



**Board of Selectmen**  
**SPECIAL DOT MEETING**  
Tuesday, August 23, 2011 @ 5:00 P.M.  
Southwest Harbor Town Office

**AGENDA**

- I. Call to Order/Roll Call: The Representatives from DOT arrived at 5 pm. The meeting was called to order at 5:05 pm All members present. Mr. Theborge was accompanied by John Deven of Maine DOT.
- II. Steven Theborge, Regional Manager, Region 4, Maine DOT: Chairman explained the Town has an infrastructure improvements assessment developed by Olver Associates, and wished to bring DOT on board. Lagrange said Wesley Avenue is an issue, and asked Deven if he made representation to Woodard that the State could find matching funds for the DOT approved design to cross Route 102. Deven explained that DOT could supply the materials, such as pipes. Town would pay for the outlet portion of labor, and DOT would pay for the materials. He did not promise funds in the form of matching grants. Theborge said the focus is not necessarily fund sharing. Lagrange said the representation was that there was a 50/50 grant. Dunbar asked if Biegler remembered Woodard & Curran representing that the State would provide the materials. Theborge said the process for municipal partnership is where resource can be leveraged, scoped out with a cost estimate, and a short application process which then goes to the Executive Committee at the central office. The application is weighed against requests coming in from other areas of the State – there is no guarantee of award – the higher level of participation by a municipality is good. There is a pool of \$7M over two years. The State was never approached by the engineer or municipality to start this process and DOT has not issued an opening permit. Biegler suggested meeting Friday with Deven and Woodard & Curran for work on a funding application. Deven does not need a great deal of information. Theborge said the review process is usually done once a month and would be mid-late September. DOT might possibly be able to supply catch basins for the west side of Three Rod Road. Deven is concerned about the easements across from Three Rod Road. Theborge said we will try to sit down together to start communication and determine what can be done to benefit the Town. Reality is that the Town may go into this project not knowing if it would be approved by the State for grant money. The area north of Town on 102 is in the pavement reclamation program – Theborge said with the Governor’s budget there is nothing in the biennium for Route 102. Benson mentioned the area between downtown and the Seal Cove Road going north. Theborge said they will look at it. He said there is a planning division at DOT that needs to be involved and the Town would have to demonstrate the need through collaboration. Biegler asked if the Town should decide when they want to invest the funds and then go to DOT – or visa versa. Theborge said it should be coordinated together. Biegler reviewed the portions of the Olver report provided to DOT – Dunbar provided a copy of the Olver letter that summarized the State Road work that would impact infrastructure improvements. Theborge said the far Downeast and Enfield area will take up the next two year and the next cycle here will be summer 2013. Theborge is willing to work together and collaborate; Light capital paving fund is all State funded. They will look at the need of the infrastructure and Deven will look at when the last light capital paving was done in this area. Biegler said the Town feels they need it badly. Biegler asked about highway

simplification,- is that dormant? Thebarga said it is with the transportation committee in the legislature. Building the road is one cost, but acquiring property for a newer standard of road is another issue. The Board thanked Thebarga and Deven for attending the meeting.

- III. Adjournment: It was moved Dunbar and seconded Minctons to recess the meeting at 5:48 p.m. Vote: 4 – 0.

