

MINUTES
Board of Selectmen
August 12, 2008 @ 6:00 P.M.
Southwest Harbor Town Offices

- I. Call to Order/Roll Call: The meeting was called to order at 6:00 P.M.
Roll Call: Kristin Hutchins, Ralph Dunbar, Jr., Skip Wilson, Trudy Bickford, Berten Willey; Robin M. Bennett, Town Manager

Visitors Present: David Chapais (SWHPD), Damaris W. Smith (Smuggler's Den); John Spofford, Karla Spofford, Debbie Dubois, Carolyn Maling, Mark Good (MD Islander), Sharon Howard, Donald Lagrange (CEO) Sandra Johnson.

- II. Visitors to be heard not on the agenda – John Spofford asked to speak about the Lower Town Dock extension. He presented the paperwork asking for easement of the riparian lines and asked the Selectmen to sign the consent agreement and the drawings presented. All parties signed both items and received copies.

Sharon Howard told the Board that she was elected Chairman of the Planning Board at the last meeting. The Planning Board has one open position now. The by-laws allow the Board to operate as long as there is a quorum of four. One member will be away for 5 months over the winter. Bickford asked if this was the time for an alternate to be appointed if members are gone over the winter. The Planning Board informed the Selectmen that they were pursuing the possibility of teleconferencing meetings with Mailing. Bickford said she was nervous about that especially if there was an appeal. She asked the CEO his opinion. He said it is difficult, as there are so many variables at a meeting. He feels the person needs to be there to get the feeling of the meeting. Howard said that with web cams the person can see and hear what is going on. Bickford said “the Planning Board works for us” and with subdivision applications coming up it is very important for the person to be physically there. Mailing said the Planning Board is talking about here, and her last meeting will be the 4th of September. She will be back in march, and the Board was

pursuing the thought with their knowledge and equipment to do the web cam, and if that is uncomfortable, she would ask a former Planning Board member to be an alternate until she returns. Wilson said that if she notified the Chairman of the number of meetings, she could be excused, and that the Planning Board is bound by the black and white ink, but with five members, (or the four quorum) present the Board can function. He said “I don’t think it’s a big issue”. Bickford offered to approach some of the previous members who have lots of experience. Howard asked if the Board could report back to the Board of Selectmen on the technical issue, would they be more agreeable. Bickford agreed with Wilson and Hutchins said the also tended to agree, but wasn’t closed to the web cam idea. Howard said the Planning Board is not adverse to working hard – they have an experienced person who wants to stay on the Board, and they want to bend over backwards to keep her involved. Wilson asked if Maling going on vacation was a threat. He said if that is an issue, schedule things around the vacations. Howard said the Select Board might want to consider, in the future, a stipend for the Planning Board members. Hutchins asked if Howard would make a proposal in that vein.

- III. Approval of Minutes: July 22, 2008: typo on one page: It says 153 Fernald Point Road when it should be 53 Fernald Point Road. Hutchins suggested an amendment to the Olver presentation to: “ Mr. Olver reviewed the package. “ Change name of Visitors: to Scott Alley, not Scott Willey. It was Moved (Bickford) and Seconded (Willey) to approve the minutes as amended Vote: 4 – 0 – 1 (Wilson) Motion passed.
- IV. Warrants: Administration 13 – 21; Water 16; Sewer 1 – 4.
- V. Old Business
 - a. Facilities update – nothing new to report
 - b. School consolidation – Hutchins reported that the inter-local agreement and plan is finished and has been sent to the School Boards. This then goes to the State, and then back to the voters. Huge thanks to Rob Liebow and the board members, as well as the attorney for their help.

VI.

