the website.

Deb Brusini asked if there is a schedule of roads to be paved to which Town Manager Peabody responded that the downtown village is scheduled and expects to begin paving outside the downtown in about two years.

13. Dates for the Next Board of Selectmen's Meetings

November 2, 2021 at 4:00 P.M.

November 9, 2021

November 23, 2021

Chairman Lone wished staff and volunteers a pleasant and easy job with the Election on Tuesday.

14. Adjourn

Motion was made by Selectman Packard to adjourn the meeting at 7:42 P.M; second from Selectman McHatton. 5 approve/0 oppose

Respectfully submitted,

Laurie L. Chadbourne
Town Clerk

Board of Selectmen's Meeting Minutes

November 2, 2021; 4:00 P.M.

Board Members Present: Carmen E. Lone, Chairman; Glenn R. Zaidman, Vice-Chairman; G. Frederick Packard; Robert J. McHatton. Absent: Paul A. Tworog.

Administration Present: Town Manager Robert A. Peabody, Jr.; Deputy Town Manager Georgiann M. Fleck; Code Enforcement Officer Brenda Day; LPI/Administrative Assistant for the Code Enforcement Department Erin O'Connor.

Also Present: Senior Client Manager Brent Bridges, Woodard and Curran

1. Call to Order

Chairman Lone called the meeting to order at 4:00 P.M.

2. Pledge of Allegiance

The Board recited the "Pledge of Allegiance."

3. Executive Session per MRS Title 1, Section 405.6.C: Land Acquisition

Motion was made by Vice-Chairman Zaidman to enter executive session at 4:04 P.M. per MRS Title 1, Section 405.6.C for discussion of a land acquisition; second from Selectman Packard. 4 approve / 0 oppose

Motion was made by Selectman Packard to exit executive session at 5:25 P.M.; second from Vice-Chairman Zaidman. 4 approve / 0 oppose

4. Action Items Following Executive Session

None

5. Adjourn

Motion was made by Selectman Packard to adjourn the meeting at 5:26 P.M.; second from Vice-Chairman Zaidman. 4 approve / 0 oppose

Respectfully submitted,

Georgiann M. Fleck
Deputy Town Manager

Laurie Chadbourne

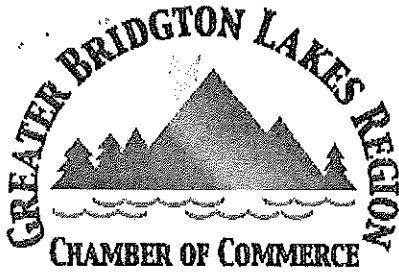
From: daniel harden <sunrisemgmt15@gmail.com>
Sent: Wednesday, November 3, 2021 8:49 AM
To: Laurie Chadbourne
Subject: Winter Carnival Use of Beach
Attachments: Request for usage of Beach.docx

Laurie,

Thanks for taking my call. I have attached a letter from the chamber, if you require anything else please let me know.

Thanks
Dan

PS we are working with CHalmers to get the rider for that event



101 Portland Road
Bridgton, ME 04009
(207) 647-3472
FAX: (207) 647-8372
www.mainerlakeschamber.com
info@mainerlakeschamber.com

November 3, 2021

Robert Peabody
Town Manager
Town of Bridgton
3 Chase St.
Bridgton, ME 04009

Dear Bob,

I am writing to request permission for the Greater Bridgton Lakes Region Chamber of Commerce to make use of the beach at Highland Lake on February 19, 2022 for our Winter Carnival. The hours we would need would be approximately from 7am to 8pm. We will have many activities on the lake: Freezing for a Reason will be having their Polar Dip, Horse-drawn Wagon Rides, Hot Air Balloon, Children's Ice Fishing Derby, adult Ice Bar, all day music, food vendors and Fireworks at 6pm!

We have talked to the Police Chief and he will have a patrolman on duty for us, and the Bridgton Fire Department will be present at the Winter Carnival also.

The Chamber appreciates whatever you can do for us. We always promote and run this event to bring visitors to the area and bring activity to the businesses!

Thank you!

Angie Cook, Executive Director

Serving the Towns of:
Bridgton Brownfield Casco Denmark Fryeburg Harrison Lovell Naples Raymond Sebago Stow Sweden Waterford

Linda LaCroix

From: Legal Services Department <legal@memun.org>
Sent: Wednesday, November 3, 2021 12:22 PM
To: Linda LaCroix
Subject: Bridgton - Question on cleaning up brownfields

Linda,

It appears that both the EPA and the Maine DEP administer Brownfields assessment and remediation programs. Based on the issue profile available on the Maine DEP's website, it seems clear that municipalities may apply for state grants. See: <https://www.maine.gov/dep/spills/brownfields/ipbrownfields.html>. The information is similar on the EPA site. (<https://www.epa.gov/brownfields>), although it may depend on exactly which grant program is involved. It does appear that a municipality may apply for a grant under many of these programs. See EPA guidance on entities that may apply for various Brownfields grants: <https://www.epa.gov/brownfields/entities-eligible-receive-brownfield-grants>, and see list of EPA grant recipients: <https://java.epa.gov/acrespub/gfs/>

However, even if the municipality may apply to EPA or to Maine DEP for a Brownfield-related grant, there may be practical and legal reasons that a municipality might not wish to assume ownership of a particular property, and this may depend on the type of contamination involved, the specific remediation needs and potential liability. Perhaps that is the reason that the town opted to create a separate nonprofit entity in the past, or perhaps the laws have changed in recent years. The town should be working with an attorney that specializes in environmental liability to conduct a thorough investigation into the town's potential liability before the town takes ownership of the property. The EPA provides some information on this issue (<https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries> and <https://www.epa.gov/enforcement/common-elements-and-other-landowner-liability-guidance>). Unfortunately, assisting the town with this type of specialized analysis and advice is beyond the expertise of any of MMA's attorneys; for that reason, I would encourage you to retain an attorney specializing in this area to advise the town as to the best options in light of the specific circumstances of the property.

I think you will get the best information as to the basic programs and options by consulting staff at Maine DEP. For the Maine Brownfields Program, contact Nick Hodgkins (207) 592-0882 (email Nick.Hodgkins@maine.gov). From there, you could also contact the staff at EPA Region 1: <https://www.epa.gov/brownfields/brownfields-and-land-revitalization-epa-region-1>. See their contact list here: <https://www.epa.gov/brownfields/epa-state-tribal-contacts-brownfields-and-land-revitalization-new-england>. After that I would strongly suggest working with the town attorney or an attorney specializing in environmental matters.

I hope this is helpful. Please let me know if you have any questions.

Susanne F. Pilgrim, Esq., Director
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
Phone: 207-623-8428
1-800-452-8786 (in state)
FAX: 207-624-0187
legal@memun.org

IN THE MATTER OF

**H. GAIL CHAIKEN, TRUSTEE)
OF THE H. GAIL CHAIKEN)
REVOCABLE LIVING TRUST)
43 GROVER WAY)
BRIDGTON, MAINE)**

ADMINISTRATIVE CONSENT AGREEMENT

THIS AGREEMENT is entered into this 15th day of September, 2021 (the "Effective Date") by and between H. GAIL CHAIKEN, TRUSTEE OF THE H. GAIL CHAIKEN REVOCABLE LIVING TRUST (hereafter, the "Homeowner") of 725 Wandering Lane, St. Augustine, FL 32080-6154, for herself, her heirs, successors and assigns, and the TOWN OF BRIDGTON, a municipal corporation located in Cumberland County in the State of Maine, acting by and through its Select Board (hereafter, the "Town") (collectively, the "Parties").