### REGULAR BOARD OF SELECTMEN'S MEETING

August 23, 2011 @ 6:00 p.m.  
Southwest Harbor Town Office

- I. Call to Order/Roll Call: The meeting was resumed at 6:00 p.m.  
Visitors: Mark Good, Kristin Hutchins, Dave Chapais, Ronald Sanborn, Florence Weeks, Pat Worcester, Scott Alley, Kathleen Cousins, Richard Cousins Jr., Wayne Seavey, Pat Biegler, Bernice Cousins, Arline Cousins Seavey, Don Lodge, Jason Wimbiscus, Jose Feliciano, Sr., Meredith Hutchins, Clarinel Rodriquez.
- II. Approval of Minutes of August 9, 2011 and August 15, 2011: It was Moved Dunbar and Seconded Benson to approve the minutes of August 9, 2011 as presented. Vote: 4 – 0. It was Moved Dunbar, and Seconded Benson, to approve the minutes of August 15, 2011 as presented. Vote: 4 – 0.
- III. Manager's Report: Clarifiers had a delay of 3 or 4 days – finished one well and starting the other Thurs or Friday. Crossman rate case went to PUC to approve the stipulation – that happened – more language to put into it – should be received end of this week and will be completed by next Selectmen's meeting. Lagrange reported that building permits are up 70% and fees are up 100%. Dunbar asked how the dock was paid for if the funds were not received from the State. Lagrange said he did not have an answer. Dunbar asked for an answer next meeting. New equipment: Lagrange said the Police Department will get a new window treatment to be more energy efficient. This will be paid for out of the remaining renovation funds for the Police Station. The balance of \$279 will go into the general fund. In hopes to put together RFP to survey the public works garage in anticipation of future work. Lagrange conferred with the Town attorney who has no issues with Mr. Benson providing a bid to an RFP for the survey work for the Town garage, as long as Mr. Benson does not participate in discussions and votes on the project. Lagrange asked: do the Selectmen wish to take over this process? Dunbar asked where the funding would come from – Lagrange – Capital Improvement Plan building expansion. Biegler said there are flood plain issues there and no markers or monuments – it is hard to plan for future without a survey. Benson said there has been some survey on a property upstream. Hutchins asked about Benson's participation – Lagrange said not as a surveyor and a selectmen only one or the other. Dunbar said he doesn't see anything coming along for a while. Lagrange said there is around \$125,000 in the CIP now. Dunbar asked what price range – Biegler said she would expect it would be under \$5,000. Benson said he would rather not give an estimate if he is going to bid on the project. He did say it should not be over \$5,000 in his opinion. Dunbar said if the funds are available he sees no reason not to proceed. Lagrange asked if the Board wanted to rely on

Lagrange and Biegler to evaluate the submissions to the RFP and make a selection. It was Moved Dunbar and Seconded Minctons to give the Town Manager the authority to award the surveying RFP bid for town garage property. Vote: 3 – 0 – 1 (Benson)

IV. Warrants: Administration 27-33 Water 20  
Sewer 9 Mansell/Wesley 5  
San

V. Visitors to be heard: Hutchins said she was in the Town office requesting a copy of Don Lagrange’s submittal for the position of Interim Town Manager. She said Lagrange refused her request and she was denied access to the information. Jellison will get clarification from the Town Attorney and contact Hutchins.

VI. Old Business: The Board Chairman designated to take a motion to move the liquor license application to be on the table now. It was Moved Minctons and Seconded Dunbar to take the Liquor License application out of order and place it next on the agenda. Vote: 4 - 0. Liquor License Application: Feliciano’s LLC Village Washtub: Mr. Feliciano explained the project which would be a sports lounge and patio on the left side of the Village Washtub with no amusement or music. Lagrange said the Planning Board reviewed and approved the application. Dunbar asked about the patio and the tree growth and proximity to the school. Feliciano explained the buffering and the hours of operation. He has been in touch with the Fire Marshal who is sending an application. Dunbar strongly expressed his opinion that the project abuts school property, there are no regulations to allow the Town to deny this but any interaction and involvement with the kids will be dealt with strongly. Mr. Worcester, who abuts the property, expressed his concerns about the quality of life and issues with noise. The Feliciano’s said they would close the patio if it were noisy. Chief Chapais said he would get together with the Feliciano’s and work together to lessen the impact. Dunbar said it is good to air all concerns up front. It was Moved Minctons and Seconded Benson to approve the application of Feliciano, LLC for a Liquor License. Vote: 4 – 0.

a. Mansell/Wesley Project – status report: Biegler said the work on Mansell is slightly behind schedule and Goodwin asked for an additional 2 weeks which means they should be done by the 26<sup>th</sup> of September. They have completed the sewer line and are almost done with water and storm water and now want to get the base coat of paving down. Biegler talked to all those who moved boats and floats on Mansell, and all of them said a two week delay will not create a problem unless the hurricane comes this way and then the road will have to be available. Biegler is recommending the additional two weeks. Jellison said they were near Seawall Road yesterday: when will the tie in be made? Biegler said there is still a section of 8” there – if a decision were made today she believes there could be a road permit gotten quickly. Sanborn said the hold up is the price. They will not accept unit price, and the Board needs to make a decision on going on with the \$12,190. Biegler read the list of those she spoke to concerning using the road. With the possibility of the Hurricane over the weekend Goodwin will have to allow passage of boats and docks moving up that road. Biegler said there would be a cost of \$12,190 to replace the pipe. It was Moved Dunbar and Seconded Minctons to approve the cost of \$12,190 to extend to the 12” main. Dunbar said he discussed the price with Goodwin and found the work in State roads has other requirements that raise the price somewhat. Benson asked about the culvert – Biegler said she has had several discussions with the State and they have repeatedly said that it isn’t in the budget. Dunbar asked if the State provided the culvert could the town crew install. Biegler – eventually yes. Vote: 4 – 0. Concerning the extension of time, Ron Sanborn asked that the Board approve 4 weeks instead of two, because there may be weather issues, and the Engineers

