

MINUTES OF MEETING
Board of Selectmen
March 24, 2009
SOUTHWEST HARBOR TOWN OFFICE
6:00 p.m.

- I. Call to Order/Roll Call: The meeting was called to order at 6:01 p.m.; Present: Robin M. Bennett, Town Manager, Trudy Bickford, Ralph Dunbar, Jr., Kristin Hutchins, Bertin Willey, Dorr “Skip” Wilson
- Visitors: Mark Good, MD Islander, Donald Lagrange, CEO; David Chapais, Police Chief; Michael Miller, Police Lt., Bob Bosserman; Sharon Gilley, David Gilley. Tom Newman, Nan Lincoln, Sam Chisholm, Jack Martel, Jon & Nancy Dawson, Andrew Hamilton, Esq., Sandra Johnson
- II. Visitors to be heard not on the agenda: none
- III. Approval of Minutes: March 10th, 2009: bottom of the first page: “these changes” by Worcester should be clarified: that the additional ordinance change in Section 8, Site Plan Review removed oversight of non conforming structures and non conforming uses outside the maritime zone; page 2 near the top, this eliminates appeal decisions by the code enforcement officer and plumbing inspector using appellate review; page 3 middle b: the change addresses storm water management as required by mandated changes to the Shoreland zone. It was Moved Wilson and Seconded Bickford to accept the minutes of March 10, 2009 as amended. Vote: 5 - 0 in favor
- IV. Warrants: Administration 88-94 Water 6 Sewer 21
- V. Old Business:
- a. Facilities update:
- i. Police Department Renovations: The Building Committee met with engineers yesterday (3/23/09) and agree the project is about 90% complete – no major changes – should be ready for the pre-bid meeting scheduled for the 13th of April. There is one existing heating zone. There will be four new zones added, for a total of five.

VI.

New Business:

- a. Liquor License Renewal: Lindenwood Inn, Inc., James King It was Moved Wilson and Seconded Bickford to approve the Liquor License Renewal application of James King for the Lindenwood Inn. Vote: 5 – 0 in favor.
- b. Bottle Club License Renewal: American Legion Post 69: It was Moved Wilson and Seconded Willey to approve the Bottle Club License Renewal for the American Legion Post #69, Vote: 5 – 0 in favor.
- c. Liquor License Renewal: Acadia Shore/Sharon Gilley, DBA Gilley's Head of the Harbor: It was Moved Wilson and Seconded Bickford to approve the Liquor License renewal of Acadia Shore LLC, dba Gilley's Head of the Harbor. Vote: 5 – 0 in favor.
- d. Special Amusement Permit: Acadia Shore/Sharon Gilley, DBA Gilley's Head of the Harbor: would like to allow locals to perform with a little music – no dancing. Wilson reminded the applicant that music at night sometimes causes problems. It was Moved Wilson and Seconded Bickford to approve a Class D Special Amusement Permit for Acadia Shore, LLC, dba Gilley's Head of the Harbor. Vote: 5 – 0 in favor.
- e. Gaming Permit (April 20 & May 18, 2009) Harbor House Community Service Center, Inc. (HH) Hutchins explained the predicament of the HH gaming permit, saying that because Harbor House mistakenly thought their gaming permit from last year was for one year, they found themselves in a difficult position in March , having advertised a gaming night without a proper permit. They were advised by the State that they could proceed with a municipal officer's signature on the form. Hutchins signed the form for Harbor House for that event, and at this meeting asked the Board if they had any difficulties with that. It was Moved Hutchins and Seconded Wilson to accept the Harbor House Gaming Application for April 20 and May 18, 2009. Vote: 5 – 0 in favor.
- f. Liquor License Renewal: Debbie Dubois, DBA, Top of the Hill Restaurant It was Moved Wilson and Seconded Bickford to approve the Liquor License Renewal for Top of the Hill Restaurant. Vote: 5 – 0 in favor.
- g. Harbor Committee Appointment – delayed until next meeting
- h. Dawson Consent Agreement: Don Lagrange, CEO explained to the Board that in 1977, prior to the SWH LUO, the property in question held a 5 unit dwelling and 3 cottages. In the mid 1990's, an application was made to the Planning Board to add foundations to the three cottages. A recent application from the owners to the Planning Board turned up the fact that the basement areas of the