RECITALS

WHEREAS, the Homeowner and the Town each stipulates to the following facts:

1. The Homeowner is the owner of certain real property located at 43 Grover Way, Bridgton, Maine, being generally identified as Lot 24C on the Town Tax Map 14, and more particularly described by a deed recorded in the Cumberland County Registry of Deeds in Book 29690, Page 239 (the "Property").
2. The Property is comprised of a roughly 25 ft. wide sliver of land on the westerly side of Highland Road that runs in a southwesterly direction to a portion of the Property that roughly forms the shape of a rectangle, on which a single-family home is located, and thence continues past the rectangular portion of the property in a southwesterly direction and terminates at a triangular portion of the Property that has roughly 150 ft. of frontage on Highland Lake.
3. The Property is a legally existing non-conforming lot that is located in the Town's Lakeside Neighborhood (LN) District, and Limited Residential (LR) Shoreland Zoning District. The Property is a non-conforming lot because it does not appear to meet the minimum shore frontage or the minimum lot width requirements of Section 15(A)(1) and (4) of the Town's Shoreland Zoning Ordinance, however, the Property became a lot of record prior to the enactment of these dimensional requirements.
4. On September 27, 2019, the Homeowner applied for a building permit from the Town's Code Enforcement Office to construct a 16 ft. x 11 ft. "shed" on the Property. Subsequently, on October 11, 2019, the Town's Code Enforcement Officer ("CEO")

issued a building permit to the Homeowner authorizing her to construct a 16 ft. x 11 ft. shed on the Property ("Permit").

5. The Permit expressly stated that the Homeowner "shall comply with all of the provisions of the Statutes of Maine and the Ordinances of the Town of Bridgton regulating the construction, maintenance and use of buildings and structures, and of the application on file in the Town of Bridgton Complex."
6. On March 17, 2021, Canons Ashby Retreat, LLC ("Abutter"), a landowner whose property abuts the Homeowner's Property, submitted a letter to the CEO alleging that the Homeowner constructed an approximately 20 ft. x 20 ft. structure on the property ("Structure"). The Abutter also alleged that the Structure contained three beds and outdoor cooking facilities that were used by the Homeowner's son and his family for overnight stays at the Property.
7. The Structure includes the following features: a pitched roof, a covered porch, two doors, and six windows. The Structure also includes, or formerly included, beds, rocking chairs, and outdoor cooking facilities.
8. On April 14, 2021, the Homeowner's attorney submitted a letter to the Town's attorney conceding that the Structure exceeds the dimensions authorized by the Permit, and that the use of the Structure exceeded what was authorized by the Permit.
9. The size and use of the Structure violate the conditions of the Permit and Article 3 § 1 of the Town of Bridgton's Building, Razing and Plumbing Permit Ordinance ("BRPP Ordinance"), which violations are subject to the enforcement provisions of 30-A M.R.S. § 4452.
10. The Homeowner acknowledges and agrees that the size and use of the Structure contravenes the Permit, therefore constituting a violation of Article 3, Section 1 of the Town's BRPP Ordinance, and other applicable rules, regulations and ordinances (the "Violations").
11. The Homeowner wishes to cooperate with the Town, and the Parties have agreed to address the Violations in accordance with this voluntary Consent Agreement.

NOW THEREFORE, in consideration of the mutual premises and covenants contained herein, the Parties agree as follows:

1. The Homeowner shall pay to the Town a penalty of \$3952.00 within 14 days of the Effective Date of this Agreement. Payment shall be made to the Town of Bridgton, at the Bridgton Town Office, c/o Town Manager Robert Peabody, 3 Chase Street, Suite 1, Bridgton, Maine 04009.

2. Within 14 days of the Effective Date of this Agreement, the Parties agree that the Homeowner shall, if she has not already, submit a new building permit application ("After-The-Fact Permit Application") to the Town's Code Enforcement Office to permit the dimensions of the Structure. Should the Homeowner seek to use the Structure to accommodate overnight guests, then the Homeowner shall include a request to accommodate such use in the After-The-Fact Permit Application submitted to the Town's Code Enforcement Office. Should the Homeowner chose to use the Structure as a shed, as originally authorized by the Permit, then the Homeowner shall remove any beds from the Structure, if the Homeowner has not already done so.
3. Should the Town's Code Enforcement Office refuse to grant the After-The-Fact Permit Application, then this Agreement and all obligations arising hereunder, except for the Homeowner's obligations under paragraphs 1 which shall survive the termination of this Agreement, shall become void and no party shall have any further obligation to perform.
4. So long as the Homeowner complies with the terms and conditions of this Agreement, the Town agrees not to institute an enforcement action in the Maine District Court pursuant to Rule 80K of the Maine Rules of Civil Procedure, the Town's applicable ordinances, and 30-A M.R.S. §§ 4406 and 4452, for any fines, penalties or causes of action that the Town may have against the Homeowner from the Violations. Nothing in this paragraph or elsewhere in this Agreement shall limit the Town's rights to enforce other violations and activities that may exist on the Property, and the Parties agree that the Town, by entering this Agreement, is not waiving or otherwise limiting or relinquishing its land use enforcement authority over any violations or activities other than those specifically described in this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Town and the Homeowner have executed this Agreement as of the Effective Date.

HOMEOWNER

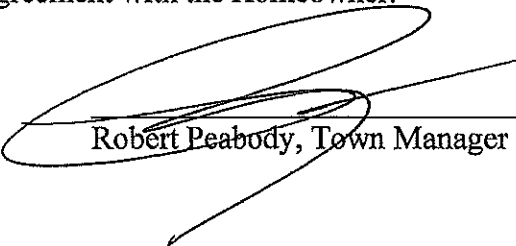
Sept. 15, 2021
Dated

H. Gail Chaiken Trustee
H. Gail Chaiken, Trustee of the H. Gail
Chiaken Revocable Living Trust
By: H. Gail Chaiken
Its: Trustee

TOWN OF BRIDGTON

On August _____, 2021, the Town of Bridgton's Board of Selectmen authorized Town Manager Robert Peabody to enter into this Agreement with the Homeowner.

09/15/21
Dated


Robert Peabody, Town Manager

STATE OF MAINE
CUMBERLAND, ss.

Sept 15, 2021

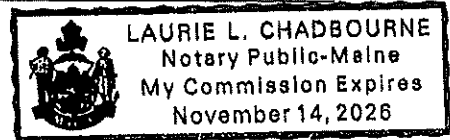
Then personally appeared before me the above-named Robert Peabody and
acknowledged the foregoing instrument to be their free act and deed.

Before me,

Laurie L. Chadbourne


Notary Public/Attorney at law

Printed Name: _____



Georgiann M Fleck

From: John C. Bannon <jbannon@mpmlaw.com>
Sent: Thursday, November 4, 2021 2:31 PM
To: Georgiann M Fleck
Cc: Benjamin J. Plante; James N. Katsiaficas; Lyons, Patrick
Subject: Letter to Select Board from Canons Ashby Retreat, LLC re: Ratification of Consent Agreement between the Town and H. Gail Chaiken
Attachments: L-Select Board re Ratification of Consent Agreement Between Town and H. Gail Chaiken 11 04 2021.pdf; Exhibit A Furlong Affidavit.pdf

 You don't often get email from jbannon@mpmlaw.com. [Learn why this is important](#)

Georgiann:

I represent Canons Ashby Retreat, LLC, (hereafter "Canons Ashby") which owns property located at 84 Grover Way (Map 14, Lot 24B) that abuts a parcel owned by H. Gail Chaiken located at 43 Grover Way (Map 14, Lot 24C).

It is my understanding that the Select Board is planning to vote, at its meeting of November 9, 2021, on whether to ratify a Consent Agreement between the Town and H. Gail Chaiken dated September 15, 2021 concerning Ms. Chaiken's violations of Town ordinances.

The Town did not notify Canons Ashby either that (a) at the Select Board meeting on September 14, 2021, the Board would vote on whether to impose a \$ 3,952 "fine" upon Ms. Chaiken, (b) the Town had drafted a Consent Agreement between the Town and Ms. Chaiken; or (c) the Consent Agreement had been signed by Ms. Chaiken and the Town Manager on September 15, 2021. I discovered those facts for the first time on October 4, 2021 when, by happenstance, I reviewed the streaming video of the Select Board's meeting of September 14, 2021. Thereafter Town Attorney Ben Plante kindly obtained for me a copy of the signed Consent Agreement on October 6, 2021 and recently notified me that the Select Board would vote on whether to ratify the Consent Agreement at its November 9, 2021 meeting.

