

**MINUTES OF MEETING**  
**Board of Selectmen**  
**February 24, 2009**  
**Southwest Harbor Town Offices**  
**6:00 p.m.**

I. Call to Order/Roll Call: Kristin Hutchins; Ralph Dunbar; Trudy Bickford; Robin Bennett, Town Manager; Excused: Dorr Wilson, Berten Willey

Visitors: David Chapais, Police Chief; Mark Good, MD Islander; Beatrice Grinnell, Town Clerk; Mina Vescera, Linda Corson, Kenneth Hutchins, Harbor Committee Chairman; Dennis Dever, Harbormaster, Sheryl Harper, Ian Marshall, Wes Corson, Elsie Flemings, Maine House of Representatives

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

III. Approval of Minutes: February 10, 2009: It was Moved Bickford, and seconded Dunbar to accept the minutes as presented. Vote in favor: 3 – 0.

IV. Warrants: Administration 73-79, Water 4, Sewer 19

V. Old Business

a. Facilities update:

i. Police Department Renovations: Bennett told the Board that presently there is nothing to report. A cancellation of the last meeting due to travel difficulties relating to the weather has resulted in the next meeting scheduled for Thursday, the 26<sup>th</sup> of February at 4:00 p.m. with the Engineers.

VI. New Business

a. Town Office Hours: The Board of Selectmen received a request from Town Office staff, to reconsider their decision to cut hours from 40 to 35 a week by eliminating the paid lunch. Bickford said there could be a conflict, and asked Dunbar to step down. Hutchins and Bennett said research indicates that there is no technical conflict and asked Dunbar if he wished to participate or step down from the discussions. Dunbar said he will not step down. Vescera questioned the Board members as to the thought process of cutting hours and asked if it was commonplace for employees to find out personnel matters through the newspaper. Hutchins said, in answer to the first part of the question, that this is a way to cut the budget without reducing services. Grinnell said she

felt savings 3 cents per thousand of taxpayer's dollars is not worth employees losing \$400 a month, which is a mortgage payment. She said the four employees in question, three of which are one-income, head of household, need to make up that money. She asked the Board to consider allowing 4 long days, which would allow the employees a better chance of getting a second job to make up some of the difference. Corson supported the concept and said it affects social security, retirement, health benefits. Hutchins said it was an opportunity to save \$22,000/year for the Town, but was open to considering reinstating some services. She stressed the Board should look at it in terms of productivity. Bickford said there were several public meetings on the budget, and anyone could have attended. Dunbar said there was quite a heated debate at the budget meetings over removing the hours. He believes the office crew should have the same opportunity as other Town employees. Walsh expressed concerns over the way the situation was handled, and pointed out that as the current Personnel policy stands, becoming less than a 40 hour employee would eliminate participation in any benefits the Town offered, including health care, vacation, holidays, sick time and the like. Walsh asked the Selectmen to consider a written commitment to allow participation in the benefits program should the Selectmen reduce hours of Office employees. Addressing the method of communication, both Hutchins for the Board, and Bennett apologized for the manner in which notification was handled, citing other distracting concerns at the time, and discussed considering a 4 day week as a possibility. Hutchins asked Bennett if there was enough work to warrant the 40 hour week, and Bennett said yes. Bickford said she would vote against a four day work week, saying people are used to having access to the Town Office 5 days a week. She would consider other ways to provide the service without paying for lunch. It was Moved Dunbar and Seconded Hutchins to set Town office worker hours from 8:30 a.m. to 5:00 p.m., Monday – Friday, with a one-half hour unpaid lunch. Discussion: Dunbar said this would give the Town a full five days of coverage, and the employees their 40 hour week, but the Town would not have to pay for lunch. Bennett said the Town would gain an hour of work daily. Bennett also asked if the Board would consider the Police Department personnel issue this evening. Hutchins said the Board could discuss it later in the meeting. Vote: 3 – 0 in favor. Motion passed.

b. Representative Elsie Flemings: Ms. Flemings is our representative in the State Legislature and recently appointed to the Taxation Committee: She told the Board she as introduced a bill to allow municipalities to issue a local options tax. In the past, there has been resistance to this method of taxation, but Flemings feels she has a lot of good support at this time. Outlining the draft proposal, Flemings said two areas are targeted: lodging and meals. This would be an exportable tax that may be passed on. She has found the consensus in Bar Harbor was to apply this options tax to both meals and lodging; but stressed that each municipality would have a choice. One component proposed by Flemings is

to have some revenue sharing, allowing the majority of dollars to stay within the municipalities and sharing out 25% to the State and 25% to the Counties. She said consideration should be given as to how the towns would use their portion of the tax. Flemings believes it should be the choice of the Town; the original bill would allow a tax of up to 2%.

Flemings asked the Board of Selectmen for their thoughts. Bickford said this has been a subject of the Board many times – does the 2% stay in the individual Town? Bickford doesn't want the State to get any of it. Hutchins said the same to Flemings – and felt it would be more palatable if the revenue from the options tax were in a dedicated fund. Dunbar sees the appeal and does see how it could work with lodging but not perhaps with restaurants. Hutchins agreed. Bennett is 100% for the Options Tax. She does believe the State should get a portion, but does feel it should be dedicated to a specific purpose by the State, and does not think the State should be balancing their budget on the backs of the municipalities. She would cut out the County portion. Bickford would agree to an 80-20 split between the municipality and the State. Fleming said that it is difficult to get the entire legislature on board. Bennett had brought this up to the LOT, and they encouraged her to take the lead, as they have been through the process before. Flemings said there is a lot of support from the new legislators and while it may take more than one session, it is encouraging. There is no date for a public hearing yet, but she will notify the Towns in advance of a date. Hutchins asked for clarification on how a 2% tax would be worked within the individual communities and how a portion going to the county would help. Flemings said sharing with the County would reduce the cost of the County budget and result in less County tax for the individual towns. She told the Board that there will be a meeting at 6:30 p.m., March 9<sup>th</sup> in Somesville. Hosted by Hannah Pingree and Elise Flemings, this will be an economic forum whose dialogue will center on resources from local and state levels to benefit citizens in the area. The forum will also allow opportunities for small businesses.

Hutchins asked Flemings about working waterfront penalties and questioned whether there is any appetite for addressing that and reducing the burden. Flemings said there is a fine line to promote these things, but the State doesn't want to provide a tax haven for speculators – some penalty needs to exist to circumvent that. She will follow up on the working waterfront penalties and re-contact Hutchins with more information.

Flemings said a major goal is to bring income tax down to about 6.5% - that being the top rate and implement a series of tax credits for middle and lower income families. Dunbar asked about the transportation conversation when this Town was informed that Southwest Harbor is not on the DOT 6 year plan. Flemings said the outcome of the stimulus will provide more money, but Bar Harbor has been

informed that none of their projects will be funded this year. Bennett wondered how a project just disappears from State plans.

c. Board of Appeals Ordinance (BOA): CEO Lagrange provided information to the Board saying the changes presented address the deficiencies in the Board of Appeals Ordinance. With the exception of the three items listed on the cover page, the changes are recommendations from the State, and these changes follow statute. Dunbar would like to hear input from the Board of Appeals and asked that this be tabled till they respond. Hutchins agreed. Bennett said the BOA has been appraised of these changes, and agreed to the changes. Lagrange said in his correspondence with the BOA, he kept them informed. He e-mailed the changes to all Board Members and got a verbal response only. He also said the Planning Board did not want to review the changes. Hutchins would like to hear from the Chairman of the Board of Appeals, and possibly have he and the Chairman of the Planning Board attend a Selectmen's meeting together. Lagrange said the second item would save litigation costs, by changing the way code violations are reviewed, and not just depend on the CEO's interpretation of the Law. To clarify a question asked by Bickford, Lagrange explained that an appellate hearing reviews the actions of the Code Officer, while a de novo appeal requires the BOA to review the entire law. Hutchins said she would defer to Dunbar that a representative of the BOA be present to discuss these changes. The three members of the Board agreed to Dunbar's suggestion. The Board asked Bennett to ask the BOA member to be present at the next meeting.

d. Harbor Committee Letter: Mr. Kenneth Hutchins asked the Selectmen to come on board with the Harbor Committee letter to the Planning Board (PB) that asks them to take the issue of restrictions in the commercial fisheries/maritime activities zone, the maritime activity zone and the harbor zone, more seriously. Dunbar thought the letter was straight forward and to the point and he supports it 100%. Bickford agreed. Mr. Hutchins said that the other two shoreline zones also need looking at and referred to the Morris Property where boat storage is not allowed. It does not appear that the Land Use Ordinance is doing the job it needs to do in the areas addressed by the Harbor Committee letter. He stressed that these are all private properties that allow public use. Chairman Hutchins agreed it is timely to request the PB to consider these changes saying things have changed over the past 12 years and it may be time for a review. She noted that the letter contains no real direction on the hoped-for outcome and it might be prudent for Mr. Hutchins to issue some criteria. Mr. Hutchins said there are no criteria, and what is needed is an open discussion. Chairman Hutchins said it is the Comprehensive Plan's responsibility to get public input on this issue. Lagrange asked if the Harbor Committee wanted to get together with the Planning Board to discuss this letter. It was Moved Dunbar and Seconded Bickford to support the Harbor Committee letter to the Planning Board. Vote: 3 – 0 in favor.

