

SELECT BOARD MEETING

TOWN OFFICE at 5PM

WEDNESDAY, APRIL 10, 2024

AT 6PM: INFORMATION MEETING

Join Zoom Meeting

<https://zoom.us/j/96374295063>

Meeting ID: 963 7429 5063

Passcode: 942416

1.	Call to Order:	Establish Quorum:
2.	Accept Minutes of the March 27, 2024 Regular Meeting.	
3.	Visitor's Comments:	<ul style="list-style-type: none"> • <i>Ferry Service Update</i> • Sea Level Rise Update • Update on Municipal Building Project
4.	Upcoming Meetings and Subcommittee Reports: Planning Board: April 22, 2024	
5.	Town Manager Report:	6. Correspondence:
6.	<u>Old Business:</u> 1.	
7.	<u>New Business:</u> 1. Sign Special Town Meeting Warrant for April 24, 2024. 2. Discuss Sears Island Facility with Stephen Miller. 3.	
8.	<u>Other Business:</u> 1.	
9.	Approve Warrant: FY24 #21	
10.	Appointments:	
11.	Chair Comments:	Individual Selectmen's Comments:
12.		
13.	Adjourn	

W: AGENDA 4 10 2024

MEMBERS:

CHAIR Shey Conover
2026

Lauren Bruce
2025

V A C A N T
2025

Melissa Burns
2026

Peter Anderson
2024



DRAFT MINUTES

Members Present:

Chair Shey Conover, Melissa Burns, and Peter Anderson

Members Present via Zoom: Vice Chair Lauren Bruce

Others Present:

Town Manager Janet Anderson, Murt Durkee, Frank Start, Tom Tutor, Mike Nelson

Via Zoom: Jennifer West, Maggie Willcox, Dorie Henning, Roger Heinen

Call to Order: Chair Shey Conover called the meeting to order at 6:25 PM, following a budget workshop that went overtime, and a quorum was established.

MOTION BY M. Burns, seconded by P. Anderson, to take the Agenda out of Order in order to hear the Town Centers discussions together. No discussion. Roll call. Motion passed, 4 yes, 0 no.

VISITOR COMMENTS/PETITIONS.

Jennifer West gave an update from the Planning Board on the Public Hearing on April 22nd for the Proposed Amendments to the Ordinance. The Planning Board will make a recommendation to the Select Board after the Public Hearing. The Planning Board has been working on the mandated legislation through LD 2003. If the Town does not vote to approve the changes, we will be out of compliance with the state. We have 5 Articles associated with the changes to the Ordinances, and 2 Articles regarding Town Centers:

1. Affordable Housing Development, which can occur in Town Centers with increased density, up to 8,000 square feet per dwelling unit. The development must have at least 51% affordable housing units.
2. Accessory Dwelling Units (ADUs), which will allow an ADU on every lot that's allowed to have a primary dwelling unit. The ADU does not have to meet the 1.5-acre minimum lot size. We are also proposing to change the owner-occupied requirement for properties with ADUs, and they will not need a covenant. We are going to require that the ADU be leased for a minimum of 60 days.
3. Water Quality, which will require that new swimming pools and fire-suppression cisterns be filled with water from off-island.
4. Definitions updates.
5. Chapter 45, Updating the Development Review Ordinance with the new language, just a few minor things.
6. Post Office Town Center, updating the boundary lines to follow property lines. Islesboro Affordable Properties has requested that their Lot 9A be included in the Town Center as well.

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7. The Proposed Up-Island Town Center.

The Amendments will be on display at the Town Office once they are printed.

Tom Tutor and Mike Nelson of the Housing Committee addressed the Select Board. They are proposing to include a third Town Center in the amendments to the Land Use Ordinance. They have worked with the Planning Board in their LD 2003 workshops. As we saw they were tweaking the boundaries of the existing Town Centers, it became apparent that another positive step would be to create a third Town Center. This is motivated by LD 2003, which is trying to create housing stock across the state. There is a lack of workforce housing on Islesboro. We feel that housing for essential workers, after climate change and sea-level rise, is the most pressing issue for the long-term health of our community. Some of the LD 2003 provisions apply only to designated growth areas, which are the Town Centers on Islesboro. Town Centers allow smaller lot sizes and increased opportunity to build affordable workforce housing. As we looked at possibilities, we drew up a map (on the back of handout) with properties in the Durkee Store neighborhood. The Planning Board has unanimously voiced their approval of establishing a third Town Center. The Housing Committee hopes the Select Board will put the new Town Center map on the Warrant for Town Meeting, and hope the Informational Meetings and Public Hearing will include this map as well. Tom and Mike are here to get advice on the process.

J. Anderson stated that the property owners and abutters of the proposed Town Center will need to get a notice regarding the Public Hearing. We'll look into whether or not they need to be certified letters.

Discussion about feedback from the community, setback requirements, buildable lots, and Public Hearing process. This will require no change in the language of the Ordinance, but this will need to be a separate article for the Warrant. We need a map and written description. The lawyer gave us language for the Post Office Town Center, and perhaps we can use that language for the Up-Island Town Center. Tom asked Jennifer if this proposal can be included in the Public Hearing on April 22nd. There has been some confusion on the process and whether to present these pieces together.