may pull them from the job. Biegler said Mike Roi of Goodwin had asked for a one week extension and Biegler said two weeks would be better – allowing a couple of days off the road for haulers to use the road. She recommends granting two weeks, with the understanding that if the Town pulls them off the job, the time will be extended appropriately. Dunbar said they agreed to the stipulations, two weeks is more than enough at this point and agreed with Biegler’s suggestion. It was Moved Dunbar and Seconded Minctons to extend the work time for Goodwin to September 10 with allowance for shut down days if needed and if appropriate. Vote: 4 – 0.

- b. Warrant Committee Resignation: It was Moved (Dunbar) and Seconded (Minctons) to accept the resignation of Sandra Johnson from the Warrant Committee with regret and thanks for her years of service to the Town in many capacities, and with respect to her wishes. Vote: 4 – 0.
- c. Election of Chairman, Board of Selectmen: It was Moved (Dunbar) and Seconded (Minctons) to formally nominate George Jellison Jr., as Chairman of the Board of Selectmen. Vote: 3 – 0 – 1 (abstain Jellison).
- d. Selectman vacancy: Research has been done. If the Board chooses to replace Wilson that could happen on November 8<sup>th</sup> – it would only be for the remainder of that term until June 30, 2012. Lagrange read the motions that would have to be made to cause this to happen. It was Moved Dunbar and Seconded Benson to designate November 8th as a Special Election to fill a vacancy on the Board of Selectmen until June 30, 2012. Discussion. Jellison asked if the Board felt they needed to do a special election or delay until Town Meeting. Dunbar said he has no problem filling the seat as it will not cost the Town money. He also believes the Board could make do until May, but there would be people in the community who would take offense to that. Minctons and Benson agreed. Hutchins asked if there would be a delay in stating once one was elected. No. It is filling a term that has already been established. Vote: 4 – 0

It was Moved Dunbar and Seconded Benson to authorize the shorter time period of 35 days for the availability of nomination papers to fill the vacant position of Selectman. Vote: 4 – 0

It was Moved Dunbar and Seconded Benson to designate a shorter period of time of 30 days for filing of nomination papers for the vacant position of Selectman. Vote: 4 – 0.

- e. Road Projects, FY 2011-12: Biegler said she listened to the tape of the last Selectmen’s meeting and starting with Marshall Brook there is still not a contract with the feds. She thinks it is wise to wait until next year because of the Federal hold up. Benson asked if we could order the culverts early, when the money arrives. Biegler said we could pre-order the culvert – there is \$80k in our budget currently. Dunbar asked if we would benefit from ordering it now? Crack Sealing: Biegler said it is a topic that causes debate – the consultant recommends it , but cautioned they do not know the base of the roads. Biegler recommended taking 4 roads off the list and do the rest at \$53,000 this year. Benson said he would prefer the \$53,000 be used to buy 530 tons of asphalt which would

give a 3 inch overlay for # feet – he believes that in the cold weather the rubber gets so hard it won't stick. Dunbar said he believes the reason we discussed this was to buy time for roads that will have infrastructure work done in future, and need to be coordinated with DOT. Biegler said even at these temperatures, the crack sealing will work – she has seen it used successfully, but it is a decision for the Board. Scott Alley said there will be more cracks next year, and that would mean we are talking about doing something annually. Goodwin asked who had Biegler contacted. She said she has talked to engineers who have used it and has also talked to asphalt people. Jellison said the Board agreed to this in May of 2011. He asked when would be the best time – Biegler would expect to have it ready by early September.

Dunbar asked for references from places that have used crack sealing. Biegler can get that info right away.

