



Board of Selectmen
Tuesday, August 9, 2011 @ 6:00 P.M.
Southwest Harbor Town Office

AGENDA

- I. Call to Order/Roll Call: The meeting was called to order at 6:00 p.m.
Present: George Jellison, Jr., Ralph Dunbar, Jr., David Minctons, Tom Benson, and Interim Town Manager Donald Lagrange

Visitors: Nick Henry, Horton, McFarland & Veysey, Linda Corson, Mark Good, Mike Mansolilli, David Chapais, Sandra Johnson, Nancy Clark, Ida Smallidge, Dick Dimond, Kristin Hutchins, Lydia Goetze, Jason Wimbiscus, Dan Bartlett

- II. Visitors to be heard not on the agenda: Sandy Johnson submitted her letter of resignation from the Warrant Committee. It was Moved Dunbar and Seconded Benson to respectfully accept Johnson's resignation from the Warrant Committee and thank her for her years of service. Discussion: Dimond suggested the Board not accept the resignation at this time. He asked the Board to give it some serious thought. Jellison said he would like to see Johnson reconsider the resignation, and feels she brought great wealth to the Town. Dunbar agreed. Dunbar withdrew his motion. Benson said there is no urgency to accept the resignation and perhaps Johnson would reconsider. Minctons asked to have time to reconsider. Johnson said she did not make the decision lightly. Jellison said the Board would take this up at the next meeting.

- III. Approval of Minutes: Selectmen Minutes of July 26, 2011: It was Moved (Benson) and Seconded (Minctons) to accept the minutes of July 26, 2011 as presented. Vote: 4 – 0. Minutes of the Special Board Meeting of August 2, 2011 were reviewed. It was Moved Minctons and Seconded Benson to accept the minutes of August 2, 2011 as presented. Vote: 4 – 0.

- IV. Manager's Report: Penta Corporation started installing clarifiers at the sewer plant yesterday and will work four 10 hour days during the week. Attorneys have come to an agreement on the Crossman case – some minor wording will be worked out, and we are advised by our attorneys to proceed with the settlement. A PUC hearing is up-coming and the Town should settle the case prior to that. Union contracts are in and signed. On the Seal Cove Road, Sanborn is proposing a pond on his property and that would be an asset to the Town as a water reserve. We would need an easement to this area, and that will require a Town Meeting when it occurs. DEP has been involved with the project and does agree. It would be across from the Public Works garage. Lagrange is asking permission to review; this will be a dry hydrant for the Fire Department and would need legal review for the easement. Lagrange feels there is time to accomplish this before the next Town Meeting. Manset pier – structure and weight units: Greg Johnston has

agreed to review this for the \$1500 fee. Elected Officials Workshop in Ellsworth on October 18th – 4:30 to 8:30p.m. Board members are encouraged to attend – contact Walsh if interested. Benson and Jellison asked to be registered for this workshop. A replacement mower for Public Works has been purchased for \$2,700 from Ellsworth Chain Saw. The street light inventory is on-going. Lagrange sent a message to Hydro with no response yet regarding lights reported out over the last few months. Lagrange provided a letter to the Selectmen which was received today by e-mail about an incident on Seawall Road. The letter, addressed to the Board did not copy the Chief of Police. Board agreed it was not appropriate to discuss at this time. Johnson asked how the costs for the structural work on the pier would be paid – Lagrange said it would come out of Pier maintenance. The lawnmower replacement money was in the Capital Improvement Plan and there were sufficient funds for that.

V. Warrants: Administration 17-26 Water 19
Sewer 5-0

VI. Old Business

a. Mansell/Wesley Project – status report: Lagrange said there is an 8” main across Seawall. Engineers did not change the 8” main going across the road and it hooks in on both ends to a 12” pipe. He had engineers and the contractor look at that and they agree there should be a 12” main going across Seawall Road to Mansell. The cost to do that came to an additional \$12,000 and is an add-on charge. Needs the Board to authorize. We would pay unit pricing on supplies. It will take at least one day to accomplish. It would be approximately 40’ of pipe replacement. There is no unit price at the moment per foot. They will have to tap into the 12” main with a 12” T and engineers have only given a verbal price. Hutchins asked if Lagrange expanded the project into Seawall Road, and is surprised the Engineers were not at this meeting. She remembers the discussion at prior Selectmen’s meetings about the different sizes of pipes in that area. She asked if the Engineers were making a recommendation. Jellison said he remembered there was a 6” and 8” going down Mansell and at a meeting with the Fire Chief present the Chief felt that one 12” would work in place of the 6” and 8” pipes respectively. Jellison thought the engineers did not realize there was an 8” under the Seawall Road. Johnson said the engineers must have known or they wouldn’t have factored in the reducer. What are they recommending now? Lagrange said they are now recommending a 12”. Johnson said her concern is expansion of the scope of the project, and the engineers should be held responsible. Lagrange feels the Engineers made an error in not considering the 8” across Seawall Road. Lagrange said it was caught by his being on site and talking to the people working. His conclusion is not to run an 8” into a 12” line. Dimond asked if the “engineers” are those hired to do the work – has Lagrange looked at the Olver report – he recollects they addressed the issue in town – and nowhere in that report does he remember putting in a 12” line. Jellison clarified that the decision

