



**Board of Selectmen**  
Tuesday, July 12, 2011 @ 6:00 P.M.  
Southwest Harbor Town Office

**AGENDA**

- I. Call to Order/Roll Call: The meeting was called to order at 6pm; Present: Dorr “Skip” Wilson, Ralph Dunbar, Jr., George Jellison, Jr., David Minctons, Tom Benson, Acting Town Manager, Donald Lagrange  
  
Visitors: Mark Good, Jason Wimbiscus, Mike Magnani, Dave Chapais, Adam Thurston, Pat Biegler, Gordon Wissinger, Ben C. Worcester III, Sandy Johnson, Kristin Hutchins, Don Lodge, Dan Bartlett, Dick Dimond, Weldon Leonard, Lydia Goetze, Vaughn Clark, Chris Rawls, Andrew Mays, Eric Davis, Ryan Donahue.
  
- II. Visitors to be heard not on the agenda: Dick Dimond said there was considerable discussion over the past year whether or not an advisory group to the Selectmen might be worth forming – he thinks that may be worth the Board thinking about given the amount of time the Selectmen have spent over the past year on the issues of water and sewer. The other thought, somewhat related, is, because of the ordinance change adopted by the Town in paying for infrastructure expenses by taxation, the Town should have the right to create a capital improvement plan for water infrastructure, and he thinks the Town attorney might verify that, and in next year’s budget, there might be a way to develop a capital improvement plan for the water side of things.
  
- III. Approval of Minutes: Selectmen Minutes of June 28, 2011: It was Moved (Dunbar) and Seconded (Minctons) to approve the minutes of June 28, 2011 as amended, changing the vote of item C , vice chair from 5 – 0 – 1 to 4 – 0 – 1. Vote: 4 – 0 – 1 (abstain Benson)
  
- IV. Manager’s Report: Lagrange reported to the Board that he has asked Public Works to do an equipment maintenance procedure report, to ensure the Town is taking care of equipment properly. Concerning the Crossman rate case – Lagrange has talked with parties involved and reported the attorneys are almost at agreement. The Crossman’s will pay the water bill if the Town will pay the sewer bill. Attorneys came to the conclusion that the proposed leak didn’t go into the sewer system. Lagrange asked for guidance from the Board. Dunbar asked if the offer was already made and is it officially on the table? CEO said the offer was out and there was response from the Crossman’s. Dunbar said that it appears they have a strong case that they shouldn’t be billed for the sewer and he believes it should move forward with that. Jellison asked about the procedural orders – were they asking for more information? Lagrange said they were asking

to get into a settlement arrangement. He said anything above the normal usage on the sewer bill will be abated. It was Moved Dunbar and Seconded Minctons, to proceed with the agreement as stated and settle the case once and for all. Discussion: Dimond asked what was the difference? Lagrange said water was \$4,500 and sewer \$5,800 approximately, minus the average quarterly charge for sewer. Hutchins asked if the Crossman's recognize they had a leak. Dunbar said he believes that from the information, the Crossman's have accepted that fact based on many meter tests. Vote: 5 – 0. Lagrange reported ten requests from residents for participation in the Town Manager Search Committee – would the Board like to develop the Committee tonight or on the next agenda? Dunbar suggested Lagrange to put this item on the agenda for next meeting. The Board hasn't settled on the actual number of private citizens to participate. The wood dumpster has been replaced. Water testing is on-going. The Harbormaster has come up with some ideas concerning Salmon trucks off-loading at the Manset Pier, and a memo went to the Harbor Committee. That Committee recommended using the Lower Town Dock and not the Manset facility to load barges. There should be enough room for the larger trucks at that facility. Lagrange said it is important to find out the weight limit of the pier, and to post a speed limit. It should be monitored (Manset pier). Dunbar said, for the liability of the Town we should look into the weight limits of the Manset dock – and there should be no problem getting the weight limit from the engineering firm that designed the Lower Town Dock. Chairman said Lagrange should check out the weight limits, talk to Dan Chalmers about the Manset Town dock. Benson suggested Pat look into that. Dunbar said the Town should put out a feeler to see what it would cost to get a structural engineer to look at it and make a determination.

Quotes: requested for fire truck: Lagrange requested quotes from the local banks and received one from the First. The Maine Bond bank is 2% - for five year payment plan. Dunbar said the Board was looking at 10-20 years – Don said that will raise the rate. Dunbar said there is a figure in the CIP. Lagrange will explore rates using that information.

