SELECT BOARD

MINUTES

November 15, 2023

Board met in HYBRID session at 7:00 p.m. at Abbot Hall and via ZOOM Conferencing The following members were present constituting a quorum:

M. C. Moses Grader
Bret T. Murray
James E. Nye
Alexa J. Singer

Thatcher W. Kezer III, Town Administrator

Town Administrator called the meeting to order and asked for a motion to nominate a Chair Pro-Tem. Motion made and seconded to nominate Moses Grader, Chair Pro-Tem. All in favor.

The Chair, Pro-Tem stated that he is serving as Chair Pro-Tem as the Chair has a family medical emergency that she needs to attend to.

This meeting is being recorded.

HISTORICAL COMMISSION. Interview. Appointment. David Bittermann appeared before the Board as it relates to serving on the Historical Commission. Motion made and seconded to appoint David Bittermann to the Historical Commission with a term to expire in June 2026. All in favor.

LICENSING. Common Victualler License. Mino's Roast Beef, 27 Atlantic Avenue. Marjan Noci and Xhensila Gjinaj appeared before the Board seeking a Common Victualler License at 27 Atlantic Avenue. Motion made and seconded to approve the application for a Common Victuallers License from Mino' Roast Beef, 27 Atlantic Avenue, Managers Marjan Noci and Zhensila Gjinaj. Hours of operation Monday – Saturday 11:00 am – 10:00 pm, Sundays 12:00 noon – 8:00 pm. All in favor.

OLD AND HISTORIC DISTRICTS COMMISSION (OHDC). Public Hearing. Appeal, 34 Front Street. The Chair opened the public hearing on the appeal by Sally Thompson, 34 Front Street, of the OHDC denial of a Certificate of Appropriateness and an Order to Remediate rendered on September 19, 2023 concerning exterior line sets at 34 Front Street. Confirmation that all parties had received notice of the hearing was made and all participants were sworn in by the Chair.

The Board heard testimony from the appellant, Sally Thomspon and her attorney, Kenneth Shutzer of Shutzer, Laurion & Associates. Attorney Shutzer gave a brief

overview of the type of air conditioning that was installed and told the Board that due to a medical situation with her daughter she needed to install air conditioning. The owner tried to determine what the appropriate steps would be and that she was unclear whether or not she needed OHDC approval after reading the Rules and Regulations and that her attempts to reach the office were unsuccessful due to it being during Covid and that the OHDC was not meeting during that time. The bylaw makes reference to exterior condensers but that was not appropriate to what she was looking to install. Two years later Ms. Thompson received notice from the OHDC that what she had installed was in contravention to how the Commission interprets their charge to be. Ms. Thompson addressed the Board and stated she had been before the OHDC in the past for previous homes that she owned in the district but in 2020 she could not find the information she was looking for from the Town and upon doing her own discovery walking around town she found other properties with exterior line sets. Her daughter was coming to live with her and had medical issues that required air conditioning be installed in the home. She went forward with installing the exterior line sets. Ms. Thompson explained the cost to move the line sets would be prohibitive. Ms. Thompson talked about state laws currently being discussed to address issues like this in the Historic District that would allow for lines like these to be on the outsides of houses and that these decisions put us out of step with the Town's Net Zero recommendations.