to use a 12” main down Mansell Lane was in the original plan and not an extra. Dunbar said it is apparent the ball was dropped in replacing the 8” main across the street, and while it is an additional charge, he feels it should be made right, as we will not be in that area working again for several years, and the Town should do the extra 1% correctly. Minctons said we should firm up a price as a 40’ pipe at \$12,000 or \$15,000 is very steep. We need a firm price – what can the engineers do for us? Eric Clark asked if, when Olver did their study, they indicated the hook up sizes? He feels the engineers should start taking responsibility – Dimond agreed. Minctons said it looks like an oversight, and it is a 40’ mistake on their part, he believes. Johnson asked if there were incremental engineering costs extending it over Seawall. A visitor asked if there was a noise ordinance as there has been blasting at 5AM on Mansell. Lagrange said there was one day last week when they needed to do work at 5AM because of the tides. Neighborhood residents were notified. Bartlett said Saturday morning they were blasting at 7AM – water was out from 6:00 am until nearly 6:00 pm. Lagrange will follow up on the issues. Dunbar said the Town is spending a considerable amount of money to provide a considerably better service – how will this work if there is a 2 week delay in settling the Seawall Road crossing? Lagrange said that could be done later, and Mansell should stay on schedule and be completed by Labor Day – he will provide accurate numbers at the next meeting.

Storm water on Wesley Avenue: engineers met with DEP and the plan shows Wesley going across Main Street with storm water, and it shows the East side of Route 102 to the corner of the Ball property near Three Rod Road. This revision includes taking care of the catch basin on Three Rod Road, with new culverts buried at the Ball property. This is a major increase in work to eliminate the storm water on Wesley – this design is at a cost of \$130,000 –with a lot of improvements to State property. The engineers found DOT money in the form of a 50/50 grant. Original design cost was \$73,000 and with the DOT money the revised \$130,000 plan will now cost \$65,000. Lagrange needs authorization to go to the State for matching funds to save the \$8,000. Johnson asked if we would have to commit to this before getting a guarantee from DOT for the 50/50 grant funds. Lagrange answered that DOT said it was a high probability. Dimond said, if the money doesn’t come through we are stuck with the \$130,000. Lagrange said if we don’t get the money, we will go back to the original plan. Dunbar said from the beginning, the State was going to supply the materials for this project – is this correct? Lagrange said the State has everything to gain – they brought the 50/50 grant money to our attention and to the attention of the engineers. Johnson said as long as we are not committed to the \$130,000 plan. It was Moved Dunbar and Seconded Minctons, to allow Lagrange to move forward with the matching grant from DOT and that be the deciding factor in which

plan the Town goes with. Discussion: Benson encouraged making the language strong enough that our commitment is dependent on the 50/50 matching money. This allows Woodard & Curran to pursue this. Vote: 4 – 0.

VII.

New Business

- a. Audit: Nick Henry, Horton, McFarland & Veysey: Nick Henry reviewed the audit for the Water Department saying the Water Department received a clean opinion. He reviewed the balance sheet. The income was considerably lower, but was based on water paying back the Town. Debt to the Town went from \$400,000 down to \$170,000. Revenues were up due to the rate increase.
- b. Planning Board – Resignation & Application: Chairman noted that Gordon Wissinger resigned from the Planning Board. Lagrange said it appears that Wissinger was firm in his resignation and the Board should accept that. Chad Terry asked to put in his application to fill one of the vacant chairs. It was Moved (Minctons) and Seconded (Benson) to accept the resignation of Gordon Wissinger from the Planning Board. Discussion: Dunbar said he would like to thank Mr. Wissinger for his service to the Town and is sorry he feels he needs to resign. Vote: 4 – 0 Chairman said Chad Terry has applied to serve on the Planning Board and asked him to speak. Terry said he was on the Planning Board in 05-06 and started a small business at that time which took up most of his time. He feels now he has more free time to dedicate to the Board. It was Moved (Dunbar) and Seconded (Terry) to accept Chad Terry to the Planning Board for the remainder of Wissinger’s term. Discussion: Johnson asked if there was another application for the position – Lagrange said the other applicant did not appear at the first meeting when there was an opening and did not apply at this time. Jellison said the Board may want to review how they take applicants for volunteer positions when they have more than one applicant. Hutchins said it might not be appropriate to have an interview for volunteers in Executive Session. Goetze asked if there was a policy on the timing of appointments in relation to vacancies. Lagrange pointed out that the Planning Board opening last meeting was advertised. Vote: 4- 0
- c. Town Manager Search Committee: Chairman said there was an initial meeting on August 2nd, and there were 9 citizens present with 4 Selectmen. The group has set up the initial meeting to review resumes for August 15th at 6:00 p.m. Walsh will contact any members not present – deadline for applicant resumes are Friday the 12th of August.
- d. Structural Study-Town Docks: Lagrange said this item was discussed during the Manager’s report in response to Johnson’s questions.
- e. Water Tank Design bids: Bids were sent to the Board in their packets. Lagrange expressed concern that the low bid design