S. Conover suggested the Select Board support having one Public Hearing to address all of these issues together. Perhaps the Planning Board should hold a special meeting for a vote to include this in the Public Hearing. J. West stated the Planning Board has been reluctant to do that, and does not want to set a precedent for that kind of request. It's critical that we get the first six amendments done. If the Town Centers have to be delayed to another Public Hearing, we can do that another time. Carrie stated the Planning Board has not voted on whether or not to include the third Town Center in the Public Hearing.

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MOTION BY S. Conover, seconded by M. Burns, that since there was unanimous approval from the Planning Board to support the Up-Island Town Center proposal, the Select Board supports including that in the Planning Board Public Hearing on April 22nd. Discussion about Public Hearings and whether they need Select Board approval. Roll call. Motion passed, 4 yes, 0 no.

MOTION BY M. Burns, seconded by P. Anderson, to go back to the Order of the Agenda. No discussion. Roll call. Motion passed, 4 yes, 0 no.

MOTION BY P. Anderson, seconded by M. Burns, to approve the minutes of March 13, 2024 Regular Meeting, as written. No discussion. Roll call. Motion passed, 4 yes, 0 no.

FERRY SERVICE UPDATE

No update from John King. M. Burns asked if the new tariff or the peak rates go into effect with the summer schedule. S. Conover answered that her understanding is the summer schedule and the rates are separate. Publishing a new schedule does not necessarily mean new rates.

SEA LEVEL RISE

S. Conover reported that the committee got a preliminary presentation by GZA yesterday about the alternatives analysis for the Narrows. They are likely to advise a combination of raising the road up to 2 feet and additional sea wall revetments. The committee discussed making sure the design plans for 3.9 feet of sea level rise plus storm surge.

MUNICIPAL BUILDING PROJECT

L. Bruce reported that the Committee will be presenting the Guaranteed Maximum Price (GMP) to the Select Board on April 10th. They will be asking the Select Board to approve a Warrant to request the additional funds needed to complete the building. The HHS Grant through Senator Collins office that Cressica Brazier wrote was approved. Getting that grant effectively brought down the GMP by \$3,000. In addition, we get \$845,000 for solar panels, heat pumps, lab equipment, etc.

P. Anderson asked for a ballpark for the Warrant for additional funding. L. Bruce replied that they are still working on getting the final number.

S. Conover suggested that we thank Senator Collins staff and all our delegation for going to bat for us on this. J. Anderson stated there is a letter already drafted by Linda Gillies for the Board to sign.

UPCOMING MEETINGS AND SUBCOMMITTEE REPORTS

- Select Board Budget workshop: April 3rd, 5:00pm.

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- Planning Board: April 8th, 5:00pm.
- Municipal Building Project Committee: Info Meeting in Town Office April 10th at 6:00pm following the Select Board meeting at 5:00pm.

TOWN MANAGER REPORT

- Packet included Agenda for 3/27/24 and Minutes of 3/11/24 Regular Meeting.
- Committee Minutes/Correspondence:
 - Minutes of 12/18/23 and 3/26/24 IMB Committee meetings.
 - Minutes of 3/5/24 and 3/29/24 Lighthouse Committee meetings.
 - 3/23/24 email from Senator Susan Collins on Senate Appropriations update—the bill heads to the President’s desk to be signed. Amount requested: \$845,000.
- New:
 - Housing Committee handout
 - Invitation to bid on: Roadside Mowing and Landfill & Septage Field Mowing
- Misc:
 - Ferry Schedule effective April 15th.
 - Draft Spring Info Meeting Agenda for April 10th at 6pm in the Town Office following the 5pm Select Board Meeting.
 - Invitation/Notice of Kathy & Don’s retirement party Thursday, March 28th, 5pm. Stop by and wish them well and share some cake.
- Warrant #20
- Manager Report
 - Appointment recommendation for 3/27: I propose the Board appoint Dave Dyer as Deputy Road Commissioner. I would like to budget a stipend to go along with this. Dave has been extremely helpful and it’s time to compensate him for this.
 - Legal Services search: only one reply, from Bill Kelly stating he does not have time to help. Jensen Baird will cover us through June 30th.
 - Lincolnville Inclines: eastern incline (wider ramp) is now in service for pedestrian traffic. End of next week for other inclines.

MOTION BY M. Burns, seconded by S. Conover, to appoint Dave Dyer as Deputy Road Commissioner. Discussion about stipend. Roll Call. Motion passed, 4 yes, 0 no.

CORRESPONDENCE

Discussed in Town Manager’s Report.

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OLD BUSINESS

1. None.

NEW BUSINESS

1. Housing Committee discussion on Town Centers.
 - Discussed in Planning Board Presentation, Visitors Comments/Petitions.
2. Open bids on Roadside Mowing.
 - No bids. Put it back out and extend the deadline.
3. Open bids on Landfill & Septage Field Mowing.
 - One bid, from Bob Achorn.
 - Two-year contract for \$6,400. Budgeted \$3,500/year.

MOTION BY M. Burns, seconded by P. Anderson, to approve the contract for Landfill & Septage Field Mowing by Bob Achorn at the price he proposes. No discussion. Roll Call. Motion passed, 4 yes, 0 no.

OTHER BUSINESS

1. None.

APPROVE WARRANT: FY24 #20

MOTION BY S. Conover, seconded by M. Burns, to approve Warrant FY24 #20. No discussion. Roll Call. Motion passed, 4 yes, 0 no.

APPOINTMENTS:

Barry Wherren, Islesboro Municipal Broadband Committee

MOTION BY L. Bruce, seconded by S. Conover, to appoint Barry Wherren to the IMB Committee. No discussion. Roll Call. Motion passed, 4 yes, 0 no.

