



Board of Selectmen
November 9, 2010 @ 6:00 P.M.
Southwest Harbor Town Office

MINUTES

- I. Call to Order/Roll Call: The meeting was called to order at 6:00 p.m.
Present: David Minctons, Trudy Bickford, Ralph Dunbar, Jr., George Jellison, Jr., Town Manager: Robin M. Bennett. Excused: Dorr "Skip" Wilson.

Visitors: Dick Dimond, Mark Good, Weldon Leonard, Eric Clark, Jake Jacobson, BHT, Pat Biegler, Ann someone, Anne Welles, Mike Mansolilli.
- II. Public Hearing: GA Ordinance Appendices A, B, & C. The Public Hearing was opened at 6:00 p.m. to take comment on proposed updating of the General Assistance maximums. Public comment was asked for and there was none. The public meeting was closed at 6:01 p.m.
- III. Visitors to be heard not on the agenda: Weldon "Bunny" Leonard spoke representing the Harbor Committee. He presented the Harbor Committee's suggestions and proposals that were voted on at their last meeting. The paper was presented to the Chairman. This will be discussed at the next scheduled Selectmen's meeting.

Eric Clark asked about the bond questions he brought up at the last Selectmen's meeting. Bennett said the number on the warrant article included interest and was provided by the Maine Bond Bank. The actual bond amount was \$2,273,866. This was principal borrowed, and was for 3 bonds each for water and sewer. Clark said the figure still doesn't jive with FY 2010 and the principal due annually. Bennett said the real number comes from the loan source and the payoff figure was from the Maine Bond Bank. Clark said he would hand out the paperwork he had put together, for the Selectmen to review.
- IV. Approval of Minutes: Selectmen Minutes of October 26 2010 – It was Moved (Bickford) and Seconded (Jellison) to accept the minutes of October 26, 2010 as presented: 4 - 0
- V. Manager's Report: An RFP is out for Mansell & Wesley project – due December 1st; the water tank repairs are completed; Nettie Sewer project blasting began the 4th with road closure during that time; Repairs have

been made to the sewer clarifiers and the Town is waiting for cost estimates from vendors for replacement; \$125,000 replacement figure was received from one firm. The Town is looking for ways to fund this replacement as it is a priority. Paving on Shore Road and Ocean House will begin Wednesday; areas have been ground down along the Main Street Sidewalk and the DOT is lowering the drain this week; LOT will host the collaboration meeting at 5:30 Wednesday; There will be an Executive Session Board meeting on November 15th at 4:30 p.m. and FY budget work was begun by staff; Voter turn out was 909 voting on November 2nd.

Dunbar said he was under the impression the Board would look at the RFP for Mansell and Wesley before it went out. Jellison asked if the study Olver was doing has been completed. Bennett will call and follow up with them Biegler said they expect the date to be end of November. Dimond: Water tower repairs – what was the cost? Biegler said it was in the \$3,000 range.

VI. Warrants: Administration 69-78 Water 30, 31
Sewer 16-19

VII. Old Business

a. Lower Town Dock: Bennett said the Town, after the last meeting, modified and re-attached the bracket for the ramp, and it is back in operation again. The cross chains have not been raised yet – and we are waiting to see if it will be necessary. Harbormaster said he has been taking opinions from those using the dock – he is still thinking they need to be raised, but has not made the decision yet. Bennett said if the chains are raised the layout of the finger floats will change. Thruston said they are trying to figure out a way to do it without taking space away from the floats. Eric Clark said Wyman Pettegrow has suggested raising the chains – the way they are now there is too much sway in the dock.

VIII. New Business: The Chairman has been asked to move the November 2nd Town Meeting item to the front of the Agenda. The Board did not object. Bennett said several of the votes did not pass as written – one each of water and sewer financing of future projects and a third which was a Land Use Ordinance change. Town Attorneys said, and will put in writing, that the May vote had no binding legal significance and was an expression of the will of the Town at that meeting. It was guidance as to how the Town should budget in the future. On the other hand, particularly in the sewer ordinance referencing: “debt service will be paid for by users”, the attorney felt the Town citizens had the right to raise money for what they wished in budgets. The most immediate concern is the Mansell-Wesley Avenue project. Bennett said we would need to get permission from PUC to borrow the money for the projects, and we did not get permission for this project. Bickford asked if the vote in November stands – Bennett said

the vote in May has no legal binding in general. Dimond asked what the funds being raised would be used for. He said the proposed ordinance change language was not accepted by the Town. He does not believe the vote in November negates the vote in May and he has two legal opinions on that. Chairman said the Board will have to review with their attorney, and it may be that the Town will have to file with the PUC. Bennett said the PUC may not hear the request, but it should be reconciled one way or the other with an opinion from the Selectmen. Dimond suggested the ordinance be rewritten and it be put before the Town again. Chairman said the Board will take it under advisement. Don Lodge said his impression was that when a Town meeting was held, that was the definitive aspect of what was happening and it is not just an advisory vote. Changes in the ordinance are a paperwork item that needs to be done to follow up the vote. Bennett said in discussions with the attorneys the vote in May was an opinion vote only. At a Special Town Meeting on August 31 the Town voted to approve borrowing for infrastructure improvements for roads etc. Bennett said it was a particular project for which borrowing was proposed. The Town authorized the borrowing of funds for that project. Chairman said again the Town will need a legal opinion, and future items relating to this will have to be done with legal advice. Dimond said he would volunteer to help with the language if it would be useful.