Charles Hibbard, Chairman, Old & Historic Districts Commission, appeared before the Board to defend the decision of the OHDC. Chair Hibbard reviewed with the Board the OHDC's process and practices. All Committee members, but one, live in the district and observe activity in the district but do not search for violations or police the neighborhood so a violation could go undiscovered for some time but when they are discovered there is a 3-step action process taken: 1. - Notify property owner with an Activity Notice and ask them to appear before the OHDC within 45 days to resolve; If no response step 2. - Violation notice is mailed to owner stating the OHDC determines it is a violation and the Building Department is notified and owner needs to appear before the OHDC to explain and try to resolve issue; If no response then Step 3. - Enforcement notice mailed and OHDC requests Building Department to issue fines and asks Town Counsel to proceed with legal actions. Almost always the situations are resolved quickly and to mutual satisfaction of the commission and the owner. The commission will always search for elements of compromise while still achieving appropriately historical goals. In this case a Heating, Ventilation and Air Conditioning (HVAC) Condenser and line sets are modern equipment and their appearance cannot be judged historically appropriate and they are permanently installed and the OHDC has purview over their installation, which also requires HVAC and electrical permits from the Building Department. The OHDC has updated guidelines addressing HVAC units and is currently actively pursuing three violations in the district and working with the owners to resolve them. Since 2018 the OHDC has resolved 25 HVAC violations and only one has been appealed. On appeal to the Select Board this decision was upheld and on further appeal the decision was upheld by the State Supreme Court. 34 Front Street did not go through the proper process to obtain OHDC approval. The Chair stated that had this been a duly submitted application, the OHDC unanimously agreed it would not have issued a Certificate of Appropriateness for the work. The OHDC met with the owner, or representative, over three meetings and

reiterated their objections to the visible lines sets and asked them to consult with an HVAC contractor about moving them to the back of the house. Based on the owner's testimony at the 4th and final hearing, it did not appear to the commission that any efforts were made to do this and commission voted 5 to 0 to issue the Order of Remediation.

Chair Hibbard stated that the Commission missed one meeting at the start of Covid in March 2020 and at no time was the office closed and that staff was available by phone throughout the entire period in question. A Certificate of Appropriateness was not applied for and Building Permits were not pulled. Had a Building Permit been applied for, the owner would have been referred back to the OHDC to file an application for a Certificate of Appropriateness.

The Board asked questions of the appellant and the OHDC Chari and then the Chair asked for closing statements. The Chair closed the public hearing and the Board deliberated. After deliberation a motion was made and seconded to deny the request of Sally Thompson and uphold the Old & Historic Districts Commission decision. All in favor.

SURPLUS. Harbormaster. Motion made and seconded to declare the following item as surplus and no longer needed for Municipal purpose so that it may be disposed of in accordance with the Town's policy on surplus equipment:

- 2014 Ford Explorer

All in favor.

CHAMBER OF COMMERCE. 52nd Annual Christmas Walk. Tree Lighting. Parade. Motion made and seconded to approve the request from Katherine Kock, Executive Director, Marblehead Chamber of Commerce, for the following events and venues subject to approval from Police and Fire, and the usual rules, regulations, fees and receipt of the required Certificate of Insurance:

- Annual Tree Lighting: Friday, December 1, 2023 at the National Grand Bank parking lot. Events starts at 5:30pm, tree lighting at 7pm.
- Holiday Wreaths/Garland swaps and bows: Hang approximately 150 holidays wreaths and garland wraps throughout the business districts, starting the week of November 20, 2023, subject to approval from the Marblehead Municipal Light Department and receipt of the required Certificate of Insurance. All decorations shall be removed by January 10, 2024.
- Holiday Lighting: Turn on the holiday lights at the Old Town House and State Street Landing by Friday, November 17, 2023.
- 52nd Annual Marblehead Christmas Walk Parade: Saturday, December 2, 2023. The parade begins at 12:00 noon at the State Street Landing and continues onto Washington Street and then onto Atlantic Avenue. The parade route continues from the Police Station, taking a right onto Gerry Street and then a right onto Pleasant Street, continues down Pleasant Street, past Village Plaza and ending at the National Grand Bank parking lot.

All in favor.

OLD TOWN HOUSE. Permission to Use. Chamber of Commerce. Motion made and seconded to approve the request from Katherine Koch, Executive Director, Chamber of Commerce, to use the Old Town House on Saturday, December 2, 2023, 11:00 am – 5:00 pm during the 52nd Annual Christmas Walk, for musical/dance performances subject to the usual rules, regulations, fees, receipt of the required Certificate of Insurance and to waive the rental fee for this event. All in favor.

PARKING RESTRICTIONS. Tree Lighting/Christmas Walk/Parade. Motion made and seconded to approve the following parking regulations and traffic flow changes on recommendation of the Police Chief:

Tree Lighting, December 1, 2023 - 7:00 p.m.