CHAIR COMMENTS

S. Conover: Thank you, all, for hanging in with us for a long series of meetings.

VICE-CHAIR COMMENTS

L. Bruce: Thank you for letting Jennifer pop in on Zoom!

INDIVIDUAL SELECT BOARD MEMBER COMMENTS

M. Burns: No comments.

P. Anderson: No comments.

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MOTION BY M. Burns, seconded by P. Anderson, to Adjourn Meeting at 7:22 PM. No Discussion. Roll Call. Motion passed, 4 yes, 0 no.

Respectfully Submitted,

Carrie Reed
Secretary

DRAFT

Janet Anderson

NEW

From: Stephen Miller <iitsmill@gmail.com>
Sent: Wednesday, April 3, 2024 9:00 AM
To: Shey Conover
Cc: Islesboro Town Manager; Lauren Bruce
Subject: Re: The Penobscot Bay Offshore Wind Facility

Sounds good, They. I'll plan on participating in the SB meeting at 5 but will try calling you before that as well.

On Wed, Apr 3, 2024, 8:43 AM <shey.conover@townofislesboro.com> wrote:

Thanks, Steve. Happy to discuss this at our next selectboard meeting. Would you be able to join us on Wednesday April 10th at 5 pm? (change in time because we have a town info meeting after selectboard meeting at 6). Happy to chat ahead of that meeting.

Thanks,
shey

On 2024-04-01 16:50, Stephen Miller wrote:

> You may be aware that the Governor recently announced that the State
> will pursue development of the offshore wind manufacturing, assembling
> and launching facility at Sears Island, not Mack Point. That
> announcement stirred-up considerable public outcry, at least in part
> because no careful comparative analysis of Mack Point and Sears Island
> is available.

>

> Then, a week ago, the Governor launched a new bill that would remove
> coastal sand dune system protections from just such a sand dune on the
> western shore of Sears Island because it is located where the state
> wants the offshore wind facility. That created even more public
> outcry.

>

> Today we received documents from two sources - a Tribal Perspective on
> the offshore wind facility siting issue and scathing letter and press
> release from Public Employees for Environmental Responsibility. I
> attached them here.

>

> Perhaps the Select Board would be willing to send copies of these,
> along with the past Islesboro SelectBoard Resolution about this
> matter, or a new resolution, to neighboring towns.

>

> I would be happy to discuss this with you at your convenience.

>

>--

>

> Stephen Miller

> Islesboro Islands Trust

> PO Box 182

> 376 West Bay Road

FOR IMMEDIATE RELEASE

Monday, April 1, 2024

CONTACT

Kyla Bennett (508) 230-9933 kbennett@peer.org

Maine Poised to Repeat Eco-Mistakes on Sears Island

Prior Wetland Violations Haunt Plans to Develop a New Wind-Farm Port

Washington, DC — The State of Maine’s plan to develop Sears Island into a logistical hub for future floating offshore wind facilities faces the same legal constraints that thwarted a state effort in the 1990s to transform one of the largest undeveloped islands remaining on the Eastern Seaboard into a marine terminal, according to Public Employees for Environmental Responsibility (PEER). In fact, a 1996 federal consent decree won by the U.S. Environmental Protection Agency (EPA) against the Maine Department of Transportation (Maine DOT) for illegally destroying wetlands on Sears Island outlines the same environmental violations the state seems determined to commit again.

In November 1996, EPA and Maine DOT signed a federal court consent decree that “permanently enjoined” Maine DOT from destroying freshwater wetlands on Sears Island. The state paid \$10,000 in civil penalties plus another \$700,000 in environmental mitigation.

“Maine’s effort to develop Sears Island 30 years ago ran into a buzz saw of legal obstacles that largely remain today,” stated New England PEER Director Kyla Bennett, an attorney and scientist formerly with EPA who was part of this 1996 enforcement action. “If anything, the adverse ecological impacts facing Maine today are even worse given the incredible wetlands losses suffered over the past three decades.”

In addition, Maine’s recent emergency approval to set aside coastal sand dunes legal protections on Sears Island appears to violate federal regulations forbidding projects in the planning process for review under the National Environmental Policy Act from making any “decisions or new commitments of resources... that would either have an adverse impact on the environment or limit the choice of reasonable alternative sites.”

A feasible alternative site for a wind farm hub is Mack Point, a current logistical facility with expansion capacity and a tie-in to the existing rail system. Mack Point is just across the cove

from Sears Island, and development there would avoid intact habitat destruction. Indeed, Maine DOT and its consultants concede the proposed offshore wind facility could be built at nearby Mack Point.

“Combatting climate change does not require paving over Sears Island – which appears to be Maine DOT’s obsession,” Bennett added, noting the conclusion from the Intergovernmental Panel on Climate Change’s latest report that reducing conversion of intact ecosystems is far better at combatting climate change than building new wind farms. “Green energy projects are critically important, but they must be sited in places that don’t result in even more environmental damage.”

Currently, Sears Island is a recreation hub for Penobscot Bay as a popular destination for hiking, biking, fishing, birdwatching, and boating, as well as snowshoeing, cross-country skiing, and other seasonal activities, attracting thousands of visitors each year.

