



Board of Selectmen  
Tuesday, July 26, 2011 @ 6:00 P.M.  
Southwest Harbor Town Office

MINUTES

- I. Call to Order/Roll Call: The meeting was called to order at 6:00 p.m.  
Present: Tom Benson, David Minctons, Dorr Skip Wilson, George Jellison, Jr., Ralph Dunbar, Jr., Acting Town Manager, Donald Lagrange
- Visitors: Kristin Hutchins, Mark Good, Mike Magnani, Ida Smalledge, Nancy Clark, Gordon Wissinger, Dave Chapais, Lydia Goetze, Michael Roix, Susan Buell, Michael Mansolilli, Meredith Hutchins, Marsha Pilz, Ben C. Worcester, III., Marc Chalfoun, Ronald Sanborn, Dan Bartlett
- II. Visitors to be heard not on the agenda: none
- III. Approval of Minutes: Selectmen Minutes of July 6, 2011 and July 12, 2011. It was Moved (Dunbar) and Seconded (Jellison) to approve the minutes of July 6, 2011 as presented. Vote 5 – 0. It was Moved (Dunbar) and Seconded (Benson) to approve the minutes of July 12, 2011 as presented. Vote: 5 – 0.
- IV. Manager's Report: Component parts for clarifiers are in and ready to replace in the next few weeks. Crossman rate case – Town attorney handling this was on vacation – no response yet. Attorney suggested it could cost another \$2,000 – \$3,000 to go into litigation. More info next meeting. Sewer Treatment plant – tank room lighting has been faulty for some time. There was a study 2 – 3 years ago because there as grant money available at that time. Lagrange has asked the Public Works Director to look into that possibility. More next meeting. New Police truck has arrived. Manset pier structural review will cost around \$1500 - \$2000. Dunbar asked if there was money in that budget – Lagrange did not look but will have an answer at the next meeting. Lagrange sent a memo to both the Planning Board & Harbor Committee to look for a spot to allow fishing as it is not allowed on Town docks. Alder Lane was recently paved, with gravel on the sides as the only thing outstanding. Churchman's wish to hook up to the private sewer system. The Town would have to get an easement to that property and the Town would have to take over the sewer. The Sewer ordinance is in error – State Statute indicates that only the legislative body can accept a sewer at Town Meeting. Another property owner has inquired also. It is possible to hook up to 9 different properties. The Board may want to consider a special town meeting to accept the easement, the pump station, and to change the Sewer Ordinance. The easement can only be taken care of at a Town Meeting. Town sweeper took care of all catch basins. Lagrange asked, if anyone notices more work needed on those, please let him know.

Insurance claim for the damaged sign at the entrance of Town has been paid to the Town. New sign is up. The Union contract has gone to the unions for their signatures. Dept of Inland Fisheries received moneys for the Seal Cove east and west branch of Marshall Brook – process to replace both culverts has begun. Power surge last week knocked out some things at the Town garage. Being repaired. Town web site is back up. Harbormaster will be off Aug 4 – 7 to get married and Lyle Dever will fill in. In a conversation with the Army Corps on the Koblinsky issue –Mr. Clements of that organization agrees the Town is in the right and he will send a letter to Koblinsky to that effect. MMBB request for financing the Fire equipment was reviewed and approved by the Town attorney and sent to MMBB today. Copies were circulated to the Board members. One bid from one bank received at 3.7% interest; The Maine Bond Market is at 3% for 10 years currently, but those interest rates may rise or lower depending on the economy. August 18<sup>th</sup> is deadline for the bank bids – choice to be made at that time. Water department financial statements were passed out – will try to schedule Horton, McFarland and Vesky for next meeting to review the audit with the Board.

- V. Warrants: Administration 11-16A Water 18, 18A  
Sewer 3, 4 Mansell/Wesley 4  
It was Moved Dunbar and Seconded Jellison to accept the warrants as presented. 4 – 0 – 1 (Wilson abstain)

VI. Old Business

a. Mansell/Wesley Project : Mansell Lane – potential start of a temporary water line was scheduled for the 27<sup>th</sup> but the water shut off was delayed to the week of 8-1 to 8-5 because of material delay. Wesley Ave. no resolution concerning the drainage on Route 102 with the State – still in discussions. Benson noted it would put the project on hold until this is resolved. Marc Chalfoun asked about Mansell Lane – will there be a culvert across Route 102? Lagrange said the State does not have the funds to do this and suggested that the State and Town share the cost. Lagrange feels the State is responsible for this culvert and the Town should not pay towards the replacement. Lagrange said he is not getting sufficient answers on the Wesley Avenue drainage issue and he feels the Town is not putting enough pressure on the State for that. Dunbar suggested contacting the representative referred to in a letter he received from Collins referencing State support for urging DOT to meet obligations.

