



MINUTES
Board of Selectmen
April 13, 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; Berten Willey, Trudy Bickford, Dorr Wilson, Kristin Hutchins, Town Manager, Robin M. Bennett
Visitors: Mark Good, Greg Johnston, John Williams, Tim Woodcock, Ken Hutchins. Dennis Dever, Deborah Totman, Sharon Gilley, Sandra Johnson, Donald Lagrange, Nan Lincoln, Nick Madeira

- II. Visitors to be heard not on the agenda: Ken Hutchins for the Harbor Committee to express concern that the Board will put on their agenda the point about eliminating the parking area at the lower town dock to facilitate the loading there. The Committee hopes the Board will continue to try to purchase the property at the Manset Town Dock; and, third: that that parking are is in bad condition needs grading and filling. A few loads of gravel would improve it greatly.

Nick Madeira wants to join the Harbor Committee again, and is interested in an open position. Dennis urged against this appointment saying the applicant had a history of Harbor Ordinance violations and has a speeding ticket pending in court. Bickford asked if the Board should look at whether or not there are too many people on the committee presently, and does the Town need that many members? Ralph Dunbar said he doesn't see a speeding ticket as a reason to stop Nick Madeira from joining the Harbor Committee. Wilson said the application will be heard at the next Board Meeting. Ms. Hutchins suggested putting all Harbor issues on the next agenda.

John Williams: he would like to revisit the winter parking ban for the next meeting. Dunbar said the Town got recommendations form Public Works and Police who recommended not changing the ban. However, they did not look at the time span for the parking ban and the Board may want to look at that. Williams asked if it is a dead issue. Bickford said the Board talked about the issue thoroughly and voted against making the change. Hutchins said since Williams was not at the meeting, she would not mind revisiting the issue. The Board's concern was with the enforcement burden. Williams would like to re-visit the issue. Wilson suggested that Mr. Williams talk with the Police Chief and Code Officer. The Board agreed to provisionally put the request back on the agenda in two weeks.

- III. Approval of Minutes: March 23, 2010 and April 5, 2010: The minutes for April 5 will be reviewed at the next meeting. It was Moved (Bickford) and Seconded (Hutchins) to accept the minutes of March 23, 2010 as presented. Vote in favor: 5 – 0

IV. Warrants: Administration 149-161 Water 7 - 9
Sewer 30 - 31 Police 8

V. Old Business

- a. Police Station Update: Bennett said the garage floor and the Open House, which is scheduled for Saturday, April 17th, are the only two items left. Those will be addressed by Saturday.
- b. Water Project Update: Bennett said they are installing the analyzer this week. It is going to be placed before the aeration tank, which is a requirement of the Drinking Water Program, in order to monitor the water before it goes through the aeration process and again after. This will assure the chlorine level is right before it hits the aeration. Aeration is doing a good job of stripping the chlorine.
- c. Lower Town Dock Update: Dever said the changes recommended and approved are being incorporated with new drawings; construction is waiting, and will start again tomorrow. In placing a pre-cast concrete deck panel the contractor hit the bathroom, which caused some broken blocks and cracks – the contractor will repair; engineers have looked it over and feel there are no structural problems.

VI. New Business

- a.. Liquor License – New: Deborah Totman, dba: Believable Dreams (@ Gilley’s Head of Harbor): Totman said it will be running about the same as last year with a full bar. She is leasing from the Gilley’s this year. It was Moved (Dunbar) and Seconded (Bickford) to approve the Liquor License application of Deborah Totman for Believable Dreams. Vote: 5 - 0
- b. Liquor License Renewal: James King, dba: Lindenwood Inn; It was Moved (Hutchins) and Seconded (Bickford) to approve the Liquor License renewal of James King, dba Lindenwood. Vote: 5 - 0
- c. Liquor License Renewal: DeMuro/Dubois, dba: Top of the Hill Restaurant: It was Moved (Bickford) and Seconded (Willey) to approve the Liquor License renewal of DeMuro/Dubois. Vote: 5 – 0.
- d. Netti Sewer Proposal: Wilson asked if there was any additional information from the Town Attorney. The CEO said he is in agreement with what is presented in the package with peer review of the design to substantiate what was in the best interest of the Town. A generator will be hooked up (propane) at the owner’s expense prior to acceptance of the system by the Town. Johnston said the condition to not accept the new system until a second customer joins is agreeable. He said the conditions seem reasonable and would ask the Board to entertain approval under 6.2 of the Sewer Ordinance. Dunbar asked if the Town could take ownership of the line and not the pumping station. CEO said the Town will own the line in the street and not the pump station. The second question asked by Dunbar concerned proposed reimbursement. He would like clarification on what reimbursement fee means. Section 6.2 in the sewer ordinance says the fee is determined by the average cost of a septic system, averaging per gallon, then per day by cost. He referred to the parameters of the Ordinance. The Town collects that fee and provides it to the developer/owner. It is in addition to the Town’s hook up fee. The money, except the hook up fee, will go back to the owner for a period of 10 years. Hutchins: our Ordinance says we must accept this if it gets built? What is our interest in doing that? Wilson: it is in a Town right of way and the