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<https://peer.org/maine-poised-to-repeat-eco-mistakes-sears-island/>



April 1, 2024

Commissioner Bruce Van Note
Maine Department of Transportation
24 Child Street
Augusta, ME 04333-0016

Sent by email to: jamie.m.sienko@maine.gov

RE: Sears Island

Dear Commissioner Van Note:

Public Employees for Environmental Responsibility (PEER) is writing to remind you of the legal history of the Sears Island case, the reason the permit was withdrawn in 1996, and the subsequent 1996 Consent Decree signed by both the Commissioner of the Maine Department of Transportation (MEDOT) and Counsel for MEDOT as resolution of your violations of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a) (the “Act”). This history is pertinent to your current efforts to once again develop a port on Sears Island; specifically, PEER is concerned that MEDOT is heading down the same fruitless path once again.

The convoluted history of Sears Island litigation. The legal history of Maine’s attempts to develop Sears Island is convoluted, and environmental review documents were fraught with errors. In 1981, MEDOT circulated a preliminary study for a causeway to Sears Island. The U.S. Fish and Wildlife Service (USFWS) said the scope of the study was too narrow, as it only contemplated impacts from the causeway and not from any development of the island itself. MEDOT refused to heed that advice, and prepared an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) that focused solely on the causeway. The Federal Highway Administration (FHWA) adopted MEDOT’s EA.

The U.S. Environmental Protection Agency (EPA), USFWS, the National Marine Fisheries Service (NMFS)¹ and the Coast Guard (CG) all objected to the EA, claiming it was insufficient. MEDOT was forced to issue another EA, but this time they focused solely on the port, and once again FHWA adopted it. Again, the three resource agencies objected, and they were joined by the

¹ These three federal agencies are referred to as the “resource agencies” for purposes of Section 404 of the Clean Water Act.

Commerce Department's Economic Development Administration (CEDDA). The CDCEA said it would *not* consider funding the project without a full Environmental Impact Statement (EIS) combining impacts from the proposed causeway, port, and industrial park.

MEDOT responded by creating a document called an "Environmental Assessment Summary," which considered the causeway and port, but refused to acknowledge or examine other impacts for additional development on the island. The FHWA issued a Finding of No Significant Impact (FONSI) on December 16, 1983. Similarly, the U.S. Army Corps of Engineers (Corps) released its own EA on that same day, for just the port and causeway, and also issued a FONSI. EPA, USFWS, and NMFS objected once again, but the Corps issued a permit for the causeway over their objections. Sierra Club then filed suit.

The Sierra Club had two suits in district court. In the first case, Sierra Club argued that the project would significantly affect the environment, and an EIS was necessary. The district court found in favor of the government, holding that an EIS was not necessary. The second district court case was in regard to whether the Coast Guard had violated the General Bridge Act of 1946 when it proposed the causeway. The district court in that case held that the Act was violated, and revoked the permit for the causeway. MEDOT appealed and lost.

Sierra Club appealed the first district court decision to the First Circuit. On August 9, 1985, the court vacated the district court decision, held that the EA/FONSI was flawed, and stated that an EIS must be prepared.²

MEDOT appealed and on December 23, 1985, the First Circuit affirmed the district court decision.³ Specifically, the court held that MEDOT treated the 1,100 foot solid fill causeway as a "bridge" by including a two-foot diameter pipe, thereby circumventing stricter requirements under the Rivers and Harbors Act. Notably, the court stated, "By treating the causeway as a bridge and issuing a bridge permit to authorize its construction, the Coast Guard did the equivalent of issuing a license for a wolf by calling it a dog."

Sierra Club had now prevailed in both cases, and MEDOT was forced to do a comprehensive environmental and alternatives analysis. The only problem was that MEDOT still refused to prepare an adequate review document.

MEDOT issued the Draft EIS (DEIS) on July 7, 1986. The Final EIS (FEIS) was issued in late August 1987, and despite continued opposition by USFWS, NMFS and EPA, the FEIS was approved by FHWA on October 9, 1987. On December 18, 1987, FHWA issued its Record of Decision (ROD) approving the Sears Island project. On March 14, 1988, the Corps issued its Corps ROD approving the MEDOT application for a permit for the Sears Island project. EPA then sought formal review of the Corps' decision by the Assistant Secretary of the Army, who gave final Corps approval for the project on May 11, 1988. On July 22, 1988, the Coast Guard issued its ROD permitting MEDOT to construct the causeway to Sears Island.

² *Sierra Club v. Marsh*, 769 F.2d 868, 1985 (*Sierra I*)

³ *Sierra Club v. Secretary of Transp.*, 779 F.2d 776, 1985 (*Sierra II*)

Sierra Club went back to court, arguing that MEDOT should be enjoined from constructing the causeway, but the court ruled that plaintiffs failed to demonstrate irreparable environmental harm, and the motion was denied.⁴

Sierra Club was undeterred, and appealed the lower court decision, claiming that the FEIS did not adequately evaluate impacts from the project or adequately evaluate alternatives like Mack Point. EPA, FWS, and NMFS agreed. On March 31, 1989, the First Circuit agreed, vacating the decision of the district court not to issue the preliminary injunction, and remanding the case.⁵

On remand, Sierra Club sought injunctive relief halting construction of terminal, alleging that the permits issued by Corps and Coast Guard did not comply with the Clean Water Act, NEPA, or the Rivers and Harbors Act. On May 30, 1989, the court agreed, holding that a “preliminary injunction shall issue suspending all further project construction pending compliance with NEPA.”⁶