cottages had been expanded to living areas, which not only violated the expansion parameters of the LUO, but called into question the parking area, and the need for increased parking as a result. Working with the applicant, the CEO has put together a consent agreement between the applicant and the Board of Selectmen, with appropriate fines, which would allow the applicant to go back to the Planning Board for after the fact review, and continue the application. Mr. Dunbar asked the reasoning behind the \$3500 penalty and Lagrange explained that \$1800 was accumulated lost property tax on improved areas that the Assessors did not know about, and the balance was a fine. Dunbar asked if it were possible to set parameters for fines that might be levied in these situations, and Lagrange responded that each situation is different because the level of impact may be different. The only way for the applicant to proceed would be to obtain Selectmen's approval of a consent agreement. Mr. Lagrange read Section 2: General Regulations and Standards, sub section A.9 of the SWH Land Use Ordinance, to clarify for the Board the requirements of the LUO in this situation. It was Moved Wilson and Seconded Bickford to accept the Consent Agreement and fine recommendation, between the Town and Jon and Nancy Dawson, as presented. Vote: 5 – 0 in favor.

i. Planning Board Resignations: Hutchins told the Board that a letter has been received from Sharon Howard resigning from the Planning Board; Sandy Johnson said she will be resigning as of the next meeting, but will not leave immediately if it puts the Board in jeopardy. There will be three vacancies and ads have been placed in the paper and on the cable channel and website for replacement volunteers. The CEO said that one person has expressed an interest. It was Moved Wilson and Seconded Bickford to accept the resignation from the Planning Board of Sharon Howard, with regrets. Vote: 5 – 0 in favor.

j. Thermal Imaging Camera: Fire Chief, Sam Chisholm said in the Capital Improvement Plan Budget last year, there was money set aside for a replacement of the old thermal imaging camera. He explained this is a hand-held device used in search and rescue to find victims during fires, persons lost in the woods, or to locate fires in walls, etc. The Fire Association purchased the original camera about 12 years ago for the Fire Department (FD); it works, but is fourth generation, when in need of repairs takes about 3 months, and the FD feels it is time to upgrade. The Fire Association raised about \$10,000 toward the purchase of a new camera; and last year Bennett

and Chisholm put \$7,000 into the Capital Improvement Plan for the same purpose. Since the original camera was purchased, the prices have dropped to about \$8,000, which also provides a camera with more upgrades, as well. Based on this information, the Fire Association decided that it would be possible to buy 2 cameras. The Chief requested authorization from the Town Manager to purchase two cameras. Bickford asked if this has gone through the process with the Warrant Committee. Bennett said the funds being discussed were approved on last years budget and the money is available now. Johnson said the question is really should the FD buy one or two cameras? Does the fact that the price has come down necessitate buying two cameras? Bennett said that the Board would be taking on the responsibility of replacing two cameras in the future. Hutchins said we must guard against spending money just because we can – we budgeted for this, but for only one camera. She would prefer to see the Board authorize the Fire Department’s purchase of one camera. Wilson said the BOS voted \$7,000 to buy a thermal camera this year. The \$7,000 is available in the current budget, but the camera costs \$7,900. He feels that the Fire Department does not need the BOS approval to buy a second camera, since the Fire Association raised money for a second camera. Dunbar said it is a volunteer fire department, they have raised over half the money and they should be supported by the BOS. Bickford said we do support the FD, they have a new building, new trucks as needed, and if the Fire Department has enough money for a second camera, that’s fine. Bennett reminded the Board that once the Department has the two cameras, the Town becomes responsible for budgeting to replace two cameras regardless of who purchased them. It was Moved Wilson and Seconded Dunbar to release \$7,000 from the Capital Improvement Fund for the purpose of allowing the Fire Department to buy a replacement thermal imaging camera. Vote: 5 – 0 in favor. Chisholm will discuss with the Fire Association the possibility of staggering the replacement of two cameras. Wilson said that the Fire Department will be storing the Town records and providing a workplace for the Police Department when the Police Department renovations take place.