Letter from Army Corps – Board felt there was nothing to act on. Wilson asked that the Harbor Committee review their ordinance to be sure there is no priority stated in that document for residents as it may affect funding.

Addendum to the Managers report – Lagrange recommended creating a Selectmen's Secretary position to allow the Board to directly call a person to do research, etc. provide draft agendas, etc. make appointments, research MMA topics, etc. This would be a direct link to help put paperwork together. He talked with the Town attorney who agreed it was a good idea. Dunbar said he read up on this and it mentioned having a liaison, and he was going to bring it up. Board would like to see it on the next agenda. Don asked if the Board would like separate mail boxes. Wilson would like all mail to go in the packet. Board and Committee liaison – this should go on the next agenda. Lagrange had discussions with Trainor concerning the water tank. He said we can use the \$40k of the

bond for design of the water tank – the remaining \$300K if available could be used for the tank. Trainer suggested having a direction for coming up with the remaining funds that would be needed. Dunbar suggested this item for the next agenda. Benson asked the deadline for this bond series – it is August 3<sup>rd</sup>.

V. Warrants: Administration 200-203 & 177 - 186 Water 17  
Sewer 46 Mansell/Wesley \_\_\_\_\_

VI. Old Business

a. Mansell/Wesley Project : Biegler said there is new business lower down on the agenda. Save for that agenda item.

VII. New Business

a. Request for reconsideration (Jellison): It was Moved (Dunbar) and Seconded (Jellison) for reconsideration of Lee Worcester to the Planning Board. Discussion: Jellison said he felt that at the meeting there were issues about whether the applicants had been notified, and were given the right to appear to answer any questions. Mr. Jellison felt Mr. Worcester should be here to discuss the appointment. Mr. Worcester said he served for three years, and takes the responsibility seriously, and does not understand why the appointment was not made. He said he can't think of anyone who was ever denied. Generally speaking there were no other appointees in attendance at the prior meeting. Hutchins said she was at the meeting and would like to lend support to the reappointment. She said conflict of interest is confusing, and his position does not seem to be that. Magnani said the decision to combine Zones B & C was the result of making land in Town more affordable and center growth around water and sewer availability. He said at the Planning Board, the discussion went on for months – to think that this is self-serving for Worcester, there were 4 – 5 workshop meetings where the public was asked for suggestions – and to come up with not re-appointing , it applies to all of us...it's a pretty weak argument. Magnani also said that from reviewing the minutes of the last meeting, to think that possibly we (the Planning Board) were coerced or strong armed into making the decision – Magnani said he wasn't – the Planning Board was thorough in their discussions. Worcester asked at what point beyond that does it become a conflict. Greg Johnston said he is before the Planning Board a lot and he said Worcester is a skilled and experienced leader – it would be foolhardy not to use the resources in Town –the idea of not reappointing on perceived interests – look at the facts of this – are there any? – what can help the Town? Weldon Leonard: asked if there have been any instances in the past where there have been charges of financial gain? He supported reappointment Lee. Wilson said the perception is that there could be a conflict. Donahue spoke saying Worcester is beneficial to the Planning Board, he helps everyone consider what is good for the Town. This change helps fuel our schools –

this direction seemed beneficial. Hutchins said the issue is: it invites us to figure out what does and does not constitute a conflict of interest and Worcester's position does not rise to the level of conflict of interest – this is a red hearing. Dimond said part of the discussion was an “appearance” of a conflict of interest – the point being the appearance is at least as potentially harmful as the item itself. Mays said this is a public Board with 7 members doing business publicly. Rawls said he has been on the Planning Board for 8 years and this issue had been presented during the crafting of the Comprehensive Plan – he was strongly against it, and a further understanding of the results of what would be happening when the two areas are combined plus researching it with the CEO, changed his mind and he did vote for the change – Lee Worcester had nothing to do with how he voted. Wissinger said the only unanimous vote was earlier in the process and he voted against the Ordinance change. Vote 2 – 2 does not carry.