property could be developed to generate tax dollars; Johnston said the Town Attorney's answer was that the Ordinance requires the Town to take this over. CEO said complications come when subsequent owners sign on and if there is a problem the Town would have control over its function. It has the potential to serve 8 other lots as well. Dunbar – we are in agreement that the Town will not take ownership until a second property ties into it. Johnston said that is correct. CEO said the Town should control it right up front. It was Moved (Dunbar) and Seconded (Willey) to grant permission for Netti to build the sewer pump station on Alder Lane, as outlined in the specified agreements laid in the memo from the CEO of March 17, 2010, and revised on April 8, 2010. Vote: 5 – 0. Hutchins asked about Roberts being concerned with being required to join into the sewer system – on another day would that be a problem if a reason could not be found to allow a citizen not to hook up. CEO said he believes the Selectmen can give an exception in most cases that arise.

e. SWH/Tremont Business Association: Chairman read the letter from newly formed association requesting permission to have entertainment on the Village Green. Johnson said high school jazz band, and other local music groups plan to perform on first Friday of the month beginning in June through October. Entertainment would end no later than 8:00 p.m. Hutchins asked if it would be acoustic. Johnson said there may be some amplification. Dunbar said anything that would draw people into Town would be a plus. Hutchins asked about the membership and Johnson said about a dozen businesses have joined thus far. This group is working with the Chamber of Commerce and hopefully would be their project in the future. Bickford and Wilson encouraged the effort. It was Moved (Wilson) and Seconded (Bickford) to allow the SWH Business Association to have entertainment on the Village Green as part of the first Friday project from June to October. Vote in favor: 5 – 0.

f. Harbor Ordinance: Bickford said she requested this item, as she went to the Harbor Committee meeting and was concerned over issues: Members are abstaining for the wrong reason; Wilson and Dunbar were at the meeting. Wilson said at least half of the members of the committee were uncomfortable with being put in the position of having to vote on an issue. Bickford questioned whether the appeal was appropriate to that Committee. Wilson said that issue should be addressed. Dunbar said it should be tried again before taking action to take away their appeal process. Hutchins said at the time the question first came forward, she was prepared to let the committee have a chance to work out the situation. She would like to suggest bringing the issue back to the table. Regarding abstaining from a vote, there was no legal reason to abstain, and if you are going to abstain, you shouldn't participate in the discussion. Kenneth Hutchins said he looked up the definition and an abstention is neither a yes or a no vote, but it counts towards a quorum. If you are in the room, you have to abstain in order to have a quorum. He doesn't believe you can tell anyone how to vote or when to vote. With regard to removing the appeal from the Harbor Committee, he was planning to recommend what the Selectmen suggest. Bickford said upholding the law should be black and white. She doesn't think the Harbor Committee members should be put in that position, as most of them work together. Johnson said if the CEO grants a permit and it is appealed, it goes to the Board of Appeals and not back to the Planning Board. Dunbar said the Harbor Committee is the appeals because they are the most familiar with the

Harbor and there are gray areas in all issues. Bickford said she referred to a clear “yes” or “no” not abstentions. It was Moved (Bickford) and Seconded (Hutchins), that the Appeals Authority be moved from the Harbor Committee to the Board of Appeals. Discussion: Dunbar said this is not an agenda item and the Harbor Committee voted not to remove the appeal authority. He thinks this should be put off until they can come before the Selectmen and discuss the issue. Dever said the Harbor Committee being the Appeal Board for Harbor issues puts everyone in a bad position. The Committee has heard two appeals, and there will likely be more. He said they voted based on “mercy vs. justice” even though they agreed the law was broken. Dever presented a proposed ordinance change which the Board did not want to review at this time. Dever said at the last meeting it forced him to involve parties who were not a party to the case and that would never be allowed in another type of forum. Bennett said that two members of the HC have come to her and said the appeal authority should be taken away. Board members Hutchins, Dunbar and Wilson said they would recommend notifying the Harbor Committee and have this item on a future agenda. Bickford withdrew the motion and Hutchins withdrew the second in order to have this discussion the next Selectmen’s meeting after the next Harbor Committee meeting.

