

MINUTES OF MEETING
Public Hearing – Warrants
Board of Selectmen
October 19, 2010 – 6:00 p.m.
Fire Station Meeting Room

- I. Call to Order/ Roll Call: The meeting was called to order at 6:00 p.m. Present: Trudy Bickford, David Minctons, George Jellison, Jr., Dorr Wilson. excused: Ralph Dunbar, Jr.. Code Officer: Donald Lagrange.

Visitors: Kristin Hutchins, Lunn Sawyer, Carolyn Maling, Sandra Johnson, Dick Dimond, John Wellington, Steve Keblinsky, Jean Marshall, Joanne Ivory, John Dittmar.

- II. **Article 2:** Coastal Waters & Harbor Ordinance: General Regulations: Wellington asked why the Appeal process is being changed. He feels the Harbor Committee would have a good sense of what is going on in the Harbor, rather than the Board of Appeals. Wilson explained that the Harbor Committee have been put in a position of making a decision while not being aware of how the process works. No other committee hears it's own appeals, it is uncomfortable, and it makes sense for all appeals to go to the Board of Appeals. One problem is they are supposed to be addressing the appeal through the ordinance, and in some cases they were not able to do that, and personalities came into play. Marshall said when the ordinance was first crafted, it was felt that the Harbor Committee had the best expertise to hear appeals of harbor issues.

Article 3: Coastal Waters & Harbor Ordinance: Under Article 3: use of docks and floats: Sawyer asked the purpose of item 3 'commercial use of Town docks, piers'. He felt that it was worded such that a visiting schooner can drop off passengers but not pick them up again. Wilson explained the history of the ordinance as it relates to this issue. He said the Town has limited space now, and determined that there is not enough room for the public to use the Town docks. The Board of Selectmen established a policy to address this issue. This eliminates the use of public property by private tour boat businesses. There are many private docks where private schooners may base their operations in Southwest Harbor. Steve Keblinsky asked why he could not drop off passengers while a schooner from out of Town is allowed. He has been picking up and dropping off passengers, and they park at the Town dock. He sited several types of businesses that go on at the Town docks. He said he feels singled out. Sawyer pointed out again that Section A under item 3 doesn't read the way it seems to be intended. Wilson said if needed, the wording can be changed in the upcoming May Town Meeting. John Dittmar commented saying he has been operating a passenger fishing business out of Beal's Lobster pier, for 27 years and through Beal's pier, has the necessary permits from the Town including his own parking. He doesn't see any need for this proposed ordinance change. Wilson reiterated that if a private business is originating from a Town dock (picking up passengers) that is their base of operation and that is not allowed. He

said the Taxpayers of Southwest Harbor would in effect be subsidizing a private business. He also explained that Tour boats and Schooners from other areas are not originating their business from the Southwest Harbor Town docks, and when they infrequently visit, may drop off and pick up their passengers. Since they originate somewhere else, they are also not impacting the already overcrowded parking lots. Johnson said it is prudent to make sure the taxpayers do not subsidize private businesses.

Marshall asked why under Article 3 Coastal Waters and Harbor Ordinance, Section III, Sub-section C: Use of docks and floats, the note: 'All uses must conform to the Southwest Harbor Land Use Ordinance' has been crossed out. She feels there might be some sort of physical building that could be built on a public pier and the elimination of this note does not require that building plan go before the Planning Board. Lagrange said this change was reviewed by an attorney.

Article 4: Land Use Ordinance: General Regulations & Standards: Section VIII – Definitions: the CEO said there was a previous conflict concerning deducting the area under a right of way from the land use. Johnson said she understands the reason is that the right of way is there forever and she doesn't understand why it would not be deducted. Lagrange said this is to encourage allowing others to be able to obtain a right of way without penalty. Johnson said the purpose of omitting a right of way from lot coverage is because it is a right of way forever and cannot be obstructed. That is why it is eliminated from lot area. Lagrange said this applies only to subdivisions. Johnson asked why this is being changed. Lagrange said that there was an argument for this. Bickford said sometimes it appears things are being changed just for the sake of changing something. She is concerned about this ordinance change. Johnson said because a right of way needs to be preserved for future use, it should be deducted from the lot coverage.

Definitions: Words and Terms Defined: Road/Dwelling Unit. Lagrange said the wording 'vehicular access to three or more lots ' is from the State Shoreland Zoning recommendations. The Planning Board looked at this as the way to extend a driveway to service up to two lots. Johnson said there is potential to affect lot coverage if it is called a road instead of a driveway. By making this change we are significantly changing what we have today, and she does not see the reasoning for doing this – no one has requested this be done. Lagrange said this makes the Town more restrictive than the State; when selling or giving a parcel to a family member it would not require going to road standards. Lagrange said he remembers the Planning Board being asked to review the LUO to determine what makes sense. Bickford said the Planning Board when she worked on it did not go looking for things to change. We should not be making changes unless the public demands it. Marshall said as someone who listened to the Planning Board and Appeals Board during the VOE discussion, there were several things brought up, including the roads/ driveway issues. She does not feel this has had enough public airing.

Dwelling unit – Lagrange said it limits the amount of dwelling units in Shoreland Zoning – once you put in cooking facilities it becomes another dwelling unit by definition. Lot

standards – strictly a Shoreland Zoning change required by the State. It is the same as what we have now, but in the language the State requires.

Article 5: Section 1: Lagrange summed up: he said all changes are not more or less restrictive, but are clarifications of words as the DEP would like it to be. Section VI performance standards – clearing of vegetation: Lagrange said it tells you how many trees you may take out of an area. Section VIII, is the only section that does not relate to Shoreland Zoning. Johnson asked why Section VIII was not sectioned out into a separate warrant article. Whose decision was it? Lagrange said in order to limit the number of warrants it was decided to consolidate these all into one. Marshall said on the web page it appears Section VIII is separate, but it is not going to the voters separately. Marshall asked why the review of seasonal uses was eliminated. Lagrange said there have been no requests for seasonal use. Johnson asked why Section IV – plans, page 48/49 was changed and Lagrange said it is a restatement and re-numbering of items.

Article 6: Sewer Ordinance: This change addresses the vote to include the infrastructure vote of May 4th, 2010, the last Town Meeting.

Article 7: Water Ordinance: This change addresses the vote to include the infrastructure vote of May 4th last Town meeting. Lagrange said if this passes the Town will be limited to the Bond market mostly, for financing of infrastructure improvements. Potential for grants, and matching grants is diminished if this passes. This is a legal requirement to change the ordinance to reflect what was voted on last May. Johnson said the only time she remembers getting grant money for water/sewer was from the stimulus. Wilson agreed.

Article 8: Comprehensive Plan 2010: Hutchins offered to answer any questions and said the State has approved the plan as presented and it will go to ballot in November. There were no questions.

It was Moved Bickford and Seconded Minctons to adjourn the meeting at 8:09 p.m.
Vote: unanimous