should be such that it would be easily used by another firm. He has questions for the Public Works Director – and once those are answered he would like to come back to the Board with a recommendation. Lagrange said we meet two of three criteria nicely – the third item, a point against getting matching funds/grants/loans, is contingent on the fact that the Town voted to have the Town pay for infrastructure. For this project, the Town need a set of plans at a cost of approximately \$13,000 with an engineer’s stamp. At the next meeting he would ask Board to accept Olver’s submission. Dunbar: we have not ironed out where the money is coming from and have not decided to take it from the Wesley/Mansell project. He is not sure that he could commit to take any money out of these projects until they are done – are there other sources to fund this? Johnson said the Town had to vote to secure the funds for the Wesley Mansell project and asked: is it legal for the Town to use these funds for something else? Lagrange said if there is money left over, the legal opinion the Town received said that we may use the remaining funds and apply them to the cost of the water tower project. Her question was that, if the funds were not used, and the voters approved the funds for something specific, as a voter she would be upset if left over funds were used for something else. Dimond asked what the \$12,900 is? Lagrange said it is the cost for designing the water tower. Benson said he is of the opinion that this looks like it is going to be designed twice – the original firm that dealt with the water tower has designs, and would review it, but we would need a Maine stamp on their design. He would like to look at who we want to go with and find out if Pat could put a Maine engineer’s stamp on the design. Benson said \$30,000 to demolish the towers is large and, Benson has found a local person who can demolish plus remove the foundation for no cost. He feels we should step back and look into other routes. Dunbar said there a many questions, and this discussion should be tabled until the next meeting . Concerning Johnson’s statement about not using funds without approval, he agrees that the Board should go to the voters just to be transparent. He feels it is important to get the design in order to apply for funding. Dimond said funds were voted to do the water infrastructure – the Town now already has funding available for water infrastructure project. It was Moved Dunbar and Seconded Minctons to table the water tower design discussion until the next regular Selectmen’s meeting. Vote: 4 - 0

- f. State DOT Meeting: A letter received in July concerning condition of State roads in SWH was received from the State DOT Regional Manager and he is interested in meeting. Benson asked if it would be a meeting of the Selectmen – Jellison said meeting at a regular session would be best. Dates of August 23 and September 13th were discussed. Dunbar suggested the next meeting date 8-23 and if 6:00 pm is not good, he suggested posting a special 5:00 pm meeting.

- g. Selectman Vacancy: Chairman has talked with Wilson and doesn't feel he will reconsider his resignation. Wilson indicated he did not feel he needed to submit a written resignation. It was Moved Dunbar and Seconded Benson, to accept the Wilson resignation with regret, with respect for his wishes, and the Board wished him the best. Discussion: Dimond said the Board has nothing to loose by not acting on the resignation. Dunbar said by not doing something about it there is a Vice Chairman acting Chair of the Board. Dimond said the idea that this is stopping progress is ridiculous. Goetze said the Board should recognize Wilson's years of service to the Board. Dunbar withdrew his motion and modified it as follows: It was Moved Dunbar and Seconded Minctons to accept the verbal resignation of Wilson from the Board of Selectmen with regret, with recognition of his service on the Board for 21 years as a great asset to the Town, and with reluctance and with thanks very much for his long service to the Town. Additional discussion: Chairman – it would be helpful to have another person on the Board and one procedure would be to hold a special election in perhaps early November. Chairman said the Board needs information on the time frame for a Special Town Meeting election. Walsh will pursue that timeline with the Town Clerk and notify the Board. Vote: 4 - 0
- h. Consent Agreement-Goodwin: Lagrange presented a consent agreement for use by Goodwin construction of the upper parking lot which would be storage of pipe and materials, but no gravel, to be used on the Wesley Avenue project. One amendment date in the agreement is a date in error in item 6. The date is May 15, 2012. Johnson asked about the wear and tear on Village Green Way. Chairman said the contractor was present at the last meeting and answered those questions. The contractor said delivery would go up Wesley Avenue to the Lewis lot. Clark said the Town should get some sort of compensation for the use of that lot, as he believes Lewis will get compensation for access from Wesley to the parking lot over her property. Dunbar indicated that the lot in question is up by the pond and is the further upper lot. Mansolilli said to make it efficient for the job and the residents involved, the Town assisting the contractor by allowing use of the property on the upper parking lot is fine. It was Moved Dunbar and Seconded Minctons to accept the consent agreement with the date change of May 15, 2012 as presented. Vote: 4 – 0.
- i. Prosecutor's Certification: The certificate allows officers of the Police Department to prosecute civil cases in court. The Academy needs the Town to give the Police Chief the ability to tell trainers that they have no problem allowing police officers to prosecute cases of civil matters. It was Moved Dunbar and Seconded Benson to accept and sign the Prosecutor's Certification presented. Vote: 4 - 0
- j. Road Projects FY 2011-12: Lagrange said this is his opinion after discussions with Scott Alley concerning projects the Selectmen have approved. He feels some of the projects should be cancelled

