

MINUTES OF MEETING

Board of Selectmen

November 23, 2010

6:00 p.m. – Southwest Harbor Town Office

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

Visitors: Alice Pettegrow, Dick Dimond, Weldon Leonard, Scott Alley, Corey Pettegrow, Jeff Reed, Josh Wimbiscus, Pat Biegler, Don Lodge, Mark Good, Adam Thurston.

II. Visitors to be heard not on the Agenda: Alice Pettegrow asked the Selectmen how to handle a tax issue. After a meeting with the assessor this past week, she found out she had been substantially overtaxed for real estate. She asked what the process is to remedy this, and presented a copy of her abatement letter from the assessor, to the Town Manager. She asked if they were allowed to go back more than the current year, as there was an error entering information into the Town computer records several years ago. Bennett will discuss the issue with the Assessor when he comes on the 30th and notify Mrs. Pettegrow.

III. Approval of Minutes; November 9 and November 15, 2010: It was Moved (Bickford) and Seconded (Jellison) to approve the minutes of November 9th as amended 4 – 0 – 1 (Wilson). It was Moved (Wilson) and Seconded (Bickford) to accept the minutes of November 15th as presented. Vote: 5 - 0

IV. Manager’s report: Bennett reported that Tom Farley has resigned from the Sewer plant after 19 years to take a position in Ellsworth, closer to his home. The Nettie Sewer work has been complete. The Town only received one quote on the sewer clarifiers; Shore Road and Ocean House Hill work has been completed, as is the Main Street sidewalk; The November 10th collaboration meeting was well attended, went well and a second meeting has been scheduled for March 30th. Budget work is on-going and the Auditor has completed his field work and will meet with Selectmen to discuss their report at a future date. The Planning Board will address several issues recently adopted in the Comprehensive Plan at their next meeting – the Selectmen are invited to attend that meeting on Dec 2nd; there was an 8” main break at the filtration plant this date which was repaired by the end of the day today, and the overflow relief valve at the pump house stuck open for the second time in two days, flooding the building with 24” of water. The valve will be replaced.

V. Warrants: Admin 79-88 Water 32 Sewer 20

VI. Old Business

a. Lower Town Dock: little new to report – Harbormaster has the rope attached, Bennett does not think that is a good long-term solution because of the finger floats. The new bracket is holding well. Thurston said it is necessary to step over the ropes to get to the finger floats but he can reposition it, or find a new place for it. Ropes are on the top and chains are at the bottom. Although he believes the fishermen are comfortable with stepping over the rope, he will mark it temporarily with orange paint to avoid accidents.

VII. New Business

a. Harbor Committee Recommendations: the recommendations presented to the Selectmen by the Harbor Committee were in the packets. Weldon Leonard was asked to review these with the Board.

- Items to go on the agenda need to go to the secretary 14 days before a Harbor Committee meeting;
- the agenda is to be determined and set by the Chairman, and advertised in a local paper – main line items only;
- the agenda and materials for review should be distributed by mail or e-mail to all members before the meeting;
- the Harbor Committee requested a legal opinion on public meeting laws and how it relates to appointed groups as opposed to elected groups; Bennett has requested and received an opinion, but did not recall a letter from the Committee requesting an opinion. A copy of the legal advice was given to Leonard. Any specific decisions or comments to the Selectmen;
- Harbor Committee will review by-laws as to procedure and present recommended changes to selectmen for approval. Leonard said these items were voted on two meetings ago.

Chair asked if the Board had any questions – Bennett said publishing the agenda in advance seems a bit excessive as it isn't done for the Selectmen and there may be other items that would come up for discussion at the last minute that were not on a pre-published agenda. Leonard said there have been problems in the past, and if there was an emergency, there could be a special meeting. He said the Harbor Committee voted 7 – 0 to publish the agenda. Wilson said there is no money available to publish in the newspapers. Wilson said in reference to Item #2 – setting the agenda by the Chairman – you might want to advertise at least 7 days, perhaps 10 days in order to get it in before the meeting; Chairman asked if there were any other questions or concerns. It was Moved (Wilson) and Seconded (Bickford) to accept Harbor Committee proposals 1,2,3,5 and 6. Vote: 5 – 0

Leonard said he wished to request, on behalf of the Harbor Committee, an Executive Session to discuss personnel matters. Bennett said she sought legal advice on Friday, concerning the request. She said Leonard would not provide information concerning the request. She said without further information the Town's Attorney did not advise