VII. New Business

- a. Liquor License Renewal: XYZ Restaurant: It was Moved (Dunbar) and Seconded (Jellison) to approve the Liquor License Renewal for XYZ Restaurant: vote 5 - 0
- b. Planning Board Appointment: Chairman said he questioned whether Mr. Worcester should re-apply since he has already been denied. Benson said he reviewed Roberts Rules and he feels he should have been allowed to vote. He felt the request for reconsideration was new business. Hutchins said she felt Benson should have been allowed to vote. Dunbar said he was concerned about this and he questioned whether Mr. Worcester had done anything wrong. He said it seems hard to perceive of someone ‘having the possibility of doing something wrong’ and said Lee has

been a valuable asset for many years. It was Moved Wilson to appoint Don Lodge to the vacant spot on the Planning Board. There was no second – motion not carried. Mansolilli said, as a Planning Board member he feels he was as much a part of the Ordinance changes as were the Selectmen – and the whole Town voted to accept them. He said to single out Worcester is wrong. Wissinger said the main point is not whether there was a conflict, but Worcester did not bring up his conflict to the Board. Worcester said he does own 6 acres and a house on Long Pond Road – but as to whether he has a conflict of interest – we are talking about a discussion as a Board, of potential ordinance changes, with significant public review, and the public voted in favor of the changes. Worcester doesn't see where there is any conflict of interest when discussing ordinance changes; if there were an application before the Board, then one would need to recuse themselves from that. In this instance the Board is doing the Town's business and putting it to the Town for approval or denial. There may be individuals out there who don't like what the Town voted on, but that's a whole different item. Benson said Lee served on more Boards than probably anyone in this Town, and this has never come up before; it is a shame not to take advantage of his experience. It was Moved Benson and Seconded Dunbar, to appoint Worcester to the Planning Board. Discussion: Buell said, regarding affordable housing, she would like to see the Board take this opportunity to do something that will really create affordable housing. Wilson said the changes to the LUO should come from petitions from Townspeople. Magnani said he did not hear any strong arm tactics concerning getting the Board to approve the Zone B change. Worcester said he had a conversation with Rawls after the Town vote on the LUO and suggested Rawls get together with his neighbors and suggest a change, if that was what Fernald Point residents wanted. Magnani said the Ordinance was constructed to give everyone the opportunity. It showed no preference. Jellison said over the past month, having talked about the ordinance, he doesn't see anything that would give cause. It is the job of the Boards to bring things before the voters whether we agree with them or not – the Ordinance changes went through the process. Buell said the Board's decision should be based on whether or not this is what the Board of Selectmen want. Benson said he has heard good things about how the Planning Board is run. Chalfoun said he has seen the Board many times over the past 10 years, and feels Worcester is a real asset to the Town, knows how to manage the Board, has a wealth of knowledge and Chalfoun is impressed with how the Board is run now. Vote; 3 – 0. Motion carried. Wilson resigned from the Board of Selectmen effective immediately, and left the meeting. The Board took no action on the verbal resignation.

- c. Manager Search Committee: Jellison asked the Board how they would like to structure the Search Committee. Benson said having the all Selectmen on the Committee works well. Dunbar said the Board initially talked about Selectmen plus 7 of the names. Jellison agreed with Benson that all Selectmen should be on the

Committee to Search for a Town Manager. Dunbar said the easiest thing would be to put a check mark next to six names and those with the most numbers would be selected. Lydia Goetze said the ad for the committee said the Town was looking for 11 members, and there were twelve applicants. Dunbar proposed all 12 interested parties be invited to attend the meetings. Benson agreed. Jellison said 16 people at an interview may not be productive. Hutchins explained the process used last search, which worked. Dunbar suggested setting a date for the meeting. Next Tuesday, Aug. 2, 2011 at 6:00 p.m. It was Moved and Seconded to schedule and post a Town Manager Search Committee meeting for Tuesday, August 2, at 6PM at the SWH Town Office. Vote: 4 – 0.

- d. John Goodwin, Jr. Construction Plan-Wesley Ave.: Ron Sanborn said Goodwin is looking for storage in the upper Parking lot by Sept 11, 2011 for pipe and manhole storage. Discussed repairs to the road and the parking lot and Sanborn agreed that if there was damage to the parking area and road they would repair the damage. Sanborn said there would be an occasional delivery of manhole and pipe but it would not be a common route over Village Green Way. Dunbar said the use of Village Green way and loaded trucks was a concern, particularly over the drainage areas. Sanborn reiterated there would not be a constant flow of heavy trucks or equipment on Village Green Way. It was Moved Dunbar and Seconded Benson, to allow John W. Goodwin, Jr., Inc. the use of the upper parking lot after Labor day for storage of pipes and manholes to be used for construction on Wesley Avenue, conditional upon a consent agreement between Goodwin and the Town that any damage done to said parking lot and drain areas would be repaired by Goodwin and would leave that area in the same condition as it was prior to the use by Goodwin. Vote: 4 – 0.
- e. Planning Board Ordinance review: Lagrange provided the Board with a list of proposed ordinance changes that will be looked over by the Board. Lagrange reviewed those proposed changes being discussed by the Planning Board. Wissinger asked the source of the ordinance changes – Lagrange said a lot of them are from him, some from public who came to meeting, others are his suggestions to the Planning Board. Wissinger said the Board has not discussed these changes yet and the Board has not seen them. Worcester said this is information that the Board will discuss in the near future prior to a Planning Board meeting. Goetze said the CPIC would like to meet separately with the Selectmen and the Planning Board in the fall. Dunbar asked if we were on track for the changing of the map. Lagrange said it may go into next May, but when the Clerk has accepted the change it may date from that point. Dunbar said there will be an election/ballot vote to accept the map.
- f. Fire Truck Funding Options: Lagrange said the Bond attorney has reviewed the package that was sent today to the MMBB – for a 3% loan and he has a quote from the First for 3.7% along with other banks – in mid August he will provide a copy of any quotes received. The bond should be coming out in mid-October and the