- b. Tax Collector Appointment: This appointment was revised to June 30, 2012. It was Moved Dunbar and Seconded Minctons to appoint Lagrange Tax collector for the year ending June 30, 2012. Vote: 5 – 0.
- c. Annual Appointments: The Annual appointments for Sam Chisholm, Fire Chief, Linda Corson, Deputy Treasurer, Beatrice Grinnell, Registrar of Voters, David Chapais Constable and Police Chief, Michael Miller, Constable and Police Officer; Police Officers: Alan Smith, Charles Graham, Aaron Arsenault, Police Officer Reserve: Sarah Exley, Nick Hardwick, Brian Hines, Shawn Murphy, Michael Allen. It was Moved Dunbar and Seconded Benson to appoint the above named to the positions listed. Voted 5 - 0
- e. Fuel Contract 2011-2012: Wilson said last word was the Town was joining with the School Department in this RFP. Dunbar said we entered into negotiation with the school but the contracts would be individual with each. Dimond said Lagrange could contact the school and put this on the next agenda. Dunbar asked if there was a date on the contract from Acadia Fuel to hold the price at \$2.93 for 7,000 gallons. Benson would like to have it clarified at the next meeting – Dunbar said he believed the bid has been accepted. Jellison said he was concerned that with a pre-buy it must be locked in by a certain date. Dunbar said he believes the commitment was been made and it s just a matter of signing the contract – it's already been accepted, and not signing might upset the apple cart –Wilson would like to see the letter. It was Moved Dunbar and Seconded Minctons to allow Don Lagrange to sign the contract once it is proven it is approved by the school system . Vote: 5 – 0.
- f. Tax Commitment 2011-2012: there was an increase in Town valuation – mil rate last year was 10.85 and this year is 10.95. It was Moved Dunbar and Seconded Jellison to appropriate, through local property tax, \$7,116,321.09. Vote: 5 – 0.
- g. Manset Pier (Dunbar): This item was fully discussed prior.

- h. Highway Department
- Water Tank: The RFP is complete for design of the water tank, and the ad is in the paper this week. It will be closing on 8-1 – copies to be provided to the Board of the RFP. Benson said he has located a few places that make and install water tanks. He is of the view that we can get that company to design after verifying the foundation integrity. He warned against designing it twice. He said Pat is an engineer, and as Public Works Director could design up to \$100,000 in areas she is comfortable with. Benson warned to slow up and look into those avenues. Pat said she spoke to the tank companies themselves – the foundation is the bigger issue – we have to have all of the piping and the telemetry replaced, and those are the things we need specialists for – the tank part of the design is not the biggest issue. We must get the drainage and the telemetry right. Dimond asked if it was clear we needed a 300,000 gallon tank. Biegler said all the calculations have been done that are necessary and the recommendation is for a 350,000 gallon tank.
  
  - Wesley/Mansell: pre construction meeting – we signed the contract with Goodwin – they will get organized, get their dig safe approval and provide us with a schedule for our approval. The outline remains the same – Wesley Avenue after Labor Day. Have to submit a proposal for a by-pass water line. We are anticipating Mansell Lane to begin next Monday. Goodwin asked about the 5% retainage on all bills and asked if we would be willing to waive the retainage on materials to be purchased and stored. Our consultant recommends against giving up the retainage as does Biegler. Goodwin asked if they can use the far upper parking lot for materials storage ASAP – but at least after Labor Day. The water plant lot was offered as storage pending a decision from the Board on the use of the upper parking area. They have an agreement with the property owner on Wesley to be able to build a road to transport materials back and forth. Do we want to allow them to bring the equipment and materials through Village Green Way (VGW)? They would have to make repairs for any damage, and what hours would be appropriate for the traffic to go in and out of VGW? Lagrange said the upper parking lot generates income during the summer months – storing equipment there will damage the lot and we must have an agreement to return it to current condition. He recommends no use of Village Green Way as it is not made for repeated heavy construction traffic. He recommends going up Wesley. Dimond said between now and Labor Day VGW is a popular place for tourist traffic. What options do they have? Board said Wesley is the alternative. Johnson asked if there were the same issues using Main Street as there is with Village Green Way. Wilson said he is concerned about the catch basin on Village Green Way, damage to the upper parking lot, and since Main Street is a State Road, the Town has no say who travels over that. Wesley is being rebuilt anyway. Dunbar agreed: the back parking lot for storage would be out of the question before Labor