a. Planning Board Appointment: Michael Mansolilli has made application to join the Planning Board. Mansiolilli said he would like to give voice to the younger generation, and has 8 years construction experience plus is familiar with what needs to be done to be in compliance with the LUO. It was Moved Jellison and Seconded Bickford to accept the application of Michael Mansolilli to the Planning Board. 4 – 0

b. General Assistance Ordinance: It was Moved (Bickford) and Seconded (Jellison) to accept the General Assistance Ordinance changes as presented. Vote: 4 – 0.

c. Cross Connection Control Program: Biegler said the Town has in practice done all the right things to meet State Law; Biegler discovered that the formal written part of the program did not exist as a Town document, therefore she wrote one up, had it reviewed by the State for acceptance and now asks the Selectmen to accept this as part of the paperwork that needs to be done to put the Town in full compliance. It was Moved (Bickford) and Seconded (Jellison) to accept the Cross Connection Control Written Program as presented. Vote 4 – 0

d. FY 11-12 Budget Schedule: Bennett put the schedule in the packet and the Board needs to decide when they want to meet to review the Budget. Bennett proposes January 3, 4, 5, and 6 for the Board of Selectmen to hold their budget meetings. Chairman suggested the school come in and present one of those evenings and asked that the school budget be available ahead of time. Bennett will follow up.

IX. Other Business: Eric Clark again discussed the difference between the bond figures and passed out a report he had done.

Bennett said the Town needs to open an account at BHBT to move funds into a higher interest rate. She is working with the Bank on an investment strategy for some of these funds and they will meet with the Selectmen to review the proposed strategy. This current move is the Capital Improvement funds. It was Moved (Bickford) and Seconded (Jellison) to authorize the Town Manager to open a high interest account at BHBT for Capital Improvement funds to go from the Bar Harbor Bank account to a Bar Harbor Trust account. Discussion: what is the amount being moved - \$600,000 approximately out of \$1.6 million. Vote: 4 – 0

Bickford asked Biegler about the money spent on the sidewalk. Biegler said the base contract bid from Ring was \$21,875 for the parking lot –and the work was done for that amount. At a later meeting, the Selectmen requested a granite curbing repair by the bus stop area, and Biegler provided an estimated figure of about \$3,000. The total cost came in at \$4,704 because a more extensive removal of curbing than was anticipated, was required.

Bickford said she went to the Harbor Committee Meeting on Monday, and once again it seems out of control. She feels there are bullying tactics going on and it's a hostile environment. Bickford asked the Board at this time, to suspend any further meetings of the Harbor Committee until a decision can be made on how to handle things in the future. Chairman said he was at the meeting and did not see the problem. Bickford said he does not understand and she is sorry he thinks that is acceptable behavior. Jellison asked to listen to the tape of the Harbor Committee meeting before making a decision. Bickford said there are Local, State and Federal laws being violated and the Board must stop and take charge of these things now. Minctons said he can't vote without hearing the tape as he wasn't at the meeting and doesn't know what was said. Walsh will prepare two tapes for Minctons and Jellison to pick up after this meeting. Jellison said he wouldn't mind acting as soon as the tape was heard.

Clark said , referring to the sidewalk repair, that he understood there was more hot top removed from the street and that was the cost overrun on the sidewalk.

Dunbar asked about the sewer audit. Bennett said the Auditors will be at a Selectmen's meeting in the near future once the Town and the School are complet. This will be an agenda item when that is done.

X. Sign Warrants: It was Moved (Bickford) and Seconded (Jellison) to sign the warrants as presented. Vote: 3 – 0-1 (abstain Dunbar).

- XI. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A), personnel matters. It was Moved (Bickford) and Seconded (Mincions) to go into Executive Session at 7:00 p.m. pursuant to 1. M.R.S.A. § 405 (6) (A), personnel matters. It was Moved (Bickford) and Seconded (Mincions) to come out of Executive Session at 7:06 p.m. Vote: 4 – 0.
- XII. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A), personnel matters. It was Moved (Bickford) and Seconded (Mincions) to go into Executive Session pursuant to 1 M.R.S.A. § 405 (6) (D), Labor Negotiations at 7:07 p.m. Vote 4 – 0.
- It was Moved (Bickford) and Seconded (Jellison) to come out of Executive Session at 7:51 p.m. Vote: 4 – 0.
- XIII. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (D), Labor Negotiations. It was Moved (Bickford)and Seconded (Jellison) to go into Executive Session pursuant to 1 M.R.S.A. § 405 (6) (D), Labor Negotiations at 7:52 p.m. Vote: 4 – 0.
- It was Moved (Bickford) and Seconded (Mincions) to come out of Executive Session at 8:05 p.m. Vote: 4 – 0.
- XIV. Adjournment: It was Moved (Mincions) and Seconded (Bickford) to adjourn the meeting at 8:06 p.m. Vote: 4 – 0.