- interest rate could change right up until the time the loan is signed. The Town is looking for delivery of equipment in mid-November.
- g. Board & Committee Liaison: the Board agreed to not fill Mr. Wilson's spots at the present, as the Board has not accepted Mr. Wilson's resignation nor have they received a formal resignation from him. Benson will take the two spots vacated by Bickford. It was moved Minctons and seconded Dunbar to appoint Benson to the Waste Prevention and Planning Board liaison position 3 – 0 – 1 (Benson abstained).
- h. Structural Study-Town Docks: Lagrange will bring a budget to the next meeting. Meanwhile he will advise the Harbormaster to keep the loads light on those areas. Dunbar said to protect the Town it should be done quickly. It was Moved Dunbar and Seconded Minctons to authorize the Acting Town Manager to proceed with the structural study of the Town Docks if the \$1,500 - \$2,000 funds needed are available in the budget. Vote: 4 – 0.
- i. Secretary to the Select Board: Lagrange said that Lee Bragg, Attorney for the Town found this to be a favorable thing. Generally speaking the Town Manager would be the point person, but this position allows the Selectmen to go directly to the Secretary as outlined in Lagrange's memo to the Board at the last meeting. Dunbar said the current situation requires them to go to the TM – this would solve the problem and should be set up before the new Town Manager is hired. Hutchins said she would like to be assured it does not undermine the Town Manager form of government. Lagrange explained there was approval from the Town Councilor. Dunbar said there is a statute that does allow for this position. Jellison said he would want to make sure there is communication between the Town Manager and the Selectmen. Dunbar suggested tabling this for the next meeting if the Board has any questions. Benson and Minctons felt this would be helpful as there are many times Selectmen need information and hesitate to constantly interrupt the work of the Town Manager and this will not add another person to the staff. It was Moved Dunbar and Seconded Minctons to offer Walsh the position of secretary to the select board with an increase now of \$.50/hour and an additional \$.50/hour after six months. Vote: 4 – 0.
- j. Water Commitment: \$155,808.06: It was Moved (Dunbar) and Seconded (Minctons) to accept the Water commitment of \$155,808.06. Vote: 4 - 0
- k. Sewer Commitment: \$140,766.90: It was Moved (Dunbar) and Seconded (Benson) to accept the sewer commitment of \$140,766.90. Vote: 4 – 0.
- l. By-Laws: Planning Board: Lagrange said this change is made by him to reflect the actual time of the meeting from 5PM to 6PM and changed the Board's schedule to meet two days a month throughout the year and, at the discretion of the Chairman, a meeting may be cancelled without a vote of the Board. The Planning Board, said Lagrange, approved these changes in June 2011. It was Moved Dunbar and Seconded Benson to approve the changes to the by-laws as voted upon by the Planning Board in June 2011. 4-0

- IX. Other Business: Benson said he reviewed the warrants prior to the meeting and he noted that the electric (street lights) are about \$1900/month. If Hydro ignores any lights that goes out he suggests deducting the off their bill, if they do not repair. Dunbar suggested Lagrange and Chapais write to Hydro voicing concern over the lack of response to lights being out. Regarding Marshall Brook – the money is there and is ready to go – Lagrange said it is a matter of getting the people to work. Dunbar said the schedule should be quite a detail to work out with the Park at this time of year. They may throw a roadblock because of the time of year. Lagrange said he has a concern over the detail of the East Branch. Dunbar said that concerning the events of the evening, he would suggest an Executive Session.

It was Moved Dunbar and Seconded Benson to go into Executive Session at 8:20 p.m. pursuant to 1 M.R.S.A. § 405 (6) (A), Personnel Matters. Vote: 4 – 0. It was Moved Dunbar and Seconded Minctons to come out of Executive Session at 8:24 p.m. Vote: 4 – 0.

- X. Adjournment: It was Moved and Seconded to adjourn the meeting at 8:26p.m. Vote: 4 – 0.