New Business

- a. Special Amusement Permit: Quietside Arts Association September 13, 2008 – Garlic Festival: Demaris Smith presented in Lee Worcester’s stead. A one-day event running just before noon to about 3-4 pm – supports the SPCA and other charities. Music is more to accentuate a meeting, visiting picnic area. There are usually several hundred people trickling in and out throughout the day. Wilson spoke in support of the festival. Wilson Moved the application for a Special Amusement Permit on September 13,2008, be approved. It was seconded by Bickford Vote: 5 – 0 in favor
- b. Special Amusement Permit: Quietside Arts Association September 6, 2008 – Acadia Music Festival : runs from about 10am – 7 pm – they will make arrangements for police coverage and parking, using the Oktoberfest as a model. This is not as large an event as Oktoberfest, but benefits several charities including the SWHFD. This will be the third year of a similar event. Wilson spoke in support of the event, having attended last year. It was Moved Wilson and Seconded Willey to approve the Special Amusement Permit. Vote: 5 – 0 in favor.
- c. Liquor License Renewal – XYZ Food Group, LLC: It was Moved Wilson and Seconded Bickford to approve the renewal application of XYZ Food Group, LLC. Vote: 5 – 0 in favor
- d. Special Amusement Permit: Demuro - DuBois Corp, DBA, DeMuro’s Top of the Hill. Debbie DuBois told the Board she would like to have her mom come in and play with a keyboard during dinner from 6 – 9 pm on Mondays only. Wilson cautioned the only thing that ever seems to be a problem is noise crossing the property lines. It was Moved Wilson and Seconded Willey to approve the Class D Special Amusement Permit for DeMuro’s Top of the Hill. Vote: 5 – 0 in favor.
- e. Rolfes Consent Agreement: Lagrange, CEO, explained the circumstances that resulted in the illegal removal of trees. The agreement was explained and the CEO asked the Board of Selectmen to sign. Discussion was held on

the point value of the ordinance, and CEO said it wasn't that big. Point value was explained as it relates to Shoreland lot coverage: "if you see the sky, you need to fill it". The DEP viewed the property and found three openings that were illegal as related to the ordinance. It was Moved Wilson and Seconded Bickford to sign the consent agreement as presented. Vote: 5 – 0 in favor.

- f. Village at Ocean's End Subdivision: CEO explained that the public is concerned that the things being done are illegal. Permits are in place for that work. Further development would need to go before the Planning Board, either for additional building, or for road permits. The CEO discussed the fact that the advertising of the development "priority reservation release", may be illegal, and an opinion has been requested from MMA. To date all work is permitted, but the CEO asked for authority to represent the Town if the document does not support the intent of the current activity and violates the statute. It was Moved (Bickford) to give the CEO authority to represent the Town and stay on top of this. There was no Second. Discussion: Wilson asked if there were any violations. Dunbar asked what precedent this sets if the Board allows authority to represent the Town if nothing is in violation. Johnson asked if the CEO knows whether the document is in violation of State law. The question has been posed to MMA and a decision and CEO is awaiting an answer. He said the only way he can act on this possible violation is with the authorization from the Board of Selectmen since the State Statute isn't covered in the local Land Use Ordinance. Hutchins thought the CEO was the person to enforce this, and said she tends to trust the Planning Board and Code Enforcement officer, but the Board doesn't need to act on this document until legal opinions is received. Discussion between Wilson, Dunbar and the CEO concerning the intent of the Sales Office. Johnson said she thinks that the Select Board, pending the MMA decision, needs to decide how to pursue this. Howard said if the MMA opinion is that Ocean's End is in violation, that will stand unless he gets a subdivision

approval. Bickford reiterated that the document only allows the CEO to move forward without waiting two weeks for another Select Board meeting. It was Moved (Dunbar) and Seconded (Willey) to table this item until the next meeting. Vote: 4 – 0 – 1 abstain (Wilson). Mr. Wilson said that if there is a violation, he will support the CEO “100%”. Regarding vegetation removal at the shoreline property, the CEO has walked the path and found no violation. Sandy Johnson: recommended that the Board look at the website: www.oceansend.com

g. Street Name request: Mobile home park towards the end of Seawall Road has been resold and new owner requests a road name change to Clarissa Court. It was Moved (Wilson) and Seconded (Bickford) to accept the name change request as presented. Vote: 5 – 0 in favor.

h. Manager Goals: Hutchins reminded the Board that they had a homework assignment to write down goals. The Board went round the table to discuss goals. It was agreed to concentrate on the following three (3) goals:
1. Maintain Infrastructure/Capital Improvement Plan;
2. Community Outreach, and,
3. Personnel.

Hutchins said it is up to the Selectmen to determine what items we are willing to spend on and what we are willing to do without. Bickford reiterated the thought that the budget must be able to “maintain” the projects that are being approved. Hutchins asked about LOT and whether there are discussions about consolidation. Bennett said as things come up, the LOT has discussed ways to cooperate and consolidate. Bennett is working closely with the ADD Board, in association with the LOT (not BH) to achieve cost savings. Wilson said the items discussed are the top three. If the TM can concentrate on the top three we will be going forward.