k. FY 09-10 Budget: Bennett went back as directed by the Selectmen at the last meeting, to find additional cuts to bring the proposed budget under 3%. She told the Selectmen she was able to lock into fuel at \$1.899/gallon, saving nearly \$8,000. There was a savings on the debt service for the Fire Department; the U.S.D.A. funding has a flat payment schedule, thus reducing the normally

higher first payments; she found an error in the Capital Improvement funding in the amount of \$8,750. All of these items totaled, reduced the budget by \$46,325 which puts the FY 09-10 budget increase at 2.6%.

Johnson asked about flat-funding the Community Services portion of the budget. She said the Warrant Committee did that with one exception: the Ambulance Association, who asked for an increase this year. The Warrant Committee recommends the increase be approved. The Board will stand by their recommendation to flat-fund all Community Service requests, including the Ambulance Association. Bennett said the budget reflects revenues down 4.2% and the only change is in the municipal revenue sharing.

Administration: Board of Selectmen (BOS), Warrant Committee and Town Manager have all made the same recommendations:

Assessing/Code Enforcement – The Warrant Committee, Town Manager and Board of Selectmen have made identical recommendations: The Warrant Committee strongly recommended that an objective for the Code Enforcement Office be to work toward covering costs with fees. The CEO said to achieve that goal, it would be necessary to increase the number of house permits issued per year. The increase in permit fees for new homes, based on value/size, have helped defray costs. In the best permitting town, Kennebunkport, they cover costs, but places like Bangor and Portland don't cover their costs. Bickford commended the CEO on trying to increase fees, and said she doesn't feel this Town will have enough construction to totally cover the department's costs. Dunbar asked about the Assessing fee and Bennett said that will change periodically. The dollar amount listed is the fee for the Assessors contract and not part of Code Enforcement. Wilson asked if it would be worth putting out a bid for assessing services and should the Town entertain that possibility as a way of getting the job done for less money. Bennett agreed, but did comment that there is a value in having continuity in this important area. Bennett will find out the renewal date of the contract and will send it out to bid.

Police: The Board recommended reducing the staff by one. The Selectmen decided at the last meeting to have Bennett look for other savings. Johnson said the Warrant Committee was not averse to cutting the position, but couldn't support the cut without a definition of the cut in services. Bickford said the Board must make a decision

– are we going to cut services with the personnel cut in the Police Department? It was Moved Hutchins and Seconded Willey to restore the police department to five positions. Vote: 4 – 1 (Dunbar) Motion passed.

Dispatch: The Warrant Committee recommends the Town look at outsourcing dispatch services; Bickford told Johnson that she has asked Bennett to get a written proposal from the County; Bennett should have that by next meeting.

Highway: Bickford asked about sidewalks not being plowed this winter and Bennett said there were equipment issues and repairs have been made. Dunbar said that Mt. Desert had a problem keeping up with the storms this winter, and about mid-way through, simply gave up trying to keep the sidewalks clear. Wilson said he doesn't believe we have the right equipment and suggested a heavy-duty snow-blower of appropriate size. There are width issues on many sidewalk areas. Bickford asked if the current sidewalk plow could be sold or traded in to get a better piece of equipment for the sidewalk job. Bennett said it must be identified as a need, and if the money is available, it could be done. Board members discussed the fact that given the various sidewalk widths, it would likely be necessary to keep the current sidewalk plow.