Both Sierra Club and MEDOT filed cross motions for summary judgment. On November 1, 1989, the court held:

The state and federal defendants, their employees, representatives, agents, and all persons acting under or in concert with them, are hereby restrained and enjoined from permitting, commencing, or continuing, any causeway, roadway, building, pier cell or other improvement relating to the development of a marine cargo terminal and industrial park on Sears Island, pending either further order of this court or compliance by the FHWA and the Corps with the NEPA requirement that all new information be assessed with a view to determining whether its environmental significance requires preparation of a supplemental EIS.⁷

On March 29, 1991, Sierra Club went back to district court to request that the court suspend the CG permit for the construction of the causeway. The court held that the issuance of the Coast Guard permit was not arbitrary, capricious, illegal or contrary to law.⁸ PEER believes that this permit was unlawful, and the massive impacts from this solid fill causeway were never mitigated.

The subsequent permitting process. In 1992, the Sears Island permit case came back to EPA, with the stunning news that during the flurry of lawsuits and confusion, MEDOT’s contractors had filled over 10 acres of freshwater wetlands on the island – wetlands whose existence had never been revealed to the federal resource agencies but were known to others. MEDOT was now seeking not only permission to fill wetlands for the port, but also sought an after-the-fact permit for the illegally filled wetlands. EPA then became involved in two parallel tracks of work on Sears Island: a criminal enforcement case, and the permit review.

⁴ Sierra Club v. Marsh, 701 F.Supp. 886 (1988)

⁵ Sierra Club v. Marsh, 872 F.2d 497 (1989)

⁶ Sierra Club v. Marsh, 714 F.Supp. 539 (1989)

⁷ Sierra Club v. Marsh, 744 F.Supp. 352 (1989)

⁸ Sierra Club v. Marsh, 772 F.Supp. 13 (1991)

After years of joint meetings with MEDOT, FHWA, the Corps, the federal resource agencies, and MEDOT's consultants, it became abundantly clear that the Sears Island project was not permissible. On September 29, 1995, a joint letter from EPA, FWS, and NMFS stated the proposed terminal on Sears Island would:

...irreparably harm the aquatic environment because of both the large size of the fill and the high quality of the affected habitat...All three federal environmental agencies believe that the impacts associated with a Sears Island port facility would cause significant degradation of waters of the United States...in violation of Section 230.10(c) of the 404(b)(1) guidelines...

As you are aware, a Section 404 CWA permit *cannot* issue if a project would cause or contribute to significant degradation of waters of the U.S. This provision of the 404(b)(1) guidelines is rarely invoked, but was absolutely warranted in this case.

The joint letter also stressed the severe environmental impacts associated with the solid fill causeway:

Construction of the Sears Island causeway has already changed water circulation and current patterns by blocking tidal exchange between Long Cove and Stockton Harbor. Benthic invertebrates (soft shell clams, blue mussels, marine worms, etc.) and 3.7 acres of their habitat at the causeway site were destroyed...Localized sedimentation patterns have changes as a result of the causeway construction.

This, combined with EPA's determination that the impacts could not be adequately mitigated, proved to be too much for MEDOT and FHWA. On May 8, 1996, MEDOT wisely withdrew its permit application.

The enforcement case. The criminal investigation of MEDOT and its contractors was warranted, but was closed due to political concerns. Instead, the case was addressed civilly, and in November of 1996, MEDOT signed a Consent Decree.

Specifically, MEDOT and its contractors were found liable of illegally filling 9.25 acres of wetlands on Sears Island for a terminal, and an additional 0.77 acres for the access road. Section II.4 of the Consent Decree states that, "The obligations of this Consent Decree shall be binding upon the parties to this action...and their successors and assigns." Section III.8 states that MEDOT is, "permanently enjoined from discharging fill materials to any waters of the United States, including wetlands, at the Terminal Site or Access Road site, except in compliance with the express terms of any applicable permits required to be obtained by any federal ... laws, rules or regulations."

MEDOT was required to restore 3.2 acres of wetlands and create vernal pools; they were also required to conduct additional wetland restoration and enhancement off island, and pay cash penalties and invest in Supplemental Environmental Projects (SEPs) totaling \$700,000.

Section 16a of the Consent Decree states:

Maine DOT, EPA and the Intervenor agree that, in any future section 404 permit application to discharge additional dredged or fill materials into wetlands or other waters of the United States at Sears Island in connection with a project that includes use of the property where fill remains in place at the Terminal Site, MDOT or its successors will, as part of such permit application, seek after-the-fact authorization for the Discharge at the Terminal Site and Access Road Site. In such a future permit application process, the determination of whether the overall impacts of the project would comply with the Section 404(b)(1) guidelines (40 C.F.R. Part 230) ... will include an evaluation of the impacts of the fill that remains in place on the functions and values of the original (pre-filled) wetlands at the Terminal Site and Access Road, along with the restoration work...

In other words, any permit currently sought by MEDOT will have to assess all the impacts from the illegally filled wetlands, and use the functions and values of the “original (pre-filled) wetlands.” PEER believes that this assessment would also cover the impacts from the causeway, as the causeway was only necessary for the development of the port.

Current development efforts. MEDOT is, once again, attempting to build a port on Sears Island, this time to construct a facility for floating offshore wind fabrication, staging, assembly, maintenance, and deployment. And once again, MEDOT has done everything in its power to pre-select Sears Island as the preferred alternative for this development.⁹

But MEDOT is *not* the decision-maker on the siting of this facility. The Corps will determine the least environmentally damaging practicable alternative (LEDPA), and even this decision is subject to EPA’s 404(c) veto power.