allowing an Executive Session. Leonard said for the Town's good, he would prefer to see this in Executive Session. He would like a vote by the Selectmen on this. Chairman asked if he is allowed to call for a vote on this issue. Jellison asked what would be the procedure to do something like that – Leonard was advised by his attorney to write the letter to the Chairman of the Selectmen and give no specifics on the personnel matter. Pettegrew asked if it would be warranted for the Board directly to get a legal opinion as the Town Manager may be biased. Wilson said he has never been in this situation before. Chairman said it is unclear. Leonard repeated he is asking the Board to vote either yes or no for Executive Session. Chairman: unless a Board member wants to make a motion, the Board has nothing to vote on. Minctons asked how the Board could resolve something like this and how do they communicate with the Board? Bennett said based on the information we have it does not appear to be an Executive Session item. Leonard said he would have been willing to give more information but not to Bennett. He gave all the information needed in the letter; information he would have given Bennett would have prejudiced the meeting. Dimond said it appears, on the advice of counsel, it was not recommended to have an executive session, but could the two attorneys speak to each other to determine if there are grounds for executive session? Bennett asked when the Harbor Committee met to determine they wanted to go into Executive Session. Leonard said there was not time and he canvassed each member individually to get their opinion. Wilson said it sounds like a vote taken out of meeting – or there wasn't an actual vote. He said it sounds like a personnel grievance. Someone from the Harbor Committee could file a personnel grievance. Leonard said he will withdraw the request and discuss it in public. Leonard said the issue is about the personal attacks on the Harbor Committee by Trudy Bickford. Leonard encourages all citizens to listen to the tapes of the Harbor Committee and note the slanderous remarks about the committee, and discussing sexual harassment with the press. He said the Harbor Committee needs guidance as to how to deal with that. The Committee would like the Board to listen to the entire tape as he feels there is nothing that resembles the charges that she is making. He said serving on a Board as volunteers, doing the best they can for the Harbor and the Town – what does the Select Board want them to do? Chairman said the Board needs to have a discussion and address it in a formal letter. Wilson would be willing to listen to the past four meetings. Previously, Leonard requested that there be legal counsel at the meeting because of these attacks and he wanted to start fresh under a new chairman. The Committee wanted legal counsel so that if the attacks came during the meeting there would be someone there to understand. The request was denied. Leonard said every time something comes up that Bickford thinks is wrong, we read it in the paper. Chairman asked if there was more information needed on this subject. Leonard asked how the Board wants to deal with this. Chairman said the Board needs to meet, listen to the tapes, and come up with a formal statement to the Harbor Committee on this issue. Wilson wants to listen to the tapes before doing anything. Leonard asked what Wilson thought of the recent articles – he said it is becoming common lately and he thought nothing of it. Chairman asked if the Board would agree to listen to the information and have a discussion at the next meeting to come up with a statement. Board agreed. Leonard asked, if possible, that the Town provide the Harbor Committee with counsel to tell them as a board what their legal directives are at this time. Bennett said if a legal opinion is needed, a written question should be presented by the committee and a written answer will be presented. If this is

something that potentially goes against the Town's interest, it would not likely go to the Town attorney, but to another attorney. Bennett would present the written questions to an attorney. Chairman told the Harbor Committee to write out their questions, and it will be forwarded to an attorney for a reply.

b. Water/Sewer Board Meeting, December 7, 2010: Bennett wants to schedule that meeting – need to do a major re-write of water and sewer ordinance – there will be drafts prior to the meeting – and discussion of the recent votes at the meeting. Ordinance changes will have to go to the voters. Dimond said as long as the Board is considering a draft of the re-write, he would like a copy ahead of the meeting if possible. Bennett said he could, and it will probably be ready the week before the meeting.

c. Planning Board Ordinance Review: The packet had some of the proposed changes that will be considered at the next meeting of the PB. This is for Select Board information. Wilson asked where the changes came from, and Bennett said they came from the Planning Board, the CEO and other places. Chairman would like to ask questions of the CEO concerning these changes. Copies are available at the Town Office for the general public.

d. Quitclaim Deed: Levesque – Bennett presented the quit claim deed from a sewer lien that the Board was asked to sign It was Moved (Wilson) and Seconded (Bickford) to sign the Quitclaim deed for the Levesque property. Vote 5 - 0

e. MRC Election: we have been asked to select a new member for this Board. The Town of Bar Harbor has requested a vote for Chip Reeves for this position. It was Moved (Minctons) and Seconded (Bickford) to vote for Chip Reeves as a member of the MRC Board. Vote 5 – 0.

VIII. Other Business: none

IX. Sign Warrants: It was Moved (Bickford) and Seconded (Jellison) to accept the warrants as presented. Vote 4 – 0 – 1 (Dunbar).

X. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) personnel matters. It was Moved (Bickford) and Seconded (Wilson) to go into Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) personnel matters at 7p.m. Vote: 5 – 0.

It was Moved (Wilson) and Seconded (Bickford) to come out of Executive Session at 7:36 p.m. Vote: 5 - 0

XI. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) personnel matters It was Moved (Wilson) and Seconded (Bickford) to go into Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) personnel matters at 7:37 p.m. Vote: 5 - 0

It was Moved (Wilson) and Seconded (Bickford) to come out of Executive Session at 7:39 p.m.

XII. Adjournment: It was Moved (Wilson) and Seconded (Bickford) to adjourn the meeting at 7:40 p.m. Vote: 5 - 0