Because Canons Ashby has had no prior opportunity to communicate with the Select Board either about the Consent Agreement, Canons Ashby's pending administrative appeal to the Board of Appeals, the penalties the Town might potentially impose for violations on the Chaiken property, and other relevant facts which were not discussed at the Select Board's meeting of September 14, 2021, I have reluctantly prepared the attached letter to the Select Board expressing Canons Ashby's concerns about the Consent Agreement, with attached Exhibit A.

Please include the letter and Exhibit A in the Select Board's packet for the November 9, 2021 meeting.

Thank you.

John

John C. Bannon, Esq.
Murray Plumb & Murray
75 Pearl Street
P.O. Box 9785
Portland, ME 04101

(207) 523-8211
jcb@mpmlaw.com

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MURRAY PLUMB & MURRAY
ATTORNEYS AT LAW

November 4, 2021

Carmen E. Lone, Chair
Town of Bridgton Select Board
Bridgton Town Office
3 Chase Street
Bridgton, Maine 04009

***Re: Select Board Vote on Ratification of Administrative Consent
Agreement Between H. Gail Chaiken and the Town of Bridgton
Scheduled for November 9, 2021.***

Dear Chair Lone and Members of the Select Board:

This firm represents Canons Ashby Retreat, LLC (hereafter "Canons Ashby"), the owner of property located at 84 Grover Way and shown as Lot 24B on Tax Map 14 (hereafter the "Canons Ashby Parcel").

I have been informed that at its meeting scheduled for November 9, 2021, the Select Board is planning to vote on whether to ratify an Administrative Consent Agreement between H. Gail Chaiken and the Town of Bridgton. That Consent Agreement was apparently signed by Ms. Chaiken and by Robert Peabody, the Town Manager, on September 15, 2021. However, it is still necessary for the Select Board to ratify the Consent Agreement in order to make it legally effective because the Board has never previously voted either to approve the Consent Agreement or to authorize the Town Manager to sign it on the Town's behalf.

Canons Ashby is directly interested in the Consent Agreement for at least three reasons. First, the Canons Ashby Parcel directly abuts the Chaiken property, located at 43 Grover Way, to which the Consent Agreement applies. Second, the "Structure" that is the subject of the Consent Agreement is plainly visible from the residence on the Canons Ashby Property and has been a frequent source of disturbance to the Canons Ashby members. Third, paragraph 6 of the Consent Agreement expressly acknowledges that Canons Ashby reported Ms. Chaikens' violations to CEO Brenda Day by letter dated March 17, 2021.¹

¹ In fact, Amy Hall Furlong and her father, "Dutch" Hall, two of Canons Ashby's members, had already reported to CEO Day the size of the Structure and the McNaughtons' use of the Structure as a campsite in September, 2020. CEO Day visited the Chaiken property with Ms. Furlong and another neighbor on

Although Canons Ashby had communicated with both CEO Day and Town Attorney Aga Dixon about the Chaiken Structure during the spring and summer of 2021, the Town did not notify Canons Ashby that, at its meeting of September 14, 2021, the Select Board would vote on CEO Day's recommendation that the Select Board require the Chaikens to reimburse the Town for \$ 3,952 in attorneys fees but impose no other penalties for the violations.² Hence, Canons Ashby has had no prior opportunity to be heard with respect to any potential enforcement actions or penalties for Ms. Chaikens' violations.

The video of the Select Board's September 14th meeting shows neither discussion of the Consent Agreement by the Board nor any indication that the Board knew a Consent Agreement had been drafted. The Board's packet for the September 14th meeting did not include a copy of any Consent Agreement with respect to the Chaiken matter.³

Having had no previous chance to address the Select Board concerning the Chaiken violations, Canons Ashby now respectfully requests the Board either to postpone any vote to ratify the Consent Agreement, or else to vote against ratifying the Consent Agreement as presently drafted, for the follow reasons:

- (a) it is premature for the Select Board to reach any conclusions about the nature or extent of Ms. Chaiken's violations. The current draft of the Consent

September 29, 2020. However, CEO Day declined to take any enforcement action. Consequently, Canons Ashby was compelled to retain counsel to review the legality of the Structure and to report his findings to CEO Day in the letter of March 17, 2021.

² The agenda for the September 14, 2021 meeting provided no public notice that that the Select Board would take that vote. Item 6 on the agenda stated only the following with regard to zoning issues:

6. Correspondence, Presentations and other Pertinent Information

a. Ordinance Violations.

- 1. 43 Grover Way, Map 14, Lot 24C
- 2. 34 Aspen Drive, Map 12, Lot 58-8.

Canons Ashby discovered that vote by chance on October 4, 2021 when its counsel happened to review the video of the Select Board's September 14, 2021 meeting.

³ In contrast, the Board's packet contained two copies of a draft Consent Agreement with R & R Investments, LLC pertaining to ordinance violations at 34 Aspen Drive. In that Consent Agreement, R & R Investments was required to pay a monetary penalty of \$ 11,000.00 plus attorneys fees and costs in the amount of \$ 6,100.00.

Agreement is based exclusively on CEO Day's opinions about the extent to which the Structure violates the Town's ordinances. However, Canons Ashby has filed an administrative appeal to the Board of Appeals (BOA) from CEO Day's issuance of the September 8, 2021 ATF Permit. As will be explained below, on that appeal the BOA will decide for itself, without deferring to or considering CEO Day's opinions, whether and to what extent the Structure violates the Town's ordinances;

(b) the Consent Agreement does not reference all ordinance provisions the Town Attorney has described as being related to the violations;

(c) the Select Board is both obligated to impose a minimum monetary penalty of at least \$ 100 per day for Ms. Chaiken's violations of the terms of the original October 11, 2019 Permit;

(d) the violations cannot fairly be characterized as being "unintentional" either by Ms. Chaiken's contractor and son, Peter McNaughton, or by the Chaikens themselves after Canons Ashby protested the Structure in September, 2020; and

(e) the Consent Agreement does not include an express condition limiting the Chaikens' use of the Structure to that of a "shed" for the storage of small watercraft and related boating equipment.

A. Because the BOA has Not Yet Ruled on Canons Ashby's Administrative Appeal, the Select Board Has No Way of Knowing Whether the Consent Agreement Addresses All Violations relating to Ms. Chaiken's Structure.

Page 3, ¶ 2 of the Consent Agreement directs Ms. Chaiken to file an application for an "After-The-Fact" (hereafter "ATF") Permit for the Structure "if she has not done so already." The Select Board was informed at its September 14th meeting that (a) Ms. Chaiken had already applied for the ATF Permit on September 8, 2021 and (b) on the same day, CEO Day had issued to Ms. Chaiken ATF Building Permit #154-21 allowing her to "revise *shed* permit⁴ from 16 x 11 to 20 x 20." (emphasis added)

Canons Ashby, as an aggrieved abutter, filed with the BOA a timely administrative appeal from CEO Day's granting of the September 8, 2021 ATF Permit. Canons Ashby had the right to do so under Article V, §§ 4(B)(1), (4) of the Land Use Ordinance

⁴ The "shed permit" to which the ATF Permit refers was Building Permit # 177-19, which was granted by former CEO Baker to Ms. Chaiken on October 11, 2019 and which authorized her to construct only a 16' x 11' "shed."

(hereafter the “LUO”); §§ 16(G)(3)(1), (2) of the Shoreland Zoning Ordinance⁵ (hereafter the “SZO”); and Article 7, §§1, 3 of the Building, Razing, and Plumbing Permit Ordinance (hereafter the “BRPPO”)⁶.

Under each of the ordinance sections just cited, the BOA is required to hear Canons Ashby’s administrative appeal using a “de novo” standard of review. The Maine Supreme Judicial Court defines the “de novo” standard of review as follows:

When a Board holds a hearing de novo, *it does not examine evidence presented to the decision maker or tribunal below*, nor does it review the procedure below except to assure that the matter is properly before it. Instead, it looks at the substantive issues *afresh*, undertakes its *own* credibility determinations, *evaluates the evidence presented*, and *draws its own conclusions*. ... [T]he function of the Board is to take evidence, make factual findings, and apply the laws and ordinances to the petition or application at issue, and to do so *independently of the decision, if any, of a lower tribunal*. *Stewart v. Town of Sedgwick*, 2000 ME 157, ¶ 7, 757 A.2d 773, 776 (emphasis added)

Consistent with the Supreme Judicial Court’s definition of “de novo” review, each of the above-cited ordinances describes the BOA’s standard of review on a de novo hearing as follows:

The standard of review shall be whether, on the basis of the evidence before the Board of Appeals, *the application conforms to the requirements of the Ordinance*. The burden of proof shall be upon *the applicant for the permit or approval*. The Board of Appeals shall have authority to *grant or deny a permit or approval* or to remand the matter to the CEO, Local Plumbing Inspector, or Planning Board for further proceedings.

(emphasis added).

In summary, when reviewing Canons Ashby’s administrative appeal, the BOA:

⁵ Also set forth in Section 2 of the “Ordinance to Establish Uniform Procedures for Appeals to the Bridgton Board of Appeals” (hereafter the “Uniform Appeal Procedure Ordinance”).

⁶ Also set forth in § 10 of the Uniform Appeal Procedure Ordinance.

- cannot rely on the evidence considered by CEO Day, but instead must rely on evidence presented to the BOA by the Chaikens and Canons Ashby;
- will not review the correctness of CEO Day's factual or legal determinations, but instead will find facts and apply the Town ordinances to those facts independently of CEO Day's prior decisions;
- effectively replaces CEO Day as the permitting authority and decides for itself whether the Structure and/or its use violates any applicable Town ordinances; and
- will impose on Ms. Chaiken the burden of proving that her request for an ATF permit for the Structure conforms to the requirements of all applicable Town ordinances.

The Consent Agreement as presently drafted is already vague about which ordinance provisions the Structure violates. Although page 2, ¶10 of the Consent Agreement specifically mentions Article 3, § 1 of the BRPPO⁷, it also asserts that the "size and use of the Structure contravenes the Permit, therefore constituting a violation of Article 3, Section 1 of the Town's BRPP Ordinance, *and other applicable rules, regulations and ordinances* (the "Violations"). However, the Consent Agreement does not identify those "other applicable rules, regulations and ordinances." Thus, as the Consent Agreement is presently drafted, the Select Board cannot be certain what ordinances Ms. Chaiken may have violated or, in turn, what enforcement action would be appropriate for those violations.

That uncertainty is increased substantially by Canons Ashby's administrative appeal. If the BOA were to accept all of Canons Ashby's arguments, it could deny Ms. Chaiken's application for an ATF Permit on the additional grounds, among others, that (a) the Structure was neither constructed nor used strictly as a "shed;" (b) the Chaikens' use of the Structure for weekend camping is permitted under neither the SZO nor the LUO; and/or (c) the provisions of the SZO and LUO governing construction on nonconforming lots prohibit the building of any additional structures on the nonconforming Chaiken Property.

⁷ BRPPO Article 3, § 1 reads as follows:

Prior to starting any construction, placement, replacement, remodeling, relocating, or razing, plumbing i.e.; internal, external or Subsurface Wastewater Disposal of any principal building, accessory structure, mobile accessory structure or part(s) thereof, the property owner or agent thereof shall obtain from the Code Enforcement Officer a permit covering the proposed project.

Only the BOA can make a final determination concerning the extent of the violations caused by Ms. Chaiken's construction and uses of the Structure. Because the BOA has not yet made that determination, it is presently impossible for the Select Board to know what violations must ultimately be cited in the Consent Agreement and, in turn, what penalties or other enforcement action is appropriate for those violations.

Accordingly, Canons Ashby respectfully submits that the Select Board cannot presently approve *any* Consent Agreement with Ms. Chaiken, but must wait at least until the BOA has ruled on Canons Ashby's administrative appeal.

B. The Consent Agreement Must be Revised to Include all Violations Already Identified by Town Attorney Aga Dixon.

At its September 14, 2021 meeting, the Select Board repeatedly asked CEO Day whether the Town Attorney agreed with CEO Day's opinion about the extent of Ms. Chaiken's violations. As noted above, the Consent Agreement does not even reveal what "other applicable rules, regulations and ordinances," in addition to BRPPO Article 3, § 1, Ms. Chaiken has violated. Moreover, Town Attorney Aga Dixon has already identified additional ordinances that Ms. Chaiken violated but which are not mentioned in the Consent Agreement.

In the packet for the Board's September 14th meeting was a letter from Town Attorney Aga Dixon to counsel for Canons Ashby and Ms. Chaiken dated July 20, 2021. In that letter, Attorney Dixon set forth her conclusions about the ordinances that Ms. Chaiken violated. Attorney Dixon opined that Ms. Chaiken had at least violated her October 11, 2019 building permit both by building a Structure that was significantly larger than that permit authorized and by using the Structure as something "other than a shed:"

It is clear from the information presented to me that Ms. Chaiken did not comply with the terms of the Building Permit when she caused the Structure to be constructed to dimensions greater than the 11 x 16-foot dimensions authorized by the Building Permit. It is also readily apparent based on the undisputed information presented that the Structure—which *contains numerous windows, doors, and a covered porch* and, at least for a part of the spring and summer of 2021 was furnished with beds inside the Structure *and rocking chairs and a cook stove on the*

*covered porch*⁸—was constructed and furnished so as to be used for something *other than a shed*, as authorized by the Building Permit.

(emphasis added)⁹ According to Attorney Dixon, several ordinance provisions in addition to BRPPO Article 3, § 1 are relevant to Ms. Chaiken’s violation of the terms of the October 11, 2019 permit:

Exceeding the terms of a permit issued by the CEO is a violation of the Town’s ordinance provisions. *See* BRPPO Art. 3 § 1 (requiring property owners to obtain a permit from the CEO “covering the proposed project”); *BRPPO Art. 6 § 1* (setting forth the enforcement authority of the CEO upon finding that any provision of the BRPPO or any condition of a permit issued pursuant to the BRPPO is being violated); *LUO, Art. V § 1(A)* (setting forth authority of the CEO to enforce the provisions of the *LUO* and the terms and conditions of any permit or approval granted pursuant to the *LUO*); *SZO § 16(B)* (providing that a permit is required for structures and uses requiring a permit pursuant to the *SZO*); *SZO § 16(I)(2)(a)* (setting forth the enforcement authority of CEO upon a finding that a provision of the *SZO* is being violated). . . .¹⁰

(emphasis added) Obviously, a single action can simultaneously violate several laws. Each instance in which a Town ordinance is contravened constitutes an independent and separate violation for which the violator incurs an independent and separate penalty.

Accordingly, at a minimum, the Select Board should not approve the Consent Agreement until it is revised to reference each and every ordinance that Town Attorney Dixon found Ms. Chaiken to have violated in her letter of July 20, 2021.

⁸ The final sentence of Page 3, ¶ 2 of the Consent Agreement could be misconstrued as suggesting that the only aspect of the Structure that caused it to be used as something “other than a shed” was the presence of beds. However, Attorney Dixon’s letter demonstrates that she regarded other aspects of the Structure – such as its elaborate construction and provision of amenities for occupying the Structure and cooking food – also as demonstrating that the Structure was being used as something “other than a shed.” Moreover, page 2, ¶ 7 of the Consent Agreement expressly notes that “The Structure includes the following features: *a pitched roof, a covered porch, two doors, and six windows*. The Structure also includes, or formerly included, *beds, rocking chairs, and outdoor cooking facilities*.” (emphasis added) There would be no reason to mention those features in the Consent Agreement unless they all – and not merely the beds -- support the conclusion that the Structure was not being used solely as a “shed.”

⁹ July 20, 2021 Dixon Letter page 3.

¹⁰ *Id.*

C. The Select Board Must Impose a Minimum Fine of \$ 100/Day for Ms. Chaiken's Violation of BRPPO Article 3, § 1.

In the Consent Agreement, the Town and Ms. Chaiken stipulate that Ms. Chaiken violated BRPPO Article 3 § 1. BRPPO Article 6, § 2, which is one of that Ordinance's enforcement provisions, expressly mandates the following:

Any person, including but not limited to, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance *shall be penalized* in accordance with Title 30A, Maine Revised Statutes Annotated, Subsection 4452. *Current penalties include fines of not less than \$100.00 or more than \$2,500.00 per violation for each day that the violation continues.*

(emphasis added).

30-A M.R.S. §4452, which is incorporated in BRPPO Article 6, § 2, is the Maine statute governing enforcement of land use regulations. 30-A M.R.S. § 4452(2) renders every violator of a land use ordinance listed in that statute "liable for the penalties set forth in subsection 3." In turn, 30-A M.R.S. §§ 4452(3) and 3(A) together authorize municipalities to assess monetary payments on a per-day basis and require municipalities to impose a minimum monetary penalty of not less than \$ 100 or more than \$ 2,500.00 for any violation that involves "undertaking a land use activity without a required permit." Accordingly, BRPPO Article 6, § 2 validly provides that (a) any person who violates the BRPPO "*shall be penalized*" and (b) the "current penalties" for violating the BRPPO "include fines of not less than \$100.00 or more than \$2,500.00 *per violation for each day that the violation continues.*" (emphasis added).¹¹

¹¹ Canons Ashby recognizes that 30-A M.R.S. § 4452(3) itself authorizes, rather than mandates, assessment of penalties on a daily basis. However, BRPPO Article 6, § 2 specifically notifies potential violators that penalties for violating the BRPPO will, in fact, be assessed on a per-day basis. There would be no purpose in providing that warning if the Town did *not* intend to impose penalties "for each day that the violation continues." The particular language contained in the final sentence of BRPPO Article 6, § 2 is not contained in 30-A M.R.S. § 4452, but instead was specially-drafted by the Town itself and adopted by its voters as an integral part of the BRPPO.

The Town's ordinances requiring a permit for undertaking a land use activity include not only BRPPO Article 3, § 1¹², but also LUO Article IV, § 1¹³ and SZO § 16(B)¹⁴. Because page 2, ¶¶ 9 and 10 of the Consent Agreement find that Ms. Chaiken violated BRPPO Article 3, § 1 by building and using the Structure in a manner that was not authorized by the October 11, 2019 Building Permit, Ms. Chaiken necessarily violated LUO Article IV, § 1 and SZO § 16(B) as well. Thus, the Consent Agreement must at least be revised to specify that Ms. Chaiken violated all three of those ordinances and that violation of each ordinance constitutes a separate violation.

The remaining step is for the Select Board to calculate the appropriate penalty for those violations under BRPPO Article 6, § 2. Where a statute declares that a violation shall cause the violator to incur a minimum fine for each day the violation continues, a court has no discretion to waive the imposition of that minimum daily fine. *Town of Orono v. LaPointe*, 1997 ME 185, ¶ 12, 698 A.2d 1059, 1062. Logically, the same rule must apply to the Select Board in assessing a penalty under BRPPO Article 6, § 2. Accordingly, the Select Board has no discretion to avoid assessing a penalty of at least \$ 100 for each day on which each violation remained uncured.

The violations of BRPPO Article 3, § 1; LUO Article IV, § 1; and SZO § 16(B) would have commenced, at the latest, when Ms. Chaiken's son and contractor, Mr. McNaughton, caused the dimensions of the Structure to exceed 16' x 11.' At the Select Board's meeting of September 14, 2021, Sheldon Chaiken testified that Mr. McNaughton

¹² **Article 3. Approval Required**

Section 1. Permit

Prior to starting any construction, placement, replacement, remodeling, relocating, or razing, plumbing i.e.; internal, external or Subsurface Wastewater Disposal of any principal building, accessory structure, mobile accessory structure or part(s) thereof, the property owner or agent thereof shall obtain from the Code Enforcement Officer a permit covering the proposed project.

¹³ **ARTICLE IV. ADMINISTRATION**

Section 1. Permit Required

Unless otherwise provided, no Structure, or part thereof, shall be erected, altered, improved, renovated, enlarged, moved, or demolished and no use shall be changed or expanded without a written permit issued by the Code Enforcement Officer or the Planning Board. Such a permit shall be issued only if the application materials, building plans and proposed uses comply with the requirements of this Ordinance and all other applicable laws, regulations and Ordinances.

¹⁴ **Section 16. Administration**

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit(s), engage in any activity of use of land or structure requiring a permit(s) in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use.

had built the Structure sometime during the “spring” of 2020. Even assuming that (a) Mr. McNaughton exceeded the scope of the permit no sooner than June 21, 2020 and (b) the ATF Permit granted on September 8, 2021 validly cured the violation, the violation would have persisted for at least 444 days. Accordingly, the *minimum* civil penalty for even *one* violation, at the rate of \$ 100/day, would be \$ 44,400.00. Any additional ordinance violations would increase that amount proportionally.¹⁵

Therefore, Canons Ashby respectfully requests the Select Board not to ratify the Consent Agreement until it has properly calculated the mandatory minimum daily monetary penalty for Ms. Chaiken’s violation of BRPPO Article 3, § 1, as prescribed by BRPPO Article 6, § 2.

D. Even if the Violations Began Without the Chaikens’ Knowledge, the Chaikens Later Ratified the Violations and Intentionally Perpetuated Them.

CEO Day argued that Ms. Chaiken deserved only a small penalty because her violation was “unintentional.” CEO Day’s conclusion presumably rests on the Chaikens’ assertion that Mr. McNaughton, Ms. Chaiken’s son and contractor, “surprised” the Chaikens with the “gift” of the 20’ x 20’ Structure which, according to Mr. Chaiken’s testimony at the Select Board’s September 14, 2021 meeting, was intended “for use by our extended family for *entertaining* and occasional *overnight camping*.” (emphasis added)

However, even if Mr. McNaughton’s building of the unauthorized Structure began as a surprise to the Chaikens, *Mr. McNaughton* actually knew that he was violating the October 11, 2019 Building Permit, which authorized only a 16’ x 11’ “shed,” when he

¹⁵ Even if it is assumed that the Town is not *obligated* to assess penalties on a per-day basis, the example provided in the text demonstrates that a “fine” of only \$ 3,952 is grossly disproportionate to the penalties expressly authorized by 30-A M.R.S. § 4452.

built the equivalent of a 20' x 20' summer camp.¹⁶ Thus, the violation was plainly intentional by Mr. McNaughton, who was then acting as Ms. Chaiken's contractor.¹⁷

Moreover, by September of 2020, when Canons Ashby first discovered the Structure, the Chaikens had adopted Mr. McNaughton's violations as their own. In that month, Amy Hall Furlong, one of the members of Canons Ashby, invited the Chaikens to the Canons Ashby residence for what she hoped would be a neighborly discussion of her concerns about the unexpected size, design, and use of the Structure. Instead, the Chaikens angrily retorted that they had "done everything by the book" in building the Structure; that they had the right to build the oversized Structure and to allow Mr. McNaughton to use it as a lakeside camp for himself and his family; and that if Ms. Furlong tried to "do anything about" Mr. McNaughton's use of the Structure, the Chaikens would "build something bigger and better" on that portion of their land.¹⁸

The following are two representative photographs of the Structure taken in September, 2020 which clearly illustrate the use of the Structure which the Chaikens had, by then, personally endorsed and were vigorously defending:

¹⁶ In a letter to Town Attorney Aga Dixon dated April 14, 2021, the Chaikens' counsel stated, among other things, the following: "It is my understanding that when Peter decided to build the larger accessory structure in the spring of 2020 *he went to the Town to update the building application* but the offices were closed due to COVID-19 and he failed to go follow up later regarding the change in design." (emphasis added) Rather than making Mr. McNaughton's actions seem *less* culpable, that statement demonstrates that in the spring of 2020 (a) Mr. McNaughton consciously *knew* that the 2019 Building Permit did not authorize the Structure, but (b) after making one half-hearted effort to obtain an amended building permit for the Structure, did nothing further to cure the violation.

