

Board of Selectmen's Meeting Minutes
January 13, 2011
Harpswell Town Office
Approved on January 27, 2011

Page 1 of 5

At 3:30 p.m. the Board met with the Budget Advisory Committee to review the Committee's 2011 budget recommendations.

Selectmen Present: James S. Henderson, Mark E. Wallace and Elinor Multer

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; Carol Tukey, Planner; Jim Hays, Harbormaster; and Lee Johnson, Animal Control Officer

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:40 p.m.

The meeting was videotaped and broadcast live on Harpswell Community Television.

1. Adoption of the Agenda: Chairman Henderson moved, seconded by Selectman Wallace to adopt the agenda as amended by adding Acceptance of Resignation under Other Business; motion passed 3-0.

2. Public Comment: Nathaniel Meyer, of Environmental Maine, stated his organization is working towards clean air and water and as such, is pushing to reduce oil dependence. Mr. Meyer stated legislation has been introduced that requires the reduction of oil in stages by certain dates and with certain reporting requirements. Mr. Meyer asked the Board of Selectmen to consider supporting the bill by passing a resolution and by sending a letter to the legislative representatives urging them to support the bill. The Board agreed to review the proposal and place this item on a future agenda.

3. Town Administrator's Report: Administrator Eiane reported that Keith Brown has been the Town's ex-officio member on the Curtis Memorial Library (CML) Board of Directors since 2006. Mr. Brown indicated that he was willing to continue to serve in that capacity until the Board is able to find a replacement. Mr. Brown has also offered to assist the Board during negotiations with CML for a new memorandum of understanding, and he feels the ex-officio member should be a voting member. Administrator Eiane reminded the public of the public hearing being held on Tuesday, January 18 at 6:30 p.m. at the Harpswell Islands School regarding the closure of the West Harpswell Elementary School, with a snow date of January 25. Administrator Eiane announced that nomination papers are available for Selectman and two MSAD 75 school board members; papers must be returned by the close of business on January 26. Administrator Eiane stated the Town received a letter from a property owner requesting their property be rezoned from commercial fisheries to shoreland residential. Staff will follow up on the request.

4. Selectmen's Announcements: Chairman Henderson stated the Town had an appraisal completed of the Cedar Beach area. The Town's attorney has presented the Town's appraisal to the attorney representing the Abrahamsons and the Town is awaiting a response.

5. Consent Agenda: 1) Approval of the Minutes; 2) Engagement Letter with Runyon, Kersteen, Ouellette for 2010 Audit: Selectman Multer removed item 2 from the consent agenda. Chairman Henderson moved, seconded by Selectman Multer to approve the minutes; motion passed 3-0. Selectman Multer stated she doesn't have an objection to the engagement letter but would like it to expire in June. This will allow time to send the service out to bid before next year's audit, if the Selectmen choose to do so. Administrator Eiane explained the engagement letter covers the 2010 audit and once completed (approximately in March) the Board can direct staff to bid the service. Chairman Henderson moved, seconded by Selectman Multer to execute the engagement letter and direct staff to prepare a request for proposals as an agenda item in June; motion passed 3-0.

6. Consider Harbor and Waterfront Ordinance Amendments: Jim Hays, Harbormaster, reviewed the proposed amendments to the Ordinance, including striking language in 5.2.3 and adding language in 5.1.5. Mr.

Hays explained that when he has a priority issue and is required to relocate a mooring, the current language makes it difficult as it requires that the new location be agreeable to the original registrant and he recommends striking the “agreeable” language. The Board discussed possible solutions other than just striking the language, including adding language to allow input from the original registrant. The Board agreed with the additional language in 5.1.5. Selectman Multer moved, seconded by Selectman Wallace to proceed with the Harbor and Waterfront Ordinances changes with the addition of “After consultation with original registrant, the Harbormaster will...[see current ordinance section 5.2.3]”; motion passed 3-0.

7. Consider Cumberland County Development Block Grant Applications: Carol Tukey, Planner, stated there is one general application and one planning application for submittal to Cumberland County for the Community Development Block Grant program. Deputy Administrator Sawyer explained the Board previously reviewed and agreed to two preliminary general applications: one for the demolition of buildings at Mitchell Field and one for a parking lot at the Town property near the access road to the shore off Hildreth Road. The County provided input on the preliminary applications and stated the parking lot wouldn’t qualify unless there were strict regulations involved that would limit access to the parking area and therefore staff has not prepared a formal application for the parking lot. Selectman Multer expressed concern about language that refers to the buildings in the application for the demolition of buildings as dangerous and a liability. If the Town isn’t awarded the grant, Selectman Multer is concerned the language may set the Town up for a liability and she asked for legal to review the application. Chairman Henderson moved, seconded by Selectman Wallace to authorize the submission of the demolition grant pending legal review for language leading to liability; motion passed 3-0. Administrator Eiane noted a necessary change in the pier and infrastructure assessