

Minutes of Meeting
Board of Selectmen
July 28, 2009
SOUTHWEST HARBOR TOWN OFFICE
6:00 p.m.

I. Call to order/Roll call: the meeting was called to order at 6:00 pm. Present: Robin M. Bennett, Town Manager; excused: Dorr Wilson (arrived at 7:21 p.m.); Selectmen in attendance: Kristin Hutchins, Trudy Bickford, Berten Willey, Vice Chair Ralph Dunbar. Mr. Dunbar chaired the meeting in the absence of Mr. Wilson.

Visitors: Alison King, Ross & King, Attorneys; David Chapais, Police Chief, Marie & Bernie Mauger, Christine O'Leary, David Tollerud, Sandy Johnson, Jeff Crafts, Tim Gott, Ben C. Worcester, III;; Gordon Wissinger, Nancy E. Jones, Ruth Brunetti, Doug Diehl, Darrell Storholt, Rust Potter, Bob Zinn, S. Zinn, Andrew Hamilton, Leslie Watson.

II. Visitors to be heard not on the agenda: Lee Worcester passed out information on recycling and described the information to the Board of Selectmen (BOS).

Ruth Brunetti, on behalf of the Executive Board of the Western Way Condo Owners Association outlined concerns of the Association over the Village of Ocean's End project adjacent to their property. She expressed concern over the administrative procedures being followed by the Planning Board, and, the clear-cut and expansion of roads which the Association contends has resulted in run-off on four occasions. She asked that the letter sent to the Board be entered into the record and that the Code Enforcement Officer (CEO) be instructed to enforce the Ordinance. Bickford said this is not the committee to deal with this issue, and that it should go to the Planning Board. Hutchins said her concern is usurping the authority of other Boards. The Board of Selectmen asked that the concerns be addressed to the Planning Board at their next meeting.

Johnson, former Planning Board member said the meeting on July 18th did not allow public comment. Worcester said the Planning Board was gathered at the 7/18 meeting to have a conversation with the Town attorneys and the applicant's attorneys in order to consider the legal options available to the Board. Worcester said July 30 will address Village at Ocean's End and the public may be heard. Mr. Diehl of Western Way expressed concern over the

run-off, and the CEO said he would visit the site and get back with them tomorrow. Dunbar asked Johnson if she would like to speak to the Planning Board on the 30th. Johnson said her issues were to the Selectmen as follows: she questioned the legal council's familiarity with the application.

Secondly, access to legal advice: Johnson said the applicant and his attorney met with the Town attorney after the vote to deny the application and questioned why Planning Board members can't have access to the Town attorney. She formally requested a meeting to do that. She charged that the July 18th Planning Board had a significant irregularities at that meeting: contending that in the SWH Land Use Ordinance (LUO) it states that to reopen an issue for discussion a voting member in the affirmative must make the motion to re-open the discussion. Johnson also cited a lack of objectivity by not taking public comment from former members at the July 18th meeting and contended that the Chair didn't have the authority to take the item off the agenda in July, but did so anyway. Concerning the density issue Johnson said that credible LUO and Subdivision language was cited in the motion to deny the application. Demeo and Johnson would like to request the Board declare a moratorium until the LUO language is cleared up.

Vice-Chair Dunbar told Johnson this application is headed back to the Planning Board, and he asked the Town Manager to look into these issues and perhaps ask the Town Attorney to respond. Hutchins said the LUO is important, but the Board of Selectmen must not inject itself into what the Planning Board (PB) is trying to do. These discussions should be directed to the Planning Board. Hutchins suggested that the Board of Selectmen direct the Planning Board to look into the language of the LUO. Bickford agreed with Hutchins and agreed with the legal advice given. Johnson said her point is that the process isn't working – her point is that the Planning Board decision was against the LUO. Johnson was asked to take her concerns to the Public Hearing on July 30, 2009.

Leslie Watson asked to be heard concerning the Moorings Restaurant. Her complaint was excessive noise from the Restaurant in the late evening, that interferes with her Inn business. Chief David Chapais said this Town has no noise ordinance. He said there were two calls, and the officer handled the situation appropriately. The officer didn't feel the sound was unreasonable, but he did ask the owner to close doors, which the owner did. Hutchins said without a noise ordinance, the police have some limits to their authority, but would like the Board to take as assertive a stand as possible.

III. Approval of Minutes: July 14, 2009: It was Moved Bickford and Seconded Willey to approve as presented. Vote in favor: 4 - 0

IV. Warrants: Admin: 8 – 16 Water: 16 Sewer: 2 , 3 Police:
Fire:

V. Old Business;

a. Facilities Update:

i. Police Department Renovations: Bennett reported that renovations are going well except for some water leaking in the northwest corner where the men's room will be located. Engineers will look at that Wednesday, July 29, 2009.