¹⁷ In her application for the October 11, 2019 Building Permit, Ms. Chaiken named "McNaughton Construction" as the Contractor for the 16' x 11' "shed." Thus, the fact that the violations were originally caused by Ms. Chaiken's contractor, Mr. McNaughton, does not absolve Ms. Chaiken from responsibility for those violations.

¹⁸ ¶ 13 Affidavit of Amy Hall Furlong dated April 29, 2021, attached to this letter as Exhibit A. Canons Ashby's counsel sent that affidavit to Town Attorney Aga Dixon as an attachment to a letter to her dated May 3, 2021.

November 4, 2021
Page 12





On the next page of this letter is a photograph of the Structure as viewed from the Canons Ashby Parcel during the evening of July 10, 2021, when the Structure was illuminated by lanterns fastened to the porch of the Structure:



It cannot credibly be contended that the Structure shown in the preceding photographs constitutes a mere “shed” which was either designed, or being used, for the storage of small watercraft and related boating equipment. Yet the Chaikens did not voluntarily bring Mr. McNaughton’s violations of the October 11, 2019 Permit to CEO Day’s attention; instead, Canons Ashby was compelled to do so. Neither did the Chaikens willingly attempt to cure the violations either by applying for an ATF Permit for a 20’ x 20’ structure or by instructing Mr. McNaughton to cease using the Structure “as something other than a shed.” The Chaikens instead fiercely defended the legality of the Structure and its use until CEO Day sent them her Notice of Violation dated August 31, 2021.

E. The Consent Agreement Must be Revised to Include an Express Condition Restricting Ms. Chaiken's Use of the Structure to that of a Boat Storage Shed.

At its September 14, 2021 meeting, the Select Board voted to approve a "fine" consisting solely of the reimbursement of \$ 3,952 of the Town's attorney fees only after CEO Day had verbally assured the Select Board that Ms. Chaiken had agreed to use the Structure as "just a shed, just for canoes, boats, and waterfront equipment." Shortly thereafter, Sheldon Chaiken confirmed CEO Day's account by vowing that the Structure would henceforth be used only for storage of "our various kayaks, canoes, and outboards, etc." Because the Select Board relied on the Chaikens' representations about their intended use of the Structure under the ATF Permit in approving the \$ 3,952 "fine," those representations should be incorporated into the Consent Agreement as an express, enforceable condition in order to ensure that the Chaikens do not resume using the Structure as "something other than a shed."

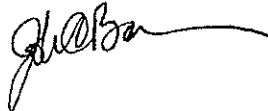
Accordingly, Canons Ashby respectfully submits that, at a bare minimum, the Select Board must decline to ratify the Consent Agreement until it is revised to add an express condition that, in accordance with their representations to the Board, the Chaikens may use the Structure only as a "shed" for storing watercraft and related boating equipment.

CONCLUSION

For all the foregoing reasons, Canons Ashby respectfully requests that the Select Board postpone any vote to ratify the Consent Agreement until the Board of Appeals renders a decision on Canons Ashby's administrative appeal. Short of that, Canons Ashby respectfully requests the Select Board either (a) to refuse to ratify the Consent Agreement until it is revised as discussed in this letter, or else (b) to vote to reject it.

Thank you for your attention to this letter.

Sincerely,



John C. Bannon

JCB/kpm
Enclosure

November 4, 2021

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cc: Benjamin J. Plante, Esq. (w/encl)
Patrick W. Lyons, Esq. (w/encl)
James N. Katsiaficas, Esq. (w/encl)
J. M. Dryden Hall, Jr. (w/encl)
Amy Hall Furlong (w/encl)

AFFIDAVIT OF AMY HALL FURLONG

1. I am Amy Hall Furlong. My address is 7815 Overbrook Road, Baltimore, MD 21204. I am a member of Canons Ashby Retreat, LLC., a Maine LLC that owns property located at 84 Grover Way, Bridgton, Maine (hereafter the "Canons Ashby Parcel"). The Canons Ashby Parcel is shown as Lot 24B on Tax Map 14 of the Town of Bridgton, Maine.

2. I make this affidavit to set forth under oath information relating to an on-going land use dispute concerning an abutting parcel owned by H. Gail Chaiken as Trustee of the H. Gail Chaiken Revocable Living Trust (hereafter "Ms. Chaiken") and shown as Lot 24C on Tax Map 14 (hereafter the "Chaiken Property").

3. My father, J.M. Dryden "Dutch" Hall, Jr., is the Managing Director of Canons Ashby Retreat, LLC. The other members of the LLC are my siblings Claflin and Joshua Hall.

4. On information and belief, my parents purchased the Canons Ashby Parcel in 1990 and soon thereafter built a residence on it. Because the Canons Ashby Parcel functions as a "family retreat" for the Hall family, I have visited the Canons Ashby Parcel frequently over the course of many years and have thereby become very familiar with both the Canons Ashby Parcel, the Chaiken Property, the Abbott family lot that borders the Chaiken Property on the south, and the residents of those properties.

5. I have known Shelly and Gail Chaiken for many years. Until September, 2020, I had always considered them to be very friendly neighbors.

6. In September, 2020, I arrived at the Canons Ashby Parcel at night for a fall retreat. As I drove in the driveway, I was startled to see in my car's headlights a structure (hereafter the "Structure") on the Chaiken Property that had not been present when I had left the Canons Ashby Parcel for the season during the fall of 2019. My headlights happened to shine into a window of the Structure where they illuminated the face of a child who appeared to be looking out the window at me from the upper berth of a bunk bed. That was all I noticed that evening.

Being curious about the unfamiliar Structure, the next morning I walked down the driveway towards the Structure while walking my dogs in order to get a better look at it in the daylight. I had no difficulty observing the Structure from the Canons Ashby Parcel because the Structure was and is located on a small, triangular portion of the Chaiken Property that is mostly cleared of trees; its closest wall is only about 17' from the southerly boundary of the Canons Ashby Parcel; and it is situated near the westerly end of our driveway, about 50-60 yards from the front door of the residence on the Canons Ashby Parcel.

7. While I was examining the Structure for the first time, a man, a woman, and two young children (the latter two dressed in pajamas) drove up to me in a golf cart. I did not recognize any of those persons. The driver of the golf cart amiably introduced himself as "Peter McNaughton" and his passengers as his wife, son, and daughter. He also explained that he was Gail Chaiken's son. After introducing himself and his family, Peter's first words to me were, "You must have been shocked when you came down the driveway last night!" I replied that although my father had mentioned something about a possible boat shed, I had been surprised to see what appeared to one of Peter's children looking out the window at me from the top of a bunk bed. Peter proudly replied, "Yes, that's where we live and sleep!"

8. Since first meeting Mr. McNaughton that day I have obtained information indicating that he is (a) an experienced, licensed building contractor and (b) the owner of "McNaughton Construction" in Yarmouth, Maine.

9. After taking the opportunity to observe the Structure at length during September, 2020, it appeared to me that the Structure was about 20' x 20' in dimensions and had the appearance of a small residence. Along one side of the Structure was a porch lit by lanterns and furnished with rocking chairs and a camp cooking stove. Closely adjacent to the Structure were clothes lines, an electric generator, fire pit, and other accessories and equipment typically associated with a residential summer camp. From within the Canons Ashby Parcel and/or the Abbot Lot I could see, through the windows of the Structure, that the interior of the Structure was outfitted with a queen- or king-size bed, a set of bunk beds, bedding, a dresser, a roll of toilet paper, cleaning supplies, wall-mounted lighting fixtures, a water cooler, small tables and chairs, and art work hanging on the walls. During September, 2020, I saw a few small watercraft such as kayaks and canoes lying on the ground surrounding the Structure, but no such watercraft stored within the Structure or on its porch.

