

MINUTES OF MEETING
Board of Selectmen
August 11, 2009
SOUTHWEST HARBOR TOWN OFFICE
6:00 p.m.

I. Call to order/Roll call: The meeting was called to order at 6:00 p.m. Present: Robin M. Bennett, Town Manager; Selectmen: Dorr Wilson, Chair; Ralph Dunbar, Vice-Chair; Kristin Hutchins, Trudy Bickford, Berten Willey.

Visitors: Alison King, Kay Pelletier, Ron Pelletier, David Chapais, Mark Good, Christine O’Leary, Marie Mauger, Bernie Mauger, Ronda Ayala, Nan Lincoln, Lee Worcester, Donald Lagrange, Jack Martel, Tom Chisholm, Jeff Thomas

II. Visitors to be heard not on the agenda: none

III. Approval of Minutes: July 28, 2009: It was Moved Hutchins and Seconded Bickford to approve the minutes of July 28, 2009 as presented. Vote in favor: 5 – 0.

IV. Warrants: Admin: 17-24 Water: 17 Sewer: 4 - 6

V. Old Business;

a. Facilities Update:

i. Police Department Renovation Update: Bennett said a solution for the water leak has resulted in a proposal – handout was presented to Selectmen at the meeting. The proposal is to excavate on that corner of the building and put a seal on the foundation. The cost would be \$7,640. There is a construction meeting on Wednesday, August 12, 2009. The electrical panel was relocated by order of the State Electrical Inspector. Bennett said discussions around emergency electrical service during outages have resulted in two options: continue with the existing generator which doesn’t supply electricity to everything in the building; or purchase another generator that would have the capability of servicing the whole building. The cost to purchase a new 200 amp system is between \$20,000 and \$40,000. Wilson said the original intent of the generator was to power the Police Department, not to power the Town Office. Dunbar suggested getting by with the current generator. Hutchins asked that the Town make do with what it has currently for a generator, and select the areas of the building that would be serviced by that generator. It was Moved Hutchins and Seconded Dunbar to continue with the generator currently servicing the Town Office building. Vote in favor: 5 – 0.

V. New Business:

a. Special Amusement Permit: Quietside Arts Association, Garlic Festival, September 19, 2009, Smuggler’s Den Campground. It was Moved Hutchins and Seconded Bickford to accept the Special Amusement Permit for Quietside Arts Association, Garlic Festival, as presented Vote in favor: 5 – 0.

Liquor License Quietside Arts Association, Garlic Festival. It was moved Bickford and Seconded Willey to approve the Liquor License application of Quietside Arts Association, Garlic Festival as presented Vote in favor: 5 – 0.

Liquor License Renewal: XYZ Food Group LLC, 80 Seawall Road. It was Moved Bickford and Seconded Willey to accept renewal of XYZ Food Group Liquor License Renewal as presented. Vote in favor: 5 – 0.

- b. Warrant Committee Appointment: Melissa Berry is interested in becoming involved, but has time limits. She described herself as fiscally conservative and she understands the process of the Warrant Committee. It was Moved Dunbar and Seconded Bickford to approve Melissa Berry as a member of the Warrant Committee for three (3) years ending June 30, 2012. Vote in favor: 5 – 0.
- c. Lawler Lane: Town R.O.W.'s: Mr. Ron Pelletier said he will be affected most as his cottage is the last one on the right down Lawler Lane. The Right of Way (ROW) will be 10-15 feet from his property and he wants the Town to provide at their expense a buffer so that he will not see the trail to the shore. Concerning parking issues- he suggested a tow away zone sign. Hutchins said the Town should maintain their rights of way throughout the Town to preserve access to the water. She agrees the Town should trim the vegetation. Dunbar clarified that it would be a 6' meandering path of cut vegetation, with no improvements. The CEO said the Town owns a 24 ¾' right of way at that spot. He also said it will only be the tall grass that is cut, as approved by Maine DOT. He asked Ann Judd to review the path as it related to the Pelletier property and she has suggested planting three bushes as a buffer. Alison King spoke saying the "change of use" should go before the Planning Board and asked why it would not. Hutchins said it is a bit of a stretch to call maintaining the right of way as a change of use. Dunbar agreed. Lagrange said it is simply using a weed wacker to cut grass and he feels it is not necessary to go to the Planning Board. Mrs. Mauger said the ROW was in existence for over 20 years, is in the individual deeds, and Mr. Pelletier knew that when he purchased the property. Kay Pelletier expressed concern about kids partying on the shore and making a mess. Wilson and Willey said the maintaining of the right of way was not intended to be a published fact that would encourage visitors to go to the shore by that route. The ordinance allows up to a 6' wide path. It was Moved Hutchins and Seconded Bickford to accept the CEO recommendation to create a 6' wide meandering path, with a weed wacker, and install the recommended buffering on Mr. Pelletier's side of the right of way, to allow privacy. Vote in favor 5 – 0. CEO Lagrange said that Mr. Pelletier has a garden spot that is encroaching on the Town ROW, and asked the Town if they would approve a letter from the CEO stating that fact, and allowing that usage for the time being. Board members had no issue with that, saying that the Town does not relinquish their ownership of that garden patch, while allowing the use by Mr. Pelletier, and recommended reviewing that

usage periodically. It was Moved Hutchins and Seconded Bickford to authorize the Code Enforcement Officer to issue a letter to Mr. Ron Pelletier, acknowledging that he is using Town land for a garden spot, and while not relinquishing ownership of the land, the Town agrees to let the use continue for the present. Vote in favor: 5 – 0.