Please note that the impacts that were described in 1996 by the resource agencies are even worse today, given the incredible wetlands losses suffered over the past three decades. Indeed, USFWS released a report just last week finding that wetland loss rates have increased by 50 percent since 2009¹⁰ (and most of these were before the *Sackett* decision, which will exacerbate these losses further).

PEER understands the need to pivot from fossil fuels; however, we cannot sacrifice intact ecosystems for this effort. Indeed, the 2023 Intergovernmental Panel on Climate Change (IPCC) report shows that retaining intact ecosystems is more useful in combatting climate change than wind projects. Because Mack Point is – once again – an available and less environmentally damaging alternative, PEER urges MEDOT to strongly consider Mack Point as the location for this facility. Pursuing Sears Island will likely result in years of litigation and delay.

Finally, PEER notes that Maine’s attempts to make Sears Island permissible by removing coastal sand dune protections via the proposed “Act Regarding Offshore Wind Terminals Located in Coastal Sand Dune Systems” is both short-sighted and contrary to NEPA. Using the law to make

⁹ See, e.g., <https://www.maine.gov/governor/mills/news/governor-mills-announces-sears-island-preferred-site-port-support-floating-offshore-wind-2024>

¹⁰ <https://www.fws.gov/press-release/2024-03/continued-decline-wetlands-documented-new-us-fish-and-wildlife-service-report>

environmental protections disappear does not make the impacts from those decisions disappear as well.

Conclusion. Sears Island is not a permissible location for this project. It was not a viable alternative in 1996, and it is not today. MEDOT should immediately shift its attention to developing Mack Point for this facility. To do otherwise guarantees a repeat of the disastrous events of the 80s and 90s.

Sincerely,



Kyla Bennett, PhD, JD
Director, Science Policy

cc: Corps, Maine Field Office
EPA Region 1, Wetlands Protection Section
USFWS, Maine Field Office
NOAA, Gloucester, MA

Janet Anderson

From: John King <skyfrme@gmail.com>
Sent: Friday, April 5, 2024 11:21 AM
To: Islesboro Town Manager; Pete Anderson; Melissa Burns; Shey Conover; Carrie Reed; Lauren Bruce; gabe.pendleton@gmail.com
Subject: Ferry refueling

Greetings all,

The members of the Community Center committee that run the summer Wednesday farmer's market asked me to explore whether the Wednesday ferry refueling scheduling might be changed. Full disclosure here, I am on the Board of the ICC although I don't run the farmer's market I have been known to park cars there in the past. I do think it is a pretty popular event and a nice summer activity for the island.

Anyway, the Wednesday refueling schedule apparently makes it hard to attract people to come over to the island because people end up having to pack up and get out by 1:30 as there is no 2:30 boat and people don't want to stay until the 3:30 boat, which is understandable. It also shortens the market day up to some degree.

Bill Geary tells me that Dead River, that does the refueling, may be agreeable to changing the day of refueling to Tuesday. However, he has some concerns regarding unintended consequences and I certainly get that. If the change were made it would probably be easiest just to keep the day Tuesday throughout the year I bet.

I wanted to reach out to all of you for your thoughts on this. I don't think this rises to the level of a town referendum but I certainly don't mind touching base with folks who might be impacted by a change, like the stores, the boaryards, maybe truckers, etc.? I doubt it but I don't know if there are any school or public safety issues that might arise. I am copying Fred though. I wanted to ask you folks for your thoughts first though.

Personally, I don't know why but the Wednesday refueling always seems to complicate my life. I guess that it just seems that when I go off it happens to be Wednesday, for reasons unknown.

I can attend the meeting on the 10th by Zoom as well, to discuss in a bit more detail, if you think that might be a good idea.

Thanks for your consideration and input.