Chairman Hutchins said the Comprehensive Plan Committee would attend the PB meeting when the letter comes before them. Lagrange expects this item could be on an agenda for the PB the first of April. Chairman Hutchins referred to piers, docks and wharfs saying it is a State mandate that residences cannot be built over these, and consideration might be given to allowing storing and servicing more boats in those area.

e. Volunteers Information Packets: Hutchins asked for input from the Selectmen. She would like to incorporate all suggestions from the Board and then circulate to the various Committees and Boards for their input. Dunbar said it is informative and thinks it could be passed on to the Boards now for review as a draft. Hutchins will add a few items and bring it back to the Selectmen for a final look.

f. School Budget Referendum It was Moved Hutchins, and Seconded Bickford to warn the Southwest Harbor District Ballot Referendum 1, Notice of Election on June 9, 2009. Vote: 3 – 0 in favor.

VII. Manager's Report.: ADD adopted the proposed budget for FY 09-10, although EMR has failed to come to the table for contract negotiations in the last month. There was a meeting Monday for Police Dept renovations, cancelled due to weather problems and re-scheduled for Thursday this week; One of the water tanks at the top of Freeman Ridge has a leak; it is 50 years old. Bennett is going out for heating oil quotes this week. The Town received official notice that the USDA loan was approved; she also said there have been several water main issues over the past couple of weeks, due to freezing and ground heaves. Hutchins asked the status in terms of their life span. Bennett will check and report.

VIII. Other Business: Letter from the reserve police officers was received by Bennett and passed to the Selectmen this afternoon. Hutchins said she is pressing to know what the cut is going to mean in terms of services. Dunbar said there seems to be some confusion among Board member. It was his understanding that the cut was a 40 hour officer with no fill-in and the Town depending on Hancock County Sheriff's Office (HCSO) if needed. He felt this was discussed when the cut was made at the Budget meeting. Dunbar said that as part of Hancock County, when we do not have an officer on duty, we should call the County Sheriff's Department. Chapais said he does not believe HCSO will agree to that, as the Town employees a full time Police force. However, he will discuss that with Chief Clark at a meeting already scheduled for next week. Dunbar said we need to determine what the change entails. Bickford said the Board should find out what the Sheriff's Department requires. Dunbar thinks this should be discussed at the next meeting when the full Board is present. Chapais said he is hearing three Board members saying the same thing – that you agree the five man department works. Hutchins asked if there were examples of Towns with part time police forces. Chapais said he was not aware of any, unless you considered

the HCSO 30 hour/week contract with Tremont. He pointed out that Southwest Harbor has mutual aid agreements with Mt. Desert and Bar Harbor as well as Tremont. The conditions of the mutual aid with Tremont require that the Sheriff's Department be on the way to the scene before Southwest Harbor responds. He said the issues that this particular agreement includes are serious calls such as domestic violence, gun situations, hostage, or any other life threatening situations. Bickford said Towns the size of Southwest Harbor typically have police forces the size of ours, consisting of 5 or 6 officers. Dunbar reminded the Selectmen that at the last meeting Wilson had offered to come up with suggestions on how to provide coverage with a four man force, and therefore Dunbar would like to put this on the next Selectmen's agenda. Board members agreed.

Hutchins commented on the Hook property and reminded the Board that money should start being put into the Capital Improvement Plan if indeed the Town hopes to purchase the property. Dunbar said he understood that it may be that the Owner does not want to declare the income from a sale of property, and he has come to understand that that is the reason for the lack of communication on this subject. Dunbar suggested the Town approach the owner and try to negotiate a 99 year lease. The Board felt this was a good option.

IX. Sign Warrants It was Moved Bickford and Seconded Dunbar to accept warrants Administrative: 73-79, Water: 4; and Sewer: 19, as presented. Vote: 3 – 0 in favor.

X. Executive Session: Labor Negotiations in pursuant to 1 M.R.S.A. § 405 (6) (D). It was Moved Dunbar and Seconded Bickford to go into Executive Session at 7:55 p.m. 3 – 0 in favor  
It was Moved Hutchins and Seconded Bickford to come out of Executive Session at 8:33 p.m. Vote: 3 – 0 in favor

Executive Session: Personnel matters in pursuant to 1 M.R.S.A. § 405 (6) (A)  
It was Moved Bickford and Seconded Hutchins to go into Executive Session at 8:34 p.m. Vote: 3 – 0 in favor.  
It was Moved Hutchins and Seconded Bickford to come out of Executive Session at 8:42 p.m. Vote: 3 – 0 in favor.

XI. Adjournment

It was Moved Hutchins and Seconded Bickford to adjourn the meeting at 8:43 p.m. Vote: 3 – 0 in favor.