- c. Fire Truck Donation: Mr. Jack Martel told the Board that the ladder truck in Mt. Desert has been replaced with a new truck, and Mt. Desert Fire Association put in the highest bid, then went to their Selectmen and requested permission to donate the old ladder truck to Southwest Harbor. Jeff Thomas has been through the paperwork and examined the mechanics, saying that as of September 8, 2008 there was a full UL rating and the truck passed all tests. Tom Chisholm said this is a pumper with a ladder and is in better shape than the trucks the SWHFD is trying to repair currently. Dunbar expressed appreciation and felt it should be graciously accepted, saying it is quite a show of support for the SWHFD. It was Moved Dunbar and Seconded Bickford, to accept the donation of the Ladder/pumper truck from the Town of Mt. Desert Fire Department, and to acknowledge the FD of both Towns. Vote in favor: 5 – 0. Bennett will draft a letter of thanks.
- d. Planning Board: Concerning the question of the current Planning Board rescinding a vote by the Planning Board at their July meeting, the Board reviewed a letter from the Town's Attorney. Dunbar asked Bennett if this addressed former Planning Board member, Johnson's concerns. Hutchins said she feels this Board should limit its involvement and focus on procedural elements only. She expressed her respect for all those involved, and their diverse opinions. Wilson said the Board should let the process happen. Hutchins suggested this Board instruct the Planning Board to take a hard look at the Sub-division Ordinance, and make it more specific. It was Moved Hutchins and Seconded Bickford to direct the Planning Board to review the multi-unit housing definition, and the Sub-division Ordinance in an effort to offer improved language for presentation at the May Town Meeting. Vote 4 – 0 – 1(abstain Willey)
- e. 2009 Street Projects: Lagrange is working on a cost vs. time analysis on Kings Lane; he will get prices from Lane as well as other estimates. Ocean House Hill is interesting and there is another meeting on Wednesday, August 12, 2009. He would like to bring recommendations to Selectmen at the next meeting.
- f. Street Lights: The Board reviewed the list of proposed lights to shut down. The savings per year would be approximately \$3,000. The lights can be suspended first, and if it is determined that they be removed, there would be no cost. Willey asked if the cost savings off-set the safety factor. Bennett said it was a savings of about 10%. It was Moved Dunbar and Seconded Hutchins to suspend the recommended street lights for 3 months, at which time the Board of Selectmen will revisit the issue to make a determination on permanent shut down of the lights in the recommendation. Vote in favor 5 - 0 .

- g. Water Department Terms & Conditions: Bennett provided a new draft with minor word changes in Sections 7, 8 9 and 10. The change was “minimal charge” being removed from the wording and to drop the additional \$30/hour charge at the end of each of those sections. Bennett explained that this document needs to be reviewed and sent out to the PUC and it may likely be returned with minor changes. There is no need for public hearing on this issue.
 - h. Newsletter: August: Hutchins said she has done little work on this and would like to issue the current information as a briefer version of the newsletter in order to get it out. Wilson said whatever Hutchins puts out, the Board is grateful.
 - i. Volunteer Criteria of Service: to go to another agenda
- VIII. Manager’s Report: Bennett said no new info on the water quality project, but there will be a meeting the week of August 18th. August 17th is the public hearing. A third piling was discovered as needing replacement at the Upper Town Dock which could run between \$1,500 and \$2,000. Bennett said \$15,800 was designated to replace pilings three years from now in Manset. Bennett asked if the Board wanted to consider spending the available portion of the money designated to replace the Manset Town Dock pilings earlier than anticipated. The Board suggested appropriate inspection, prior to replacement of any others unless they are critical. Tabbetha Newenham began work this week, replacing Mina Vescera.
- IX. Other Business: Dunbar commented on the Pemetic School Board approval of an out of area non - resident, teaching part time at the High School being allowed to tuition a student at Pemetic Elementary for \$1000/year, saying this sets a dangerous precedent . Hutchins agreed, but feels the Selectmen have not authority over the School Board. Wilson agreed that this situation was surprising. Dunbar said that he would like the School Board to be at the next Selectmen’s meeting. Bickford agreed. It was Moved Dunbar and Seconded Hutchins to request the Town Manager issue a letter requesting that School Board members attend the next Selectmen’s meeting. Vote in favor: 5 – 0.
- X. Sign Warrant: It was Moved Bickford and Seconded Hutchins to approve warrants as follows: Administration 17-24; Water 17 and Sewer 4 – 6. Vote in favor: 5 – 0.
- XI. Adjournment: It was Moved Hutchins and Seconded Willey to adjourn the meeting at 8:11 p.m. Vote in favor: 5 – 0.