and presented a list to the Selectmen. Lagrange said filling cracks in the road would give only a 5 year use – the situation is we do not know the base of the roads and what another year will bring. It appears to be the first time the Town has considered sealing cracks. Lagrange wants to suspend the Hillcrest Circle overlay for \$9,000 as there is a need to peel asphalt and look at the width of the road. He feels more information is needed, and the project will probably cost \$14,000 or more. Third, the Marshall Brook culverts on Marshall Brook Road are a concern. The grant money is good for 4 years and the design of the culverts is just coming through and manufacture of the culverts will take until October. He feels this is a bad time of year and the project should be put off until next October. Concerning the Fernald Point Road culverts – first approved for \$20,000, from the 100 year storm events the culverts that needed to be changed during the storm events were already replaced in the spring of 2009-2010. Lagrange is suggesting only doing the one in front of the Terry property because of the deepness of the trench and its location on a curve. There is a seasonal water line in place there which would need to be on Mr. Terry's property. Lagrange suggests burying the seasonal water line next to the culvert, and removing a couple of trees would allow burying more of the seasonal water lines. There could be fusing it to make them more permanent when buried. Wants to bring more accurate cost to the Board at the next meeting, and do the work in September, reducing the \$20,000 to about \$7,000. Hutchins asked the Public Works Director's position on these changes. Lagrange said he provided the memo and got no response. Goetze said the Comprehensive Plan does not make reference to seasonal water lines on Fernald Point Road, and reference to that was in error. Lagrange said the fifth item is the Lower Town Dock. He recommends going to the Spring of 2012 to complete this. Dunbar said there are many questions yet to be answered and on the Marshall Brook project it would appear October would be a perfect time to do the project. He reiterated the Town is supposed to work closely with the Park and Inland Fisheries and asked how would they see the project being done in October? Concerning the Lower Town Dock, Dunbar said the Town never received an updated price on what it would cost to do that project. Chairman commented on Marshall Brook, saying he thought the spawning of the brook trout there may be an issue and we need to get a clearer picture of the timing from the Inland Fisheries and Park. He also thought the Town Dock was going to be paved before the 4th of July and Hillcrest Circle, plus a part of Shore Road. Johnson said it is imprudent to make this decision without the Public Works Director present. Chairman concurred. He expressed concern about the crack sealing and was under the impression from Olver that some of the roads were good. Johnson said there were reasons these projects were recommended and would feel more comfortable if Biegler were present. It was Moved Dunbar and Seconded Minctons to table discussion on the Roads Projects until the next

regularly scheduled Selectmen's meeting. Benson asked if the Town could order the culverts for Marshall Brook now, if the project is postponed, as material costs will go up. Vote: 4 – 0.

- IX. Other Business: Dimond said several meetings ago was the issue of installing new water meters in houses where meters were broken – when will that be re-started? Part-time police officer will take that position and Chief said he will be done at the Police Department the first week of September. Dunbar said the Board needs to nominate a vice chair. It was Moved Dunbar and Seconded Benson to elect David Minctons as Vice Chair of the Board of Selectmen. Vote – 3 – 0 – 1 (abstain Minctons).
- X. Sign Warrants: It was Moved Dunbar and Seconded Benson to approve the warrants as presented at the beginning of the meeting. Vote: 4 - 0
- XI. Executive Session: There were no Executive Sessions.
a. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (D) Labor Contracts/Negotiations
b. Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) personnel matters
- XII. Adjournment It was Moved Dunbar and Seconded Minctons to adjourn the meeting at 8:15 pm. Vote: 4 – 0.