VII. Manager’s Report: Acadia Disposal District is still negotiating; a price increase for the July bill, is about 4.1%; the Building Committee will be meeting tomorrow (Wednesday, August 13, 2008); LTDP – waiting for the State to return calls – High Road – everything but the final layer of paving has gone down –

tentative word is that the price may be held beyond August 15th. The letter from Belle Mare asking that the paving of the parking lot at the Town Dock be put off until next year or after October was reviewed and it was agreed by the Board not to delay this one day project. Bennett will contact the restaurant owner. Bennett is meeting with the State on the 25th of August concerning the Water Quality project; Dennis Dever, the new Harbormaster started as of the 28th of July and is keeping busy. The Board does not have to meet on the 26th. It was Moved (Bickford) and Seconded (Wilson) not to have the Selectmen's meeting on the 26th of August and to advertise the cancellation. 5 – 0 in favor.

- VIII. Other Business: Maling asked when the DOT plans to re-do Main Street –suggesting that if the Town waits for the State to do the roads before doing the sidewalks, it may take too long, given the condition of the sidewalks. Hutchins suggested pursuing the DOT. Howard asked for a phone number and e-mail address for the State representative and the Planning Board would start a campaign.

Wilson asked the Board to reconsider the repair decision on the Clark Pt. Sidewalk. He suggested the Town remove the asphalt, check sub soil conditions, and rebuild. Willey agreed. Bickford asked what was recommended originally, and Bennett said to shim and add 1 ½ inch of hot top. Hutchins asked if there was an estimate from Monson on Wilson's suggestion.. Bennett said there is money in the sidewalk budget. It was Moved (Willey) and Seconded (Bickford) to tear up the Clark Point sidewalk, revisit the decision from the prior meeting and do the repair properly. Hutchins asked what this motion would do to the scheduling; Dunbar commented that it won't happen until after Labor Day. Bickford suggested doing it as soon as possible. Vote in favor: 5 – 0

Wilson has been approached by Elana Scotti, Exec. Dir., of Harbor House, re heating problems over the coming winter. They are planning a warming room that will be organized at Harbor House and has suggested a joint meeting of all groups to coordinate working together. Bennett said she and Scotti have

talked about heating oil and she would meet her again to discuss this project as well. Bennett suggested that there should be a policy set up before the Town could accept funds for heating oil help.

Willey asked about Cranberry Island parking lot at the dock in Manset. Wilson suggested the ferry should notify people that parking is available on the upper town dock.

Sam Beal, Tim Harper have expressed concerned over fishermen using Town Docks to sell lobster. Is the Town enabling that by providing hoists? Discussion was held concerning permits that don't exist for people like the fishermen who park at the head of the harbor and sell fish from their truck. The CEO said if the Town wants to have any control over vendors on wheels, they need to adjust the ordinance to address that fact. Hutchins (re the fishermen selling off the Town Dock) asked what the next step should be. Bennett suggested the Selectmen send this discussion to the Harbor Committee and ask for their recommendation. Select Board wishes to review the prior vote on this subject which was approximately 2 years ago.

Willey expressed concern over the water/sewer pipes on Mansell Lane. Bennett clarified that she has asked the lines be checked

Bickford: The Solid Waste Committee will meet Wednesday 8/13/08 at 10 am. Bickford also said there have been problems with large boats being hauled through the center of Town during the middle of the day. Chapais said if the people have their permits from the State, it is a matter of education. Courtesy letters have been sent and could be done by the Police Department once again on this issue. Chapais and Harbormaster will help generate the list.

Bickford told the Board that as Selectmen they should go through Bennett as Town Manager with questions for employees.

Hutchins said thank you for the newsletter. She asked the Board for a decision on paying for the two replica canes. It was Moved (Dunbar) and Seconded (Wilson) to pay for the canes. Discussion: Bickford suggested “don’t do it again” and Wilson said there should be 3-4 people who know where the cane is. Keep records in the file. Vote: 5 – 0 in favor

Freedom of Access Training Program: copies of the material that needs to be reviewed and signed off on, may be obtained from C. Walsh.

IX. Sign Warrants It was Moved (Wilson) and Seconded (Bickford) to accept and signed the warrants as presented. Vote: 5 – 0 in favor.

X. Adjournment: It was Moved (Hutchins) and Seconded (Wilson) to adjourn the meeting at 8:36 p.m. Vote: 5 – 0 in favor.

Submitted by Carol Walsh