Fire: Hutchins reiterated that \$3,000 was saved on fuel.

Harbor: It was Moved Wilson and Seconded Bickford to match the Town Manager's budget recommendation for Harbor. Vote: 5 – 0 in favor. It was noted by the Board that the Town will not fund a part time position this year. The Warrant Committee recommended continuing to work on mooring fees and anything else that is possible to help the Harbor department pay for itself. Wilson added that the Harbor Committee is working with the Harbormaster on this.

Municipal offices: Hutchins said there is a fuel saving here as well. Comment: Dunbar said the fuel wasn't put out to bid and several people were offended. Bennett explained that the League of Towns piggybacked on the work done by another town that had gone out to bid, and we received an even better price than that town. It was Moved Wilson and Seconded Bickford that the Board of Selectmen's recommendation on this item, be the same as the Town Manager's recommendation. Vote in favor: 5 - 0

Boards and Committees: Bennett said the difference between the Warrant Committee recommendation and the Board of Selectmen recommendation is that the Warrant Committee restored \$1000 to the Tree Fund. Johnson said the Fire Department buffering was paid for by the Tree Fund, as opposed to having it be part of the cost of construction...Hutchins made a motion to restore \$1,000 to the Tree Fund – there was no second. The motion died.

Contracted Services: Wilson said the BOS talked about reducing the number of street lights. Chapais said it is not a bad idea as long as the safety aspect is considered. Bennett said the survey should be completed before making a decision on cutting the number of street lights. It was Moved Wilson and Seconded Bickford to have the Town Safety Officer complete the survey and review the number of street lights for possible cuts. Vote: 4 – 1 in favor. Willey (opposed).

Insurance: no remarks;

Debt Service: Police renovations funding source has a flat repayment schedule rather than a graduated schedule; It was Moved Wilson and Seconded Bickford that the recommendation of the Board of Selectmen reflect the Town Manager’s findings. Vote: 5 – 0 in favor.

Community service: The Warrant Committee recommended five articles as follows: Harbor House, Island Explorer, Library, Nursing and all other requests grouped into one warrant. The Board agreed.

Capital Improvement Plan: Administration – no discrepancies in any recommendation; or the municipal building; Police: The Warrant Committee recommended restoring funding for tasers. The Board of Selectmen voted to take out the taser funds. The Board of Selectmen’s vote stands;

Dispatch: no changes.

Fire: funding was reduced for the Quint truck, lowering that recommendation from \$80,000 to \$40,000;

Harbor: The Board asked where we stand with the boat. Bennett said it has been put out to bid; Hutchins reminded the Board that there would be no funding of a part-time position this year.

Highway: The Warrant Committee recommended restoring \$14,000 to the storm water management plan. Johnson said there was not a clear reason why the Board of Selectmen changed their position of support. Dunbar explained that a lot of the investigation of the system would be done in house; Wilson said the project grew into a larger project than he was willing to commit to.

Dunbar recommended to the Board that the Town Manager's budget number be reduced by \$7,000 saying also that the Board of Selectmen should reduce their number by the error in the price of the loader in the Capital Improvement Plan. It was Moved Dunbar and Seconded Bickford that the Board of Selectmen make a FY 09-10 Budget recommendation of \$213,910. Vote: 5 0 in favor.

It was Moved Hutchins and Seconded Wilson to accept the Budget as amended in this document. Vote: 5 0 in favor. Wilson said the Warrant Committee should make their recommendation as advisors, and the Board of Selectmen should then make their recommendation.