Lower Town Dock – Biegler said the hot topping came in over budget and Lagrange said he could not find the funds for that and did not know where Bennett had planned to take the money from – Dunbar asked the price – Biegler said it was somewhere in the \$31,000 range – the price for asphalt came in at \$41,000. Dunbar said this is a project that has had priority and there is over \$250,000 in the highway budget – he doesn't understand why it would come out of the Harbor Budget – Jellison agreed – it should be come of the Highway budget – Biegler said it had historically come out of the Harbor Budget. Dunbar would like to see the whole area done. Lagrange said in the two reserve accounts for the lower town dock are \$1665 and \$19000 and he recommended canceling the crack sealing and getting this done. By next meeting we could have it ready to go. They discussed the parameters of the paving – Biegler will provide a plan and cost estimate at the next meeting. Biegler will locate the coast guard parking areas and the town parking areas.

Hillcrest Circle – Biegler recommends widening it where it meets the highway and continuing the project until the spring.

Fernald point culverts across from Causeway Lane– the estimate was \$8700 and that will be done in September. There will be a buried temporary water line with a substantial pipe. The Town will get a release from Mr. Terry, who is fine with the project. It was Moved Dunbar and Seconded Benson to allow \$8700 for construction of culvert work in front of the Wilbert Terry property on Fernald Point road. Vote: 4 – 0.

Biegler said there are two locations on Clark Point Road where water freezes there are two areas that could be done for \$4,000 this fall – we could use the \$4,000 from crack sealing that will not be done. We would get a grinder and even it out, then overlay. It was Moved Dunbar and Seconded Minctons to allow \$4,000 for the required work on Clark Point Road and intersection of High and Herrick roads to come from the CIP. Vote: 4 – 0.

Sanborn asked if there has been any thought given to Seal Cove road repair. Dunbar said there has been discussion and would like to work with the Park to repair the road. Biegler said there are

estimates for raising the road – it was more than could be fit in with the other things that were identified for work.

- f. Water Tank Design bids: Biegler provided a memo to answer questions – design build as a way to do this project she recommends against. Move forward with awarding the design contract with Olver and meet the deadline – have them help us with the grant financing application. Benson asked what we were looking at in terms of grants. If we miss this deadline what is the outcome. State Revolving Fund Drinking Water program and a low interest rate fund – also a capital forgiveness program, which may be worth pursuing which evaluates our average income against the national average. Benson asked about the Olver price – he thought there were things that were not covered in that price. Are there things that will crop up to raise the price? Biegler said for the design it is hard and fast and clean cut- there is no contracting for inspection or contract management. Biegler explained that Olver would design the foundation, do the specifications, look at the type of tank recommended, the connectivity of the two tanks – and telemetry which doesn't work properly and must be re-designed. Dunbar said Biegler is correct that it will get us the possibility of grant money. Dunbar asked how to pay for that – Lagrange said if the voters approve the left over funds from the water project, they could be used. Dunbar asked where the \$13,000 funds could come from. Lagrange said he did not know where it would come from. Dunbar asked if it could come out of reserve and return that when the water tank bond is done. It was Moved Dunbar and Seconded Minctons to authorize the Town Manager to secure funds from the reserve account for \$12,999 to accept the Olver bid on the RFP of the water tower pending legal service guidance. Vote: 4 – 0.

VI. New Business

- a. Item A: Liquor License Application was taken up at the beginning of the regular Selectmen's Meeting.
- b. Fire Truck Financing: It was Moved (Dunbar) and Seconded (Benson) to adopt the following motions to bond the Fire Truck purchase with Androscoggin Bank. Vote: 4 - 0

TOWN OF SOUTHWEST HARBOR  
MEETING OF SELECTMEN

The Selectmen of Town of Southwest Harbor (the "Town") met at the Town Office in Southwest Harbor, Maine, on August 23, 2011 at 6:00 p.m. Present were Selectmen George Jellison, Jr., Chairman, David Minctons, Vice-Chairman, Ralph Dunbar, Jr., and Tom Benson, being four of the Selectmen of the Town, of which there are four, together with the Interim Town Manager Donald Lagrange and Treasurer of the Town, Linda Corson. The Chairman presided and the Town Manager kept the record. The Selectmen discussed the purchase of a fire truck for the Town. The meeting was open to the public, which was notified of the meeting by means of notice posted at the Town Hall. Upon motions made and duly seconded, the following votes were unanimously adopted:

