

June 26, 2023

**Via FedEx**

Select Board  
Town of Thomaston  
13 Valley Street  
Thomaston, ME 04861

**RE: Town Meeting Procedural Errors and Request for Secret Ballot Election**

Dear Select Board Members:

We write to express our serious concerns with the procedural errors which tainted the annual town meeting vote on Article 5. As was made clear to the Select Board on numerous occasions both before and during the town meeting, the possible sale and future use of the Thomaston Green is an extremely contentious issue within Thomaston. Numerous voters contacted the Select Board well in advance of the town meeting and spoke passionately at the June 1<sup>st</sup> public hearing concerning Article 5 to request that it be removed from the annual town meeting warrant and considered in a later secret ballot election. These residents' valid concerns about reduced voter turnout and their inability to participate were ignored or dismissed out of hand. As a result, numerous Thomaston residents were prevented from participating in the town meeting and only 300 votes were cast regarding Article 5—far less than the 716 previously cast in the 2022 secret ballot election concerning the Green.

Beyond the issue of depressed turnout, the following events that occurred during the annual town meeting call into question the validity of the Town's action and require that the Select Board call a special town meeting to reconsider the vote on Article 5:

*A. Voters were improperly prevented from participating in the vote on Article 5*

While Article 5 was being voted upon, Town Clerk Melissa Stevens was approached by at least two voters who had arrived late to the town meeting. Despite having additional clerks who were not involved in handing out written ballots and despite having previously checked in voters arriving after the town meeting was called to order, Clerk Stevens refused to allow the voters to check in and participate in the vote on Article 5. There was no basis for Clerk Stevens to deny these voters the ability to check in and participate in ongoing voting. The written ballot process continued for approximately 30 minutes after Clerk Stevens denied these voters the ability to participate and Article 5 had not been amended and was being voted on in the form presented on the town meeting warrant. These voters had ample knowledge and understanding of what was being voted on and had sufficient time in which to cast their written ballots. These

voters intended to vote against Article 5 and, had they been permitted to participate, the vote on Article 5 may have had a different result.

*B. The Moderator inappropriately denied voters' motions and assumed powers given solely to the town meeting*

When Article 5 was moved, Emily Maniscalco was recognized by Mr. Newcomb and immediately moved to table or pass over Article 5. Ms. Maniscalco Motion was intended to allow the Town's voters to decide Article 5 on a future date, with more information and voter participation. Mr. Newcomb ruled this motion to be out of order, asserting that the Town *must* take action on all warrant articles. This is a gross misstatement of established procedural rules and practice for town meetings. The Maine Moderator's Manual explicitly permits motions to table and endorses their use as a way for town meetings to avoid voting down unpopular or contentious articles or articles that are driven by special interests. In issuing his ruling, Mr. Newcomb effectively denied the Town's voters the ability to obtain additional information they had requested on June 1<sup>st</sup> and clearly desired at the annual town meeting.

Upon hearing Mr. Newcomb's incorrect ruling, Cindy Lang rose and was recognized. Ms. Lang moved to appeal the ruling on the motion to pass over. As is plainly stated within the Maine Moderator's Manual, *any* voter is permitted to appeal the ruling of the moderator on a procedural matter. When such a motion is made, the moderator may not question or deny the appeal but is *required* to put it to a vote of the full body. However, despite this clear mandatory procedure, Mr. Newcomb refused to allow Ms. Lang to appeal his ruling on the motion to table, asserting that appeals were only available for rulings on vote counts announced by the moderator. This is entirely incorrect and confuses an appeal of the moderator's ruling with a challenge to the moderator's announcement of a vote. Mr. Newcomb's failure to follow established procedures denied Ms. Lang and everyone else who vocally supported the motion to table their right to be heard on the issue. Furthermore, Mr. Newcomb's actual knowledge of the difference between an appeal of a procedural ruling and a vote challenge was made clear when he later invited seven voters to challenge the hand-count of the vote on Article 5. Mr. Newcomb's actions effectively robbed the town meeting of its exclusive authority as the Town's legislative body by asserting that his procedural rulings could not be questioned, even where there was clear disagreement with his ruling.

Mr. Newcomb's actions are brought into greater doubt by the fact that, after having made these incorrect rulings, he proceeded to ignore dozens of voters waiting to speak and offer amendments to Article 5 and instead passed over them to recognize Doug Erickson, chair of the Town's Budget Committee—seated *behind* him—who moved for an immediate vote on Article 5. This questionable action cut off debate on Article 5 and denied the town meeting the ability to consider amendments and comments which could have addressed many of the concerns that had been expressed about selling off a portion of Thomaston Green without any clear understanding of the terms or conditions of such a sale.

These multiple procedural deficiencies call into question the validity of the town meeting's approval of Article 5. We request that the Select Board act within the next ten (10)

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days to place Article 5, as previously presented, on the ballot for the November election, pursuant to 30-A M.R.S §2528. Should the Select Board fail to do so, we are prepared to pursue all legally available means to overturn the town meeting's approval of Article 5.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristin M. Collins". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kristin M. Collins

A handwritten signature in blue ink, appearing to read "Cameron A. Ferrante". The signature is cursive and somewhat stylized, with a large initial "C" and "F".

Cameron A. Ferrante