V. New Business:

a. Special Amusement Permit: Top of the Hill Restaurant: Debbie Dubois requested renewal of last year's special amusement permit. It was Moved Hutchins and Seconded Willey to renew the Special Amusement permit for Top of the Hill Restaurant. Vote in favor 4 - 0

b. Planning Board – discussed previously under Visitors to be heard not on the Agenda.

c. Lawler Lane ROW: Mr. Lagrange said he sent a notification letter to abutters and a permit by rule to DEP. The permit was declined in deference to a new permit form from the State. CEO said the Board should decide on just cutting vegetation making a natural path. Dunbar said the BOS idea was only to maintain the right of way. Bickford said it was a natural path in the past, and would like to keep it as natural as possible. Hutchins would like the Town to maintain the right of way, by trimming the vegetation. David Tollerud expressed concerns about traffic and parking as well as the stream. Mauger suggested no parking signs on Lawler Lane. Alison King, representing Mr. Tollarud said she would like to see a definite plan to ensure that Shoreland Zoning cutting is within the confines of the ordinance. CEO said alders and tall grass may be cut, three trees may not be cut. Greg Johnston suggested that permits applied for in the Harbor Zone should go to the Planning Board. CEO is waiting to hear from John Cullen of the DEP, as it is not a change of use, and that will determine whether it needs to go to the Planning Board. King asked if there will be a firm plan to which abutters may comment. Dunbar said this item will be on the next agenda.

d. Street Lights: Chapais reviewed the map of lights and asked for direction from the Board for the next step. He suggested contacting Bangor Hydro to get cost savings figures. Bennett said it would be a savings of

about 8% of \$28,000. Wissinger asked if a change in type of light to affect cost savings had been looked into. Dunbar asked for figures on the 20 lights to be turned off, as well as the change over to a more efficient light. Bennett will get those costs.

e. Fire Station Sign: Chisholm said there are two sections of the sign that he would like to re-visit. He asked the Board to reconsider the digital piece at the bottom of the Fire Station sign. The Board said it was decided at the last meeting that an unlighted sign would do. The sign design without messaging at the bottom was approved at a prior meeting and Chisholm was directed to execute that. It was Moved Hutchins and Seconded Bickford to examine alternatives to posting signage and directed the Fire Chief and Town Manager to look at same. Vote in favor 4 – 0.

f. Fire Station Meeting Room Policy: The Town Manager said Chief Chisholm had done research on other communities and has drafted a policy for BOS consideration. It was Moved Willey and Seconded Hutchins to adopt the policy presented for use of the fire house. 4 – 0 in favor

g. Road & Sidewalk Projects: CEO said there are 6 roads that need replacement of sewer lines. His current list to the BOS consists of roads that are ready for hot top, ditching has been done and there are no utilities under. The cost estimate was from Ring Paving, but specs will be sent out to everyone to get the best price prior to work being done. In September all drains will be power cleaned.

Tom Benson suggested the Town grade the roads, A, B, C, etc. Bennett confirmed that there will be approximately \$202,000 for roads. Bickford questioned the water drain off on Ocean House Road and the “dip” near the corner of Shore Road and King’s Lane, that is below water level and should also be built up. CEO will review the run-off at Ocean House Road and look again at King’s Lane/Shore Road and come back to the Board at the next meeting.

Bennett said the Town needs to consider taking out a water/sewer -bond for water/sewer utility upgrades to Town roads. It was Moved Hutchins and Seconded Bickford to direct the Public Works Department to proceed with prep work on projects #6 and #7 of the list presented. Vote: 4 – 0 in favor.

h. Water Commitment(s) \$108,027.13: (quarterly commitment) and \$24,776.22: (seasonal): It was Moved Hutchins and Seconded Bickford to commit the seasonal and quarterly water user rates as presented. Vote in favor: 5 – 0;.

i. Sewer Commitment(s) \$ 63,272.42 It was Moved Hutchins and Seconded Bickford to commit the Sewer use as presented. Vote in favor: 5 – 0.

j. Newsletter: Hutchins asked if the Town is going to do electronic newsletters. Dunbar, Willey, Wilson and Bickford opted for mailing out newsletters. Hutchins asked for comments on the content of the draft presented. Wilson asked to add the street light information and Chapais has information as well.

k. Volunteer Packets: Criteria of Service: Hutchins re-wrote based on the comments from the last meeting. Comments from the Board: discussion held as to the method of contacting MMA for opinions. Hutchins will incorporate those suggestions also.

VIII. Manager's Report: The roof of the pump house has been started. The Barge was re-scheduled to September after discussions with the Park. Loan documents have been signed. Lower Town Dock: all documents have been executed and the closing was last week. The preliminary Public Utilities Commission application has been submitted for a water rate increase. Manset Dock: replacing two pilings as soon as possible. Bennett said the dock board replacement may be somewhat more expensive than originally anticipated. Tax bills were sent out last week. Tabetha Newenham has been hired as the new Water & Sewer Clerk beginning August 10th.

Dunbar said there are power cables under water that run out to camps on Long Pond. He suggested Bennett discuss this with the Engineers working on the water project at Long Pond. Regarding the water rate increase, Bennett said, for an average household, rates would increase from \$50 to \$75 per quarter.

Bennett said the financial report indicates the Town is where it was expected to be. Overall it was a good year.

IX. Other Business: none

X. Sign Warrant: It was Moved Willey and Seconded Bickford to approve the warrants as presented. 4 – 0 – 1 abstain (Wilson)

XI. Adjournment: It was Moved Bickford and Seconded Willey to adjourn the meeting at 8:10 p.m. Vote in favor: 5 – 0.