In the event of an overflow crowd that creates a public safety concern, the Board authorizes the Chief of Police to close either Pleasant Street between School Street and Spring Street or Essex Street between Atlantic Avenue and Pleasant Street. In either case, traffic will be interrupted only if necessary.

Santa's Arrival at Clark Landing, December 2, 2023 - at about 9:30 a.m.

The parking lot at Clark Landing to be closed in its entirety at 8:30 a.m. until such time as it is safe to reopen.

Christmas Walk Parade December 2, 2023

Staging for the parade will be on Front Street between the Boston Yacht Club and State Street (including Darling Street,) at about 10:30 a.m., then stepping off from Clark Landing on a route including State Street, Washington Street, Atlantic Avenue, Gerry Street and Pleasant Street. The closure of Front Street between Water Street and State Street and Darling Street in its entirety from 10:00 a.m. until 12:30 p.m. All streets along the parade route will be controlled by police officers as needed to facilitate the safe passage of the parade. All in favor.

PERMISSION. Walk for Oz. Motion made and seconded to approve the request from Haley Foley, Epstein Hillel School, to host a community walk to benefit Nahal Oz, a kibbutz in south of Israel, on Sunday, December 10, 2023, subject to approval of the Marblehead Police, Recreation and Parks, and receipt of the required Certificate of Insurance naming the Town of Marblehead as additionally insured and police details. The event will start at Devereux Beach and go around the Neck. Start time is 1:00 pm. No permanent markings shall be made on the streets and any temporary markings shall be removed at the conclusion of the event. All in favor.

CONTRACT. Stantec. Extend date. Motion made and seconded to amend the contract between the Town and Stantec for Engineering Services at Village Vine and Pleasant Street project by extending it to July 1 2023 in order to close out final paperwork and authorize the Chair to sign the amendment on behalf of the Board. All in favor.

CONTRACT. Bill's Auto Clinic. Motion made and seconded to approve the License Agreement between the Town and Bill's Auto Clinic, Salem, MA, as presented, and authorize the Chair to sign on behalf of the Board. All in favor.

CONTRACT. Central Fire Station Garage Door Project. Motion made and seconded to award the contract for Central Fire Station Garage Door project to American

Door Sales LLC of Lynn, MA in the amount of thirty-nine thousand six hundred dollars ($39,600.00) and authorize the Chair to sign the contact on behalf of the Board. Funding for the project will come from Article 11 ATM 2023. All in favor.

CONTRACT. INNOV4. IT Services. Motion to approve Invoice INV23-3898 from INNOV4 for IT services in the amount of seven thousand nine hundred and seventy-five and 00/100 ($7,975.00) and authorize the Chair to sign on behalf of the Board. All in favor.

2024 ANNUAL TOWN MEETING. Open Warrant. Motion made and seconded that the Annual Town meeting be held on Monday, May 6, 2024 at 7:00 p.m. at Marblehead Veterans Middle School Auditorium, at Duncan Sleigh Square, 217 Pleasant Street. All in favor.

Motion made and seconded to open the Warrant for the May 6, 2024 Annual Town Meeting. All in favor.

Motion made and seconded to close the Warrant for the General Public on Friday, January 19, 2024 at 12:00 noon. All in favor.

Motion made and seconded to close the Warrant for Town Government, Boards and Commissions on Friday, January 26, 2024 at 12:00 noon. All in favor.

TOWN MODERATOR. Jack Attridge addressed the Board regarding the opening of the warrant urging all to attend meetings.

GREEN MARBLEHEAD IMPLEMENTATION COMMITTEE. Establish. Motion made and seconded to establish the GREEN MARBLEHEAD IMPLEMENTATION COMMITTEE, with membership as follows:

- Town Administrator
- Town Planner
- 1 Select Board Member
- 2 Representatives from Sustainable Marblehead
- Public Health Director
- Building Commissioner
- Finance Director
- Marblehead Municipal Light Department; General Manager and Commission Chair
- School Department Representative

All in favor.

