

WISCASSET PLANNING BOARD  
MINUTES, SEPTEMBER 11, 2017

Present: Tony Gatti, Jackie Lowell, Peter McRae, Lester Morse, Karl Olson, Deb Pooler, and Chair Ray Soule

Absent: Peter Barnes and Al Cohen

PUBLIC HEARING

Chair Ray Soule called the public hearing to order at 7 p.m.

Reports on the repeal of the Historic Preservation Ordinance

1. Ordinance Review Committee: Karl Olson

Karl Olson, chairman of the Ordinance Review Committee, read a memo to the Town Manager from the ORC regarding the procedure for amending the Historic Preservation Ordinance, the ORC's disagreement with the Select Board's plan to put the repeal of the ordinance on the November ballot when the ordinance requires a vote at the Annual Town Meeting, and the importance of the ordinance based upon it being highest priority of the Comprehensive Plan. The memo is attached.

2. Historic Preservation Commission: John Reinhardt

John Reinhardt, Chair of the Historic Preservation Commission, read a statement from his group which is also attached. He stressed the cultural and economic value of the Historic Preservation Ordinance; he said historic preservation protects and revitalizes historic resources, benefits neighbors, and attracts visitors, new homeowners and businesses. Reinhardt gave a brief review of the commission's activities to date.

3. Public Input

James Kochan, former member of the Historic Preservation Commission, questioned why a vote was not scheduled for the May Town Meeting, and said a legal opinion had not been received from the Maine Municipal Association on voting to repeal the Historic Preservation Ordinance at any time other than the annual town meeting.

Cordelia Oehmig from the Wiscasset Bay Gallery spoke in favor of preserving the charm and historic places in town.

Bill Sutter spoke on preserving property values, particularly when the unrestricted rehabilitation or change of one property will affect the value of surrounding properties and consequently town taxes.

Albert Konrath, a member of the Historic Preservation Commission and the Ordinance Review Committee, said the alterations made to Haggett's garage before the HPO was adopted, altered the building sufficiently to allow the MDOT to take it by eminent domain. He said there was only one complaint about the HPC's actions to date and that growing pains were natural with any new commission and ordinance.

Les Fossell said the historic district was important in representing the economic value of the town.

The public hearing closed at 7:36 p.m.

## REGULAR MEETING

### 1. Call to Order

Chair Ray Soule called the meeting to order.

### 2. Approval of minutes of August 14, 2017

Karl Olson moved to approve the minutes of August 14, 2017. Vote 5-0-2

### 3. Norman Sherman – Site Plan Review Pre-application for change of use, 731 Bath Road, Map U-17, Lot 3

Norm Sherman plans to use the building at 731 Bath Road for automobile detailing. As there will be no customers accessing the site, parking will not be a problem. Deb Pooler moved to waive a site walk and approve the application. Vote 6-0-1.

### 4. Other Business

Karl Olson moved that the Planning Board adopt the statement to the Board of Selectmen not in favor of the repeal of the Historic Preservation Ordinance. Vote 7-0-0.

### 5. Adjournment

Deb Pooler moved to adjourn the meeting at 7:40 p.m. Vote 7-0-0.

# Ordinance

## Review

### Committee

**To:** Select Board, Town of Wiscasset

Marian Anderson, Town Manager

**From:** Karl Olson, Chair, ORC

**Date:** September 5, 2017

**Subject:** Repeal of Historic Preservation Ordinance

In a memo dated May 8, 2017, the Town Manager per your instructions tasked the Ordinance Review Committee (ORC) to review the procedure for repealing the Historic Preservation Ordinance Section 10 of the town's land use ordinance. Due to the committee being staffed at its minimum level, we have had a problem with attaining a quorum for our regularly scheduled meetings, and thus have not been able to adhere to the schedule outlined in the Town Manager's letter. The lack of support staff in the form of a town planner has also impeded our progress. Like all of the town's committees, the ORC is made up of lay people who volunteer what little time they have available.

Repeal of Section 10 would be a straight forward affair. An article on a town-wide ballot would simply read something to the effect of – "Shall the Town repeal Section 10, the Historic Preservation Ordinance." Section 10.8.2 specifies a timeline for a report, public hearing and public notice. The last line of that section states, "This Ordinance shall be amended only by a vote of the governing body at the annual Town Meeting."