- g. Land Use Ordinance: recommendation from the Planning Board for the June 8th referendum vote: to change and eliminate definitions in Section XIII. Wilson said the Planning Board meeting was a unanimous vote when this was crafted. There will be a separate public hearing in late May prior to the June 8th vote. It was Moved (Dunbar) and Seconded (Willey) to accept the proposed Land Use Ordinance Change of Definition in Section XIII pending approval of the voters on June 8, 2010. Vote: 4 – 1 (Wilson).
- h. Planning Board by-Laws: The CEO explained this change allows the Board members the ability to reschedule a meeting because of lack of quorum, without waiting for another meeting to achieve the rescheduling. This allows the Chairman to cancel and reschedule once he knows there is no quorum. Bickford said the concern is to give people, such as Attorneys, who will be paid to attend, enough time to cancel their trip to the meeting. She said it is important to give people adequate time to notify all parties. This gives the staff the authority to move the date of the meeting once it is approved by the Chairman. Johnson said it needs to be clear that not having a quorum must be the reason. Wilson said that is clear. Hutchins said there is a mechanism for handling this, and that is missing 25% of the meetings excused or not. It was Moved (Dunbar) and Seconded (Hutchins) to grant the change proposed by the Planning Board to it’s By-laws, allowing the Chairman to cancel a meeting at which he knows there will not be a quorum. Vote in favor: 5– 0.
- i. Record Storage: Bennett said she is looking at a site at the public works garage – no information on what it would entail at this point. The space would need some work.
- j. Public Hearing Schedule: Bennett said the public hearings will be Tuesday the 20th –for all warrant articles on secret ballot and on the 27th as part of the regular Selectmen’s meeting, will be the public hearing for Harbor House’s CDBG grant . May 18th is tentatively the public hearing for the Land Use Ordinance the Board heard this evening. Hutchins will be absent at the 20th of April Public Hearing.
- k. Ballot Clerk Appointments: It was Moved (Hutchins) and Seconded (Bickford) to appointment Dorothea Mead, Diane Norwood-Frost, Pauline

Norwood, Mildred Thurston, Laurel Norwood, Debra Sanner, Debra Lee Alley, Susan Airpotch, Kim Forthofer and Eric Benson as Ballot clerk/counters for the May 2010 Town Meeting and Election. Vote in favor: 5 - 0

- I. School Warrants: Bennett has two school warrants for the ballot, one for the Budget Referendum and one for AOS. These were passed to the Board members for signature. This is for the June 8th vote. It was Moved (Bickford) and Seconded (Willey) to sign and post School Referendum Article 1: Vote in favor: 5 – 0; It was Moved Bickford and Seconded Willey to sign and post Question 2: Do you favor approving MDIRSS Budget adopted at the latest budget meeting; do you wish to continue the budget validation process for an additional 3 years for June 8th ballot. Vote in favor: 5 – 0.

VII. Manager's Report: The water rate case will be heard on Friday 16 April and if all goes well they will approve our stipulation; clarifiers at the Sewer Department are having chains replaced; Main Street sidewalk is in the process: replacing culverts by State has begun and the Town crew is hoping to start sidewalk repair the last week of April.

VIII. Other Business: Dunbar expressed thanks to the CEO for memos and updates; His question on the spring road projects was: how are they looking? CEO said the only thing the crews are looking at now is Ocean House and Shore Roads. He will have plan in place for the next Selectmen's meeting. These will require extra effort because of easements needed to place culverts across the road – that complicates the plan a bit and he need to do a Permit by Rule request of DEP. The CEO has notified Dig Safe and marked out the road, but before that, the Town needs to re-build Clark Point Road as there is a crushed culvert near Claremont Road, which will cause a sink hole eventually. Crews will be excavating as soon as the pipe arrives. Regarding the Main Street sidewalk and Ocean House Road, that will be all that can be accomplished this Spring because of these other issues. Dunbar asked about King's Lane. The CEO said if the projects required over the next 2-3 months can be accomplished, maybe King's Lane can be done in the Fall. Hutchins asked, regarding easements, has the Town approached landowners? CEO has approached one and is working on getting in contact with the Madeira property at the foot of Ocean House Road. The Town voters will have to accept the easements, not the Selectmen and it may mean a special Town Meeting for that purpose. He does not know when the State will be finished with culverts. The lack of information on the time frame from the State impacts the work that Goodwin is planning to do on the sidewalks. He expects to have good information at the next meeting.

Newsletter: Dunbar to Hutchins: notes for the newsletter comments: he doesn't see the need for the conflicts of interest article; Bickford said our committees need to understand how to operate. Agreed to remove from the newsletter and it was recommended that this type of article should be circulated to boards and committees. Bennett asked if it would be useful to have a workshop conducted by a Town Attorney to review protocol when serving on boards and committees. Hutchins suggested making this a mandatory attendance. Dunbar cautioned that these members are voluntary and is might discourage volunteer participation if it were mandatory. Bickford felt is was important to educate volunteers.

Recreation: Dunbar commented that the bicycles portion of the newsletter is really a State issue, and also a great benefit to the National Park, and hopefully the taxpayers won't have to foot the bill. Hutchins suggested keeping the vision statement and future land use and removing most of the rest, as the newsletter is currently 9 pages long. Hutchins would prepare some of this material for hand outs with the Annual Report. The Waste Prevention insert will go into the Newsletter.

Hutchins said on the agenda for the next meeting: Noah Hodgetts will give a 15 minute mapping presentation. Concerning the Marine Protected Resources, the Park strongly reassured people it would not have an impact on local control. Despite letters to that group opposing Acadia National Park's participation, it appears the Park will go ahead and accept that nomination.

- IX. Sign Warrants: It was Moved Hutchins and Seconded Bickford to accept the Warrants as presented: Vote 5 – 0

- X. Adjournment: It was Moved Dunbar and Seconded Hutchins to adjourn the meeting at 7:33 p.m.