HARBOR PLAN IMPLEMENTATION COMMITTEE. Establish. Motion made and seconded to Establish the HARBOR PLAN IMPLEMENTATION COMMITTEE, with Membership as follows:
2 members – Harbor and Waters Board
2 members – Select Board

1 member – Planning Board
1 member – at-large / 3 year term to expire in June 2024
1 member – at-large / 3 year term to expire in June 2025
1 member – business owner/Chamber of Commerce
1 member – Recreation and Parks Commission
1 member – Disabilities Commission
1 member – Commercial Fishing Representative
1 member – Sustainable Marblehead
Town Administrator
Harbormaster
Town Planner
DPW Director
Town Engineer
All in favor.

OLD TOWN HOUSE. Permission to Use. Historical Commission. Motion made and seconded to approve the request from Pam Peterson, Marblehead Historical Commission, to use the Old Town House on Thursday, December 7, 2023 from 4:00 pm – 8:00 pm for a holiday celebration subject to the usual rules, regulations, fees, receipt of the required Certificate of Insurance and to waive the rental fee for this event. All in favor.

RETIREMENT BOARD. 2024 Annual Budget Notice. The Board received a copy of the Retirement Board's annual 2024 budget, as required by MGL Chapter 32, Section 22.

MINUTES. Motion made and seconded to approve the minutes of October 25, 2023. 3 voted in favor, Ms. Singer voted present.

RIGHT OF ENTRY. 7 Franklin Street. Tree Removal. Motion made and seconded to enter into a Right of Entry between the Town and 7 Franklin Street, as prepared by Counsel, to facilitate tree removal. All in favor.

LETTERS OF INTEREST. Letters of interest were received from the following residents: Gail Mack, Disabilities Commission; Lindsay Dube, Finance Committee. The Board has set a deadline of December 8, 2023 to submit letters of interest to serve on the Finance Committee. All interested applicants will be interviewed on December 13, 2023.

PUBLIC COMMENT.

- Albert Jordon addressed the Board concerning dumpsters and jersey barriers on the public way and noted the passing of Peter Preble.
- Allen Waller addressed the Board's public records requests and the Town's policies regarding these and a previous public records request he submitted and wants the town to seek new town counsel.

TOWN ADMINISTRATOR UPDATE. The Town Administrator updated the Board as follows:

- Holiday hours for Abbot Hall and Mary A. Alley Building.

- Rail Trail Improvement Project: Lead Mills and Rail Trail portion by Swampscott, RFQ's going out soon for design portion.
- Hazard Mitigation Plan is on website and seeking public input.
- MBTA Zoning - Planning Board held two public meetings to date on getting input on how to meet State guidelines. An on-line "Open House" portal will be on line shortly to allow for public input. Town Planner will be reaching out to various focus groups to get their input as well.

SELECT BOARD ANNOUNCEMENTS. Board thanked Dave Rodgers for the recent Veteran's Day Services and the MHS Choral Group and Harry Christensen for maintaining the Veteran's Plaque at the Veterans Middle School.

CONDOLENCE. Motion made and seconded to send a letter of condolence to the families of Peter Preble and Karl Johnson. All in favor.

The Board sends their prayers and support to the Chair's family during this time.

Motion made and seconded to adjourn at 9:06 p.m. All in favor.

Kyle A. Wiley
Administrative Aide

List of documents used: Resume, David Bittermann/ License application, Minos Roast Beef/ OHDC appeal 34 Front Street/Harbormaster request for surplus/Chamber of Commerce request for Annual Christmas Walk/Parade/Tree Lightning/use of Old Town House/Request from Police Chief for parking restrictions, Christmas walk events/Request from Epstein Hillel for Walk for Oz event/Bill's Auto Clinic Contract Invoice, INNOV4/Motions to: open warrant, establish Green Marblehead Implementation Committee and Harbor Plan Implementation Committee. /Request from Historical Commission to use Old Town House Retirement Board's annual 2024 budget/Draft minutes October 25, 2023/Right of Entry, 7 Franklin Street Letters of Interest: Gail Mack, Disabilities Commission; Lindsay Duby, Finance Committee.