John



Town of Islesboro
Capital Reserve Account
Period Ending March 31, 2024

RECEIVED
APR - 2 2024
BY: _____

FUND NAME	Beginning	Distributions	Balance after Transfer	Expenses	Earnings	Realized	Unrealized	Contributions	Ending
	Balance as of 03/01/24				M/M	Gain/Loss	Gain/Loss		Balance as of 03/31/24
				(\$274.75)	\$5,776.17	\$0.00	(\$109.75)		
EQUIPMENT & VEHICLES									
AMBULANCE RESERVE	\$26,411.28		\$26,411.28	(\$5.95)	\$125.06	\$0.00	(\$2.38)		\$26,528.01
FIRE ENGINE	\$11,835.67		\$11,835.67	(\$2.67)	\$56.04	\$0.00	(\$1.06)		\$11,887.98
FIRE EQUIPMENT	\$5,784.66		\$5,784.66	(\$1.30)	\$27.39	\$0.00	(\$0.52)		\$5,810.23
HEALTH CENTER EQUIPMENT	\$16,248.94		\$16,248.94	(\$3.66)	\$76.94	\$0.00	(\$1.46)		\$16,320.76
LANDSCAPING AND GROUNDSKEEPING EQUIPMENT	\$1,510.93		\$1,510.93	(\$0.34)	\$7.15	\$0.00	(\$0.14)		\$1,517.60
POLICE CRUISER	\$28,083.38		\$28,083.38	(\$6.33)	\$132.98	\$0.00	(\$2.53)		\$28,207.50
PUBLIC WORKS FOR EQUIP & REPAIRS	\$8,928.42		\$8,928.42	(\$2.01)	\$42.28	\$0.00	(\$0.80)		\$8,967.89
TOWN TRUCK	\$15,062.83		\$15,062.83	(\$3.39)	\$71.32	\$0.00	(\$1.36)		\$15,129.40
SCHOOL									
SCHOOL IMPROVEMENT RESERVE	\$135,928.96		\$135,928.96	(\$30.62)	\$643.63	\$0.00	(\$12.23)		\$136,529.74
SCHOOL BUS	\$20,721.65		\$20,721.65	(\$4.67)	\$98.12	\$0.00	(\$1.86)		\$20,813.24
SCHOOL SOLAR PROJECT RESERVE	\$101,116.73		\$101,116.73	(\$22.77)	\$478.79	\$0.00	(\$9.10)		\$101,563.65
LAND AREA									
MADDY DODGE FIELD - RESERVE	\$2,713.99		\$2,713.99	(\$0.61)	\$12.85	\$0.00	(\$0.24)		\$2,725.99
SOCCER FIELD IMPROVEMENT	\$82,235.60		\$82,235.60	(\$18.52)	\$389.39	\$0.00	(\$7.40)		\$82,599.07
PROJECT									
ENGINEERING, ARCHITECT, SURVEY	\$152.17		\$152.17	(\$0.03)	\$0.72	\$0.00	(\$0.01)		\$152.85
FUTURE	\$1,704.53		\$1,704.53	(\$0.38)	\$8.07	\$0.00	(\$0.15)		\$1,712.07
INCLINE & FLOATS	\$30,286.25		\$30,286.25	(\$6.82)	\$143.41	\$0.00	(\$2.72)		\$30,420.12
MUNICIPAL BUILDINGS	\$30,783.20		\$30,783.20	(\$6.93)	\$145.76	\$0.00	(\$2.77)		\$30,919.26
ROAD RECONSTRUCTION	\$7,209.15		\$7,209.15	(\$1.82)	\$34.14	\$0.00	(\$0.65)		\$7,241.02
HEALTH CENTER TECHNOLOGY	\$1,059.69		\$1,059.69	(\$0.24)	\$5.02	\$0.00	(\$0.10)		\$1,064.37
SHELLFISH OPERATIONS	\$4,782.88		\$4,782.88	(\$1.08)	\$22.65	\$0.00	(\$0.43)		\$4,804.02
MUNICIPAL BUILDINGS EXPANSION	\$0.10		\$0.10	\$0.00	\$0.00	\$0.00	\$0.00		\$0.10
SOLAR-SALT BUILDING	\$64,882.67		\$64,882.67	(\$14.61)	\$307.22	\$0.00	(\$5.84)		\$65,169.44
SOLAR-TOWN OFFICE	\$64,882.67		\$64,882.67	(\$14.61)	\$307.22	\$0.00	(\$5.84)		\$65,169.44
REPLACEMENT									
AGING SYSTEM REPLACEMENT	\$42,732.92		\$42,732.92	(\$9.62)	\$202.34	\$0.00	(\$3.84)		\$42,921.80
ACRE ISLAND PUB SAFETY	\$5,309.97		\$5,309.97	(\$1.20)	\$25.14	\$0.00	(\$0.48)		\$5,333.43
IMB - REPLACEMENT RESERVE	\$78,104.12		\$78,104.12	(\$17.59)	\$369.83	\$0.00	(\$7.03)		\$78,449.33
ISLAND FIRE SUB-STAT	\$15,697.84		\$15,697.84	(\$3.54)	\$74.33	\$0.00	(\$1.41)		\$15,767.22
LIBRARY EQUIP & REPAIRS	\$17,220.25		\$17,220.25	(\$3.88)	\$81.54	\$0.00	(\$1.55)		\$17,296.36
TRANSFER STATION WALL REPLACEMENT	\$10,063.02		\$10,063.02	(\$2.27)	\$47.65	\$0.00	(\$0.91)		\$10,107.49
TECHNOLOGY	\$22,617.20		\$22,617.20	(\$5.09)	\$107.09	\$0.00	(\$2.03)		\$22,717.17
TENNIS COURT RESERVE	\$315.41		\$315.41	(\$0.07)	\$1.49	\$0.00	(\$0.03)		\$316.80
SEA LEVEL RISE	\$146,852.51		\$146,852.51	(\$33.08)	\$695.35	\$0.00	(\$13.21)		\$147,501.57
FIDUCIARY FUNDS									
DHWWTF-Reserve	\$25,386.08		\$25,386.08	(\$5.72)	\$120.20	\$0.00	(\$2.28)		\$25,498.28
DHWWTF-Treatment Plant	\$5,878.54		\$5,878.54	(\$1.32)	\$27.84	\$0.00	(\$0.53)		\$5,904.53
RESTRICTED LIBRARY	\$22,663.69		\$22,663.69	(\$5.10)	\$107.31	\$0.00	(\$2.04)		\$22,763.86
UNRESTRICTED LIBRARY	\$49,798.12		\$49,798.12	(\$11.22)	\$235.80	\$0.00	(\$4.48)		\$50,018.22
CEMETERY FUNDS	\$8,943.35		\$8,943.35	(\$2.01)	\$42.35	\$0.00	(\$0.80)		\$8,982.89
PUBLIC HEALTH	\$7,041.78		\$7,041.78	(\$1.59)	\$33.34	\$0.00	(\$0.63)		\$7,072.90
EMERGENCY FERRY TRIPS-Reserve	\$36,711.43		\$36,711.43	(\$8.27)	\$173.83	\$0.00	(\$3.30)		\$36,873.69
REVALUATION	\$1.98		\$1.98	\$0.00	\$0.01	\$0.00	\$0.00		\$1.99
GRANT WRITER	\$50,805.05		\$50,805.05	(\$11.44)	\$240.56	\$0.00	(\$4.57)		\$51,029.60
GROUNDWATER	\$11,405.14		\$11,405.14	(\$2.58)	\$54.02	\$0.00	(\$1.04)		\$11,455.54
TOTALS	\$1,219,874.75	\$0.00	\$1,219,874.75	(\$274.75)	\$5,776.17	\$0.00	(\$109.75)	\$0.00	\$1,225,266.42

Janet Anderson

From: David Kinney <tadmin@town.lincolnville.me.us>
Sent: Tuesday, April 2, 2024 1:57 PM
To: Islesboro Town Manager
Subject: Float Status for Storm

Hi Janet:

As the eastern most float at the Lincolnville pier is the only one we have back in service from damage inflicted by the other recent storms our plan is to leave that one in service throughout this upcoming storm. If we had another option we would have likely pulled the eastern incline. I suspect that the float and incline will be "dancing" quite a bit and I wouldn't be excited about using it during the storm but at least it will be an option. Hopefully an option that no one will have to use. Our fabricator has gone back to work on the new support for where the other inclines attach. With any luck we'll have that location back in service before too long.

David

David B. Kinney, Town Administrator
Town of Lincolnville
493 Hope Road
Lincolnville, ME 04849
207-763-3555 (voice)
207-763-4545 (fax)
tadmin@town.lincolnville.me.us

Janet Anderson

From: Geary, William <William.Geary@maine.gov>
Sent: Tuesday, April 2, 2024 1:58 PM
To: Manager Town Of Islesboro
Cc: John King
Subject: RE: MAGGIE

Hi Janet,

All of the parts are now finally here in Rockland and can be reassembled. The plan was to put her in the water this week, but with the storm, that is being delayed until next week. Once back in the water, Caterpillar estimates at the most it will take one more month for everything to be completed. I was planning on meeting them Thursday (however due to the storm – this will now be next week) to get a better idea of this timing and see what can be done to get this done sooner.

Thanks,
Bill

From: Manager Town Of Islesboro <manager@townofislesboro.com>
Sent: Tuesday, April 2, 2024 1:01 PM
To: Geary, William <William.Geary@maine.gov>
Subject: MAGGIE

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon
Could I get an update on the Maggie's return?

Janet Anderson
4/2/24

ANGUS S. KING, JR.
MAINE

133 HART SENATE OFFICE BUILDING
(202) 224-5344
Website: <https://www.King.Senate.gov>

United States Senate
WASHINGTON, DC 20510

COMMITTEES:
ARMED SERVICES
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SUBCOMMITTEE
ENERGY AND
NATURAL RESOURCES
CHAIRMAN, NATIONAL PARKS
SUBCOMMITTEE
INTELLIGENCE
VETERANS' AFFAIRS

March 25, 2024

Ms. Janet Anderson
Town Manager
Town of Islesboro
PO Box 76
Islesboro, ME 04848



Dear Ms. Anderson,

Congratulations on your Congressionally Directed Spending (CDS) project being included in the final Fiscal Year 2024 Appropriations act, which passed the Senate and House, and has been signed into law by the President. As you are well aware, the CDS funding opportunity is extremely competitive, and I'm delighted to see that your project will be funded. I'm proud to have voted in favor of all 12 appropriations bills which have now been signed into law – and I'll keep working to direct federal dollars to funding critical projects in Maine.

The Fiscal Year 2024 appropriations process was not an easy one – but I'm happy to report that Congress has once again funded the federal government on an overwhelmingly bipartisan basis. It's important to keep in mind that while there are many things that cause us to argue and disagree – there's agreement on even more.

The Town of Islesboro is doing critically important work to expand healthcare access on the island, and I'm looking forward to continuing our investments in high-quality, low-cost rural healthcare.

I couldn't be prouder of the important work that your organization is doing, and I'm glad to tell you that we are nearing the end of this process. In the coming weeks, a staff member from the federal agency funding your CDS request will be in touch to execute your funding agreement.

My office will continue to be a resource now that the appropriations process is complete. Should you fail to hear from the agency funding your project within six weeks of receiving this letter, or if you experience significant delays or administrative roadblocks– please reach out to my Congressionally Directed Spending team with your questions or concerns. They can be reached at CDSRequests@king.senate.gov.

Sincerely,

A handwritten signature in blue ink that reads "Angus King". The signature is fluid and cursive, with a large, sweeping "K" at the end.

ANGUS S. KING, JR.
United States Senator

AUGUSTA
40 Western Avenue, Suite 412
Augusta, ME 04330
(207) 622-8292

BANGOR
202 Harlow Street, Suite 20350
Bangor, ME 04401
(207) 945-8000

BIDDEFORD
227 Main Street
Biddeford, ME 04005
(207) 352-5216

PORTLAND
1 Pleasant Street, Unit 4W
Portland, ME 04101
(207) 245-1565

PRESQUE ISLE
167 Academy Street, Suite A
Presque Isle, ME 04769
(207) 764-5124