Day. He doesn't want to tie the hands of the contractor. Chapais is concerned about Village Green Way as well. He said the revenue on the upper parking lot is not a big issue, but said he is concerned about the traffic and trucks going through Village Green Way. Lagrange suggested going into an agreement with the contractor to repair the area to the pre-construction conditions, should they store materials there during construction. Wilson suggested photos and documentation and an agreement entered into for use of the upper parking lot, if that happens. Dunbar agreed. The 5% retainage is not an issue with him. Wilson felt they could live without the 5% and has no interest in waiving that 5% for materials. He said he would not support that. It was Moved Minctons and Seconded Jellison to keep the 5% retainer on the Wesley Ave construction job. Vote: 4 – 1 (Benson). It was Moved Dunbar and Seconded Jellison to allow Goodwin storage of materials at the water plant now and allow use of the upper town parking lot for storage of materials after Labor Day with a consent agreement that requires him to repair that lot back to current condition after use. Vote: 5 – 0. It was Moved and Seconded not to allow use of Village Green Way for access to the Wesley Avenue project. 4 – 1 (Benson) The Board noted that materials being stored after Labor day at the upper Town parking would be such items as pipes and manholes.

In respect to use of Village Green Way for access, the Board recommends using Wesley Avenue for access to the upper parking lot storage. Access to the upper area of Wesley must be from the water tanks down and would be from Freeman Ridge. Dunbar is concerned about the contractor being very constrained doing this job without access to Village Green Way. Jellison said pipe would likely be brought in on a flat bed, and they may not be able to make a turn onto Wesley, and we wouldn't know that without talking to them. Lagrange suggested getting Goodwin Construction here for the next meeting to discuss this issue. It was Moved Dunbar and Seconded Minctons to hold decision on use of Village Green Way for the next Selectmen's meeting, with the Contractor invited to be present. Vote: 5 – 0.

- Meters: as of Friday 174 meters have been installed and Water is looking to hire a temp to do the installation. Wilson suggested having Mr. Weaver come back after labor day – don't keep advertising. Dimond asked, of the 175 replaced, are the majority defective? Biegler said about half and half, and we are only pursuing the defective ones currently. Dimond said the plan was to replace 300 defective meters this year – is it likely to reach that goal? Wilson said it was his understanding also. Biegler said they picked the roads that had the highest number of defective meters, not knowing whether the meters would be able to talk to each other, and found after the fireflies were installed that all meters could talk to each other. All of our efforts have been the problematic meters since shortly after replacements were started.

Letters were sent twice, as were door hangers and we have been calling all customers we can reach and have been knocking on doors of questionable meters. Biegler said it appears there are 250 or less defective meters. Dimond said the objective was to replace as many defective meters as possible to generate additional income. Bunny Leonard suggested publishing something in the paper to let people know what's going on. Lodge asked the percentage of response. Biegler said once the next billing cycle is out, it will show how effective it is. Dunbar said as a follow up from the comment by the Chair – have the Water Department employees make the installations and forget the ad. It was agreed to cancel the ad for temporary employee.

- i. Interim Town Manager: Interim Town Manager Search Committee met Friday and Saturday – no decisions have been reached. The Board will go into executive session tonight to discuss that issue.
- j. Town Manager Search: at the next meeting the Board will put together a committee and put together the ad for the Town Manager search – Johnson has a file and Dimond asked that be turned over to the Board.

IX. Other Business: For the next Selectmen's Agenda: items to add include: Selectmen's Secretary, Board & Committee Liaison position, Goodwin Wesley Ave Review, Design of water tank, Structural study for weight on Town Docks, Funding for fire truck (pull out information gathered and Chairman should work with Lagrange rather than wait a week).

X. Sign Warrants: It was Moved (Dunbar) and Seconded (Minctons) to sign the warrants as presented. Vote: 4 - 0 - 1 (Wilson)

XI. Executive Sessions:

- a. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) Personnel matters It was Moved (Jellison) Seconded (Minctons) to go into Executive Session at 8:05, to include members of the Interim Town Manager Search Committee. Vote: 5 - 0.

It was Moved (Dunbar) and Seconded (Jellison) to come out of Executive Session at 8:50 p.m. Vote: 5 - 0.

It was Moved (Dunbar) and Seconded (Jellison) to ask Donald Lagrange to act as Interim Town Manager for the Town of Southwest Harbor. Vote: 5 - 0.

XI. Adjournment: It was Moved and Seconded to adjourn the meeting at 8:52 p.m. Vote: 5 - 0.