10. During September, 2020, I observed that the Structure and the area immediately surrounding it were exclusively occupied and used by Peter McNaughton, his wife, and their two children, in a manner typical of "camp"-style summer residence. I never saw Gail Chaiken visit the Structure for any purpose, and saw Shelly there only on a few occasions when he appeared to be consulting with Peter McNaughton – not recreating. I saw neither Shelly nor Gail Chaiken use any of their small watercraft, which were then stored on the Lakefront in front of the Structure. When I occasionally visited the Canons Ashby Parcel during the winter of 2020/2021, I saw the Chaikens' small watercraft still stored in identical or similar locations on the shore of Highland Lake.

12. Shelly and Gail Chaiken built a substantial summer residence on the Chaiken Property in about 2005. Since then they have always maintained a dock on the shore of the small triangular area of their Property fronting on Highland Lake. Shelly and Gail land their recreational watercraft on their dock throughout the summer months. Based on my observations of how Shelly and Gail had typically used the Property for many years

preceding 2019, I see no reason why Shelly and Gail themselves would construct a 20' x 20' "camp-style" residential structure for their personal use when they already own a comfortable, well-appointed residence on the Chaiken Property. If they really needed such a camp, it seems logical that Shelly and Gail would have built it long ago.

13. Later in September, 2020, I invited Shelly and Gail Chaiken to come to the Hall family residence on the Canons Ashby Parcel for a visit on our outside deck, where we could be less concerned about spreading COVID-19. I did not mention any particular purpose for the visit.

After Shelly and Gail Chaiken arrived, we spent some time catching up as we typically do when we have not seen each other for a while. I then began to share with them my misgivings about what I felt to be the intrusive nature of the new Structure. I also revealed to them my perception that Peter McNaughton was using the Structure as a summer camp for his own family's use rather than to store the Chaikens' personal watercraft; that I had reviewed the building permit application for the Structure; and that there were marked differences in size and location between the Structure as described in the permit application and what had actually been constructed. I felt comfortable volunteering those concerns because, over the course of several decades, our family had cultivated what we regarded as a friendship with the Chaikens and a relationship of mutual respect concerning each other's welfare as adjoining neighbors. Based on my past experience I expected the conversation to be amicable and open-hearted.

Shelly's immediate response to my comments was to insist adamantly that "everything was by the book." Both Shelly's and Gail's mood and manner quickly turned hostile. In angry, loud, and threatening voices they each informed me that "it was their land;" that they had the right to allow Peter McNaughton to construct and use the Structure in any manner he wished; and that they intended the Structure to serve Peter and his family as their personal lakeside retreat. Gail then warned me that if I "try and do anything" about Peter's present use of the Structure, "we will build something bigger and better on that piece of our land."

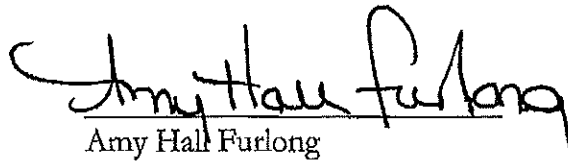
Neither Shelly nor Gail said anything remotely suggesting either that (a) Peter had offered to build for *them*, whether as a "gift" or not, a small shed for the storage of their two personal kayaks, or that (b) the Chaikens personally desired to use the Structure for that purpose. To the contrary, the Chaikens clearly indicated that (a) *they* had given the Structure to Peter McNaughton for *Peter's* exclusive use (and that of his immediate family) as a private summer camping facility and (b) the Chaikens themselves would vigorously resist any effort by my family to *interfere* with that use.

Shelly and Gail then quickly left the deck to return to their property. Without turning to address me, Gail uttered in loud tones that "our friendship is over."

14. I have taken photographs of the Structure from both the Canons Ashby Parcel and the Abbott Lot. I attest that the copies of the photographs attached to my affidavit as Exhibit A were taken by me and are true and accurate. While most of them were taken in September, 2020, I took some of them during a return visit to the family property in December, 2020.

15. Except where otherwise expressly indicated above, I have personal knowledge of the matters alleged in this affidavit and attest that those allegations are true and correct. To the extent I make the foregoing allegations based upon information and belief, I attest that those allegations are true and correct.

Date: April 29, 2021.

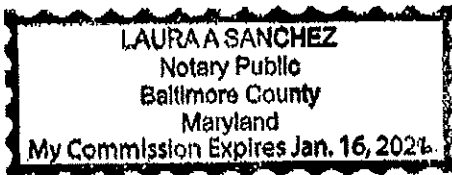

Amy Hall Furlong

STATE OF MARYLAND
Baltimore, ss.

April 29, 2021

Personally appeared the above-named Amy Hall Furlong and made oath that to the extent the foregoing statements are based upon her personal knowledge, they are true to the best of her knowledge and recollection; and that to the extent the foregoing statements are based upon information and belief, she believes them to be true to the best of her knowledge and recollection

Before me,



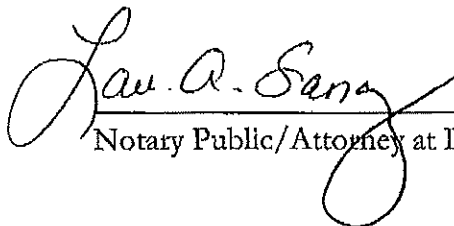
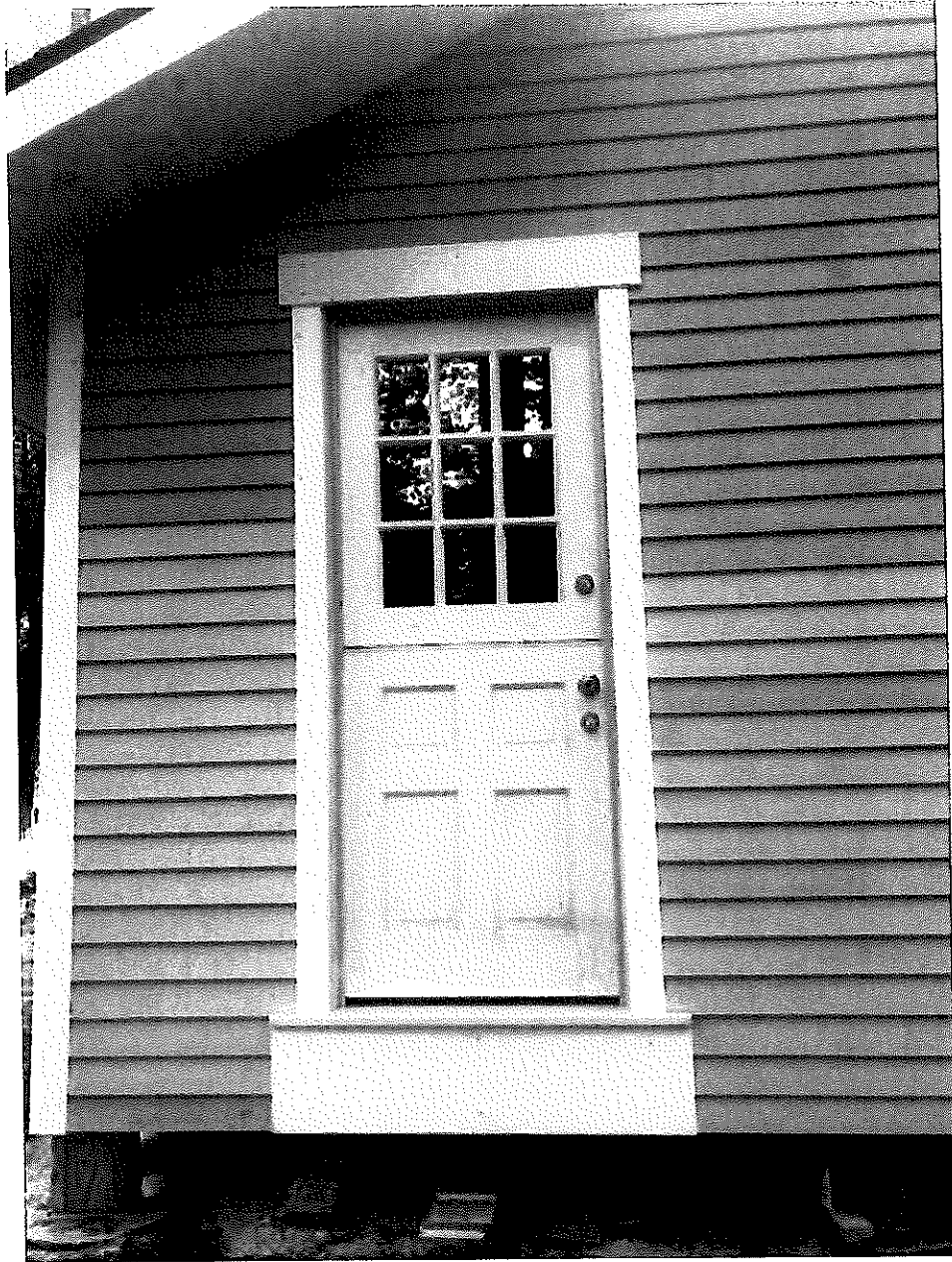