The ORC has been told that the Select Board has received a legal opinion that because the town has gone to referendum voting, at least for most things, that any vote could be called the annual Town Meeting. As a committee, we do not believe that the opinion would survive a straight-face test with the public. The town has a history of holding many special town-wide meetings, but only the one held in June has been called the annual Town Meeting. None of the other land use ordinances has this requirement for changes.

As one of the many editors of this ordinance, I can state that it was written specifically to make the ordinance difficult to change and then, only by the largest number of town residents. We knew that this was a totally new ordinance and that it would suffer from growing pains. We also understood that as it began to be used, the ordinance would require some adjustments.

If the select board wishes to repeal this ordinance, we believe the required time line of events would be established backwards from whatever date in June the annual Town Meeting will be held.

The historic area of Wiscasset covers a very small percentage of the town's total land area. Efforts to protect and preserve the historic area date at least back to 1973 when a rectangular area was designated a National Historic District.

In September 2006, the Wiscasset Comprehensive Plan was quickly adopted by the Town. A large committee worked with a professional planning consultant to develop this State-required document. The committee hosted many well attended public input planning sessions. The process took well over a year to complete.

The comprehensive plan listed a number of "goals" and these goals were given a priority. The first goal listed which was also given the highest priority rating was to preserve Wiscasset's historic heritage through the establishment of the Historic Preservation Ordinance and committee.

The adopted Comprehensive Plan is a "Bible" or operations manual that the various town committees, including the select board, are supposed to adhere to. It is supposed to be a living document amended every ten years. It should always be consulted and should only be deviated from with thought, consideration and a written record of the decision as to why it is not going to be followed.

After adoption of the comprehensive plan, a committee began work on the Historic Preservation Ordinance. Eventually, that draft was reviewed by the ORC with the assistance of the town planner. The ORC took almost a year to tweak that draft. The resultant ordinance was approved by the Town on June 14, 2016. We list these facts to show that this ordinance was not drafted in a rush, nor in secret, as all the various sessions were open to the public and we have always allowed the public to comment.

We and others can give you numerous articles, reports, etc. on how a functioning historic preservation district is a positive economic engine for a town. When we drafted this ordinance, we discussed each and every section at great length trying to determine its impact and its benefits. As with any ordinance, we knew that some people were not going to like it. Ordinances are supposed to enhance the public good, not any one citizen.

It is our understanding that the Historic Preservation Commission, which has been in existence barely a year, has dealt with 24 applications and that only two have had issues. We do not believe that this is a bad track record for a brand new committee trying to apply a totally new and, for Wiscasset, different type of land use ordinance. If the select board really no longer supports the concept of historical preservation and the priority given it by the town's comprehensive plan, it should proceed with the statutory steps to repeal it. If there are perceived problems with the commission's operation, then those

problems should be examined and addressed, possibly by revisions to the ordinance.

This report was unanimously approved by ORC on August 28, 2017.

Karl Olson, Chair

To:

**Wiscasset Citizens  
Bernstein Shur  
Wiscasset Board of Selectmen  
Wiscasset Town Manager  
Wiscasset Planning Board  
Wiscasset Ordinance Review Committee**

**Ref: Requested report prior to proposal repeal of Historic Preservation Ordinance and historic district overlay map**

Wiscasset has been known for many years as “The Prettiest Village in Maine,” and has been on the National Register of Historic Places since 1973. In order for Wiscasset to be included on the National Register, the Town had to approve the designation and the Historic Preservation Ordinance (HPO) was enacted and a Historic Preservation Commission established to protect the town's invaluable cultural resources. If the Historic District's integrity was degraded, the Town would not only lose its designation as an historic district, but effectively closes the door to many opportunities for economic and social growth that such a designation, as well as financial incentive packages from outside sources. It is the duty of the town fathers to preserve the heritage that has allowed us to be a National Historic District. There are two basic tenets or arguments for the continuance of both the Historic Preservation Ordinance and the Historic Preservation Commission in Wiscasset:

**1) Historic preservation adds value to the lives of all Wiscasset residents and visitors.** Wiscasset's historic properties are invaluable cultural, aesthetic, and educational resources. Historic places provide opportunities each day to appreciate the legacy of Wiscasset's rich past.