VOTED: That pursuant to the constitution and laws of the State of Maine, authority the granted by Section 5772 of Title 30-A of the Maine Revised Statutes, as amended, and the action taken by the voters of the Town at a Town Meeting held on

May 2 and 3, 2011 and any other applicable authority under the laws of the State of Maine thereto enabling, the Selectmen and the Treasurer of the Town are hereby authorized to borrow on behalf of the Town from the Maine Municipal Bond Bank or Androscoggin Bank, a principal amount not exceeding \$750,000 to purchase a fire truck for the Town of Southwest Harbor (the Project”), said loan to be evidenced by a General Obligation Bond of the Town, to be executed and delivered on behalf of the Town by the Treasurer and countersigned by a majority at least of the Board of Selectmen of the Town payable over a period not to exceed eleven (11) years (the "Bond") and to be at such interest rates and upon such other terms and conditions as may be required by the Maine Municipal Bond Bank, or Androscoggin Bank.

VOTED: That pursuant to the requirements of the Internal Revenue Code of 1986, as amended, the Town designates the Bond to be a "qualified tax exempt obligation" of the Town, and that the Town shall not issue in 2011 an aggregate total amount of qualified tax exempt obligations in excess of \$10,000,000. Further, the Town does not reasonably expect to issue qualified tax exempt obligations in an amount in excess of \$5,000,000 during 2011.

VOTED: That the Town shall take any and all actions required under the Internal Revenue Code of 1986, to maintain the tax exempt status of the interest on the Bond, and to maintain the status of the Bond as a "qualified tax exempt obligation" of the Town, and that the Bond and the Note may be subject to such further terms and conditions as may be agreed to by a majority at least of the Selectmen and the Treasurer of the Town to carry into effect the full intent of this vote.

VOTED: That the Town Treasurer or the Chairman be and each of them hereby is authorized for the foregoing purposes to make application to the Maine Municipal Bond Bank for sale of the Bond, and to execute a Loan Agreement with the Bond Bank in such form as the Bond Bank may require, and further, that the Town Treasurer, Clerk and Chairman of the Board of Selectmen be and each of them hereby is authorized to take such action to execute any and all documents, affixing the seal of the Town where necessary, in order to carry into effect the full intent of the foregoing votes or any of them.

VOTED: That the law firm of Eaton Peabody is hereby designated as Bond Counsel for the Town to advise the Town with respect to the issuance and sale of the Bond and the Note, and to prepare documents and render opinions as may be necessary or convenient for the purpose.

VOTED: That the municipal officers and officials of the Town are hereby authorized to execute all documents and certificates, and to take all action, including affixing the seal of the Town, as may be necessary or convenient to carry out the full intent of the foregoing votes or any one of them.

It was Moved Dunbar and Seconded Minctons to enter into an agreement with Androscoggin Bank @ 3.08% interest over ten years for the purchase of a Fire Truck for the Town of Southwest Harbor, Vote: 4 - 0

IX. Other Business: Chapais said he is still concerned over the addition of the bar at the washtub. He will talk to Feliciano about this. Dunbar said the children have always used the path behind the Village Washtub to get to the ball field. Chapais will address that with Feliciano. Benson – Wesley Avenue 102 permit: he feels Woodard and Curran has dropped the ball again with the State DOT permit. Sanborn asked who would

be responsible for trimming the bushes from the Butterfly garden to Downtown – Lagrange said they are working on it

X. Sign Warrants: It was Moved (Dunbar) and seconded (Minctons) to accept the warrants as presented. Vote: 3 – 0- 1.

XI. Executive session pursuant to 1 M.R.S.A. 405 (6) (A) Personnel Matters: It was Moved (Dunbar) and Seconded (Minctons) go into Executive Session at 8:25 p.m. Vote: 4 – 0. It was Moved (Dunbar) and Seconded (Benson) to come out of Executive Session at 9:01 p.m. Vote: 4 – 0.

XII. Adjournment: It was Moved (Dunbar) and Seconded (Benson) to adjourn the meeting at 9:02 p.m. Vote: 4 – 0.

ATTEST A TRUE COPY:

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Beatrice D. Grinnell, Town Clark

August 23, 2011