Notary Public/Attorney at Law

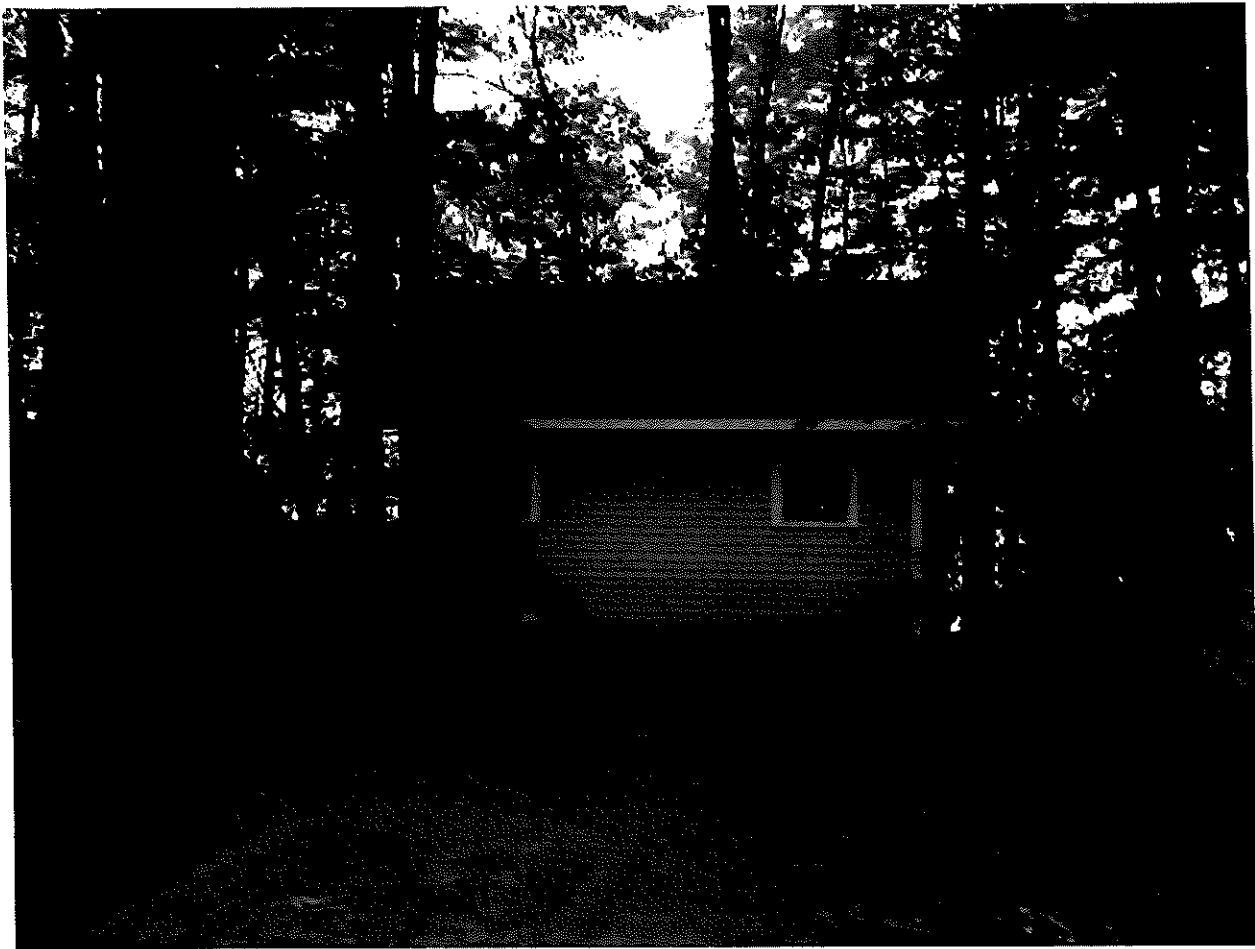
EXHIBIT A























Diane Kiriaji

From: Justin Adams
Sent: ✓ Wednesday, November 3, 2021 12:21 PM
To: Diane Kiriaji
Subject: Fwd: Ram 1500 Update
Attachments: Town Ram 1500 Window Sticker.pdf

[Get Outlook for iOS](#)

From: Bill Macdonald <bill@macdonaldmotors.com>
Sent: Wednesday, November 3, 2021 12:16:52 PM
To: Justin Adams <jadams@bridgtonmaine.org>
Cc: Joe Parker <joe@macdonaldmotors.com>
Subject: Ram 1500 Update

 You don't often get email from bill@macdonaldmotors.com. [Learn why this is important](#)

Hi Justin,

My parts department looked up some options for swapping out the tires and rims and we can do it for no charge for the same price I quoted you earlier today. The rims are 17" steel wheels and the tires are General Grabbers. The Duratrax are more expensive and would run about \$500 more for the set of 4.

2021 Ram 1500 Warlock Quad Cab 4x4

MSRP of Truck: \$47,005

Price of truck: \$34,170 (

Price of plow: \$5,750 (this is a 7.6 Fisher HT V-plow designed for half ton trucks).

Total price: \$39,920

This price also includes a hitch being installed and swapping out the four tires and rims for four 17" steel rims and General Grabber tires. Should you choose to have Duratrax tires installed they would cost an additional \$500.

I have attached a copy of the trucks window sticker for you to review all the options the truck currently has. Please let me know if you need anything else as well as how soon the Town will be making a decision.

Thanks

Bill Macdonald
Owner / General Manager
Macdonald Motors, Inc.
www.macdonaldmotors.com
T: 207.647.3304
F: 207.647.5668

TOWN OF BRIDGTON, MAINE
Statement of Net Position
Proprietary Funds
June 30, 2020

	Sewer Department	Salmon Point Campground	Total Proprietary Funds
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 66,647	-	66,647
Cash held in escrow	2,000,000	-	2,000,000
Accounts receivable	22,794	-	22,794
Interfund loans receivable	423,503	289,932	713,435
Total current assets	2,512,944	289,932	2,802,876
Noncurrent assets:			
Capital assets, not being depreciated	1,989,481	650,000	2,639,481
Capital assets, net of depreciation	498,715	87,340	586,055
Total noncurrent assets	2,488,196	737,340	3,225,536
Total assets	5,001,140	1,027,272	6,028,412
LIABILITIES			
Current liabilities:			
Accounts payable	163,119	-	163,119
Accrued wages	586	738	1,324
Bond anticipation note	2,005,001	-	2,005,001
Total current liabilities	2,168,706	738	2,169,444
Noncurrent liabilities:			
Notes payable	1,000,000	-	1,000,000
Total noncurrent liabilities	1,000,000	-	1,000,000
Total liabilities	3,168,706	738	3,169,444
NET POSITION			
Net investment in capital assets	1,483,195	737,340	2,220,535
Unrestricted	349,239	289,194	638,433
Total net position	\$ 1,832,434	1,026,534	2,858,968

See accompanying notes to basic financial statements.