1. Volunteer Information Packets: Copies were sent to the chairs of the boards and committees. Hutchins would like a formal approval from the Board. Dunbar asked about the organization chart and why the Board was not in the path of the School Budget. Hutchins asked Bennett if it was within the rights of the Board to make recommendations on the School Budget. Bennett said the Board has the right to make recommendations. Wilson said the Board has the right to send the school budget back. Dunbar recommended inviting the school to a question and answer meeting. Board Members want to meet with the school to discuss their budget. The figures are not in yet for the school warrants, according to Bennett. All members of the Board agreed they do not have any issues with the school budget. Dunbar suggested that we should tell the School Board that they did not have the formal discussion that they should have had and they should expect to present next year It was Moved Dunbar and Seconded Willey to invite the School Board and Administrators to present their budget to the Board next year. Vote in favor: 5 – 0.

It was Moved Wilson and Seconded Dunbar that the Board of Selectmen's budget reflect the school recommendation of \$3,264,193. Vote in favor 5 -0

It was Moved Bickford Seconded Hutchins to accept the volunteer packet as presented. Vote: 5 – 0 in favor. Discussion: Hutchins will add an arrow for budget on the existing flow chart as amended

- VII. Manager's Report: Regarding the Town Meeting Budget and the Maine Municipal Bond Bank, Bennett said there are things the Board needs to vote on today as the Town is moving fast towards grant monies. This is money the voters already approved and it reaffirms the vote.

It was moved Wilson and seconded Bickford to affirm the items listed in the bonding of water quality issues and sign same by the Board of Selectmen. Vote: 5-0 in favor.

Bennett also said that when the Town made the changes to the Ordinances the form should have been signed by the Selectmen – the forms were circulated and signed by Selectmen. Bennett will ask Mark Campbell to be moderator of the Town Meeting again this year. Board agreed. There will be a 6:00 pm Special Board of Selectmen's Meeting next Tuesday March 31st to sign the warrants. Bennett asked: does the BOS want to incorporate the information discussion period into the meeting again this year? Wilson said it is important to have the public information session the night of Town Meeting but it doesn't need to be part of the Town meeting. It was Moved Hutchins and Seconded Bickford to have a public hearing separate from the regular Town Meeting this year Vote: 5 – 0 in favor. Bennett asked about the distribution of the Annual Town Report: She recommended that they be made available at the Town Office, on line, the library. Wilson said he has trouble with that and it is important that it be in the hands of the voters. Bickford suggested having them in the Post Office. Wilson and Dunbar said it is a long-standing tradition and it should continue. The Board was in agreement that the Town Reports be hand delivered again this year.

- VIII. Other Business: Hutchins: newsletter: if we are going to do one we should agree on subject matter on Tuesday. Ordinance changes, budget and Police Department; Town Meeting reminders; Bickford suggested waste prevention information; Wilson said it is important that people get their 911 numbers on their homes and businesses – draft language next Tuesday from

Hutchins. Chapais questioned the Parking Ordinance. Bennett said it will be scheduled at the next regular Selectmen's meeting. Private parking lots may be addressed only in terms of noise, squealing tires, etc. It was Moved Wilson and Seconded Bickford that the language in the parking lot ordinance be made to expand all public parking at Town Docks. Vote: 2 – 2 – 1 (Hutchins/Willey) (Dunbar abstained) the motion did not carry. Bickford said the Upper Town Dock should be addressed first. Dunbar asked to see the existing ordinance and review it at the next meeting on the regular agenda.

- IX. Sign Warrants: It was Moved Wilson and Seconded Bickford to sign administrative warrants 88-94, water warrant number 6, and sewer warrant #21 as presented. Vote: 5 – 0 in favor
- X. Executive Session: Personnel matters in pursuant to 1 M.R.S.A. § 405 (6) (A): It was Moved Hutchins and Seconded Wilson to go into Executive Session at 8:24 p.m. Vote: 5 – 0 in favor.
- It was Moved Wilson and Seconded Willey to come out of Executive Session at 8:33 p.m. Vote: 5 – 0 in favor.
- XI. Adjournment: It was Moved Wilson and Seconded Hutchins to adjourn the meeting at 8:34 p.m. Vote: 5 – 0 in favor.