**2) Historic preservation also has a significant economic component.** Historic preservation activities are cost-effective tools that may be used to leverage private capital, create jobs, revitalize neighborhoods and business districts, and stimulate a wide range of other economic activities. For example:

- **Preservation protects and revitalizes historic resources.** Maine property owners can take advantage of tax credit programs to help rehabilitate historic buildings. Since 2008, the combined Federal and Maine historic tax credit programs "*made dozens of rehabilitations feasible. These credits have enabled 75 projects to move forward, with total investment costs exceeding \$400 million. That has translated to more than 5,000 construction jobs and 1,200 much-needed rental units, 770 of which were affordable housing.*" (MaineBiz, 27 February 2017)
- **Preservation benefits neighborhoods.** Examples throughout the state show that historic district designation programs enhance local property values.
- **Preservation attracts visitors, new homeowners and businesses.** The link between preservation and tourism is well established. Towns with historic preservation ordinances know that preserving historic character helps support tourism by providing interesting and unique opportunities for visitors, and tourism supports preservation by providing resources for ongoing preservation efforts. Likewise, the historic integrity and ambiance in a community is often a major factor influencing both potential new homeowners and businesses when contemplating relocation to a community, in terms of both quality of life and economic factors. In summary, historic preservation not only promotes an increased

appreciation of the past; it is often a key feature of successful community planning and economic development.

The Wiscasset Comprehensive Plan was adopted by the Town in September 2006, marking the culmination of three decades of hard work by Wiscasset townspeople working with a professional planning consultant to develop this State-required document. The Plan listed a number of goals; the highest priority rating was assigned to the goal of preserving Wiscasset's historic heritage through the establishment of a Historic Preservation Ordinance and Commission. It took nine years of dedicated effort to develop this important facet of the Comprehensive Plan which was enthusiastically approved by the voters at the annual town meeting of 2015. The Historic Preservation Ordinance is a critical component of the Comprehensive Plan and makes it possible for Wiscasset to become a Certified Local Government under the National Historic Preservation Act, enabling us to apply for and receive grants. It provides economic growth potential and serves as an attraction for travelers from near and far.

In the Historic Preservation Commission's short history it has approved over 31 Certificates of Appropriateness, and has denied only one. Commission members have discussed and voted to work on more proactive ways of promoting the positive aspects of a Historic Preservation Commission, such as hosting public talks or seminars on various aspects of preservation. We have also discussed developing a digital database, possibly hosted online, in which property owners could search streets, structures and even architectural details or features from the wealth of historic photos which we hope to scan from the town library photo archives and other public and private collections. All of the Commission members have given many hours to developing amendments to the ordinance so that it will be easier for people to follow, and to make sure everyone knows when a Certificate of Appropriateness is up coming.

While discussing once again repeal of the Historic Preservation Ordinance at a recent Selectmen's meeting, the Selectmen approved a proposed fee schedule that is much more onerous than anything the Commission has discussed. The only time this Historic Preservation Ordinance and the Comprehensive plan can be legally looked at and changed, and or voted on is at the annual town meeting in June. It is not open for discussion or dismissal. It is a law, and thus cannot, or should not be taken lightly. It must be noted this ordinance was written by the people, for the people, and voted on in legal fashion.

The Commission is impressive in the qualifications of its members, who are dedicated to furthering the preservation of our historic properties. Chairman John Reinhardt owns a classic Victorian house and has done extensive research to enable him to maintain this charming structure; Al Konrath is a certified preservationist with extensive experience; Wendy Donovan has a degree in Architecture and brings invaluable expertise to our meetings; Susan Blagden has worked for the town for years, was active in helping to obtain National Historic District designation, and was the driving force behind the formation of the Ordinance Review Committee.

In summary, there are many reasons, both cultural and economic, to retain and support the Wiscasset Historic Commission and no valid reasons not to do so.

Respectfully submitted,

John Reinhardt

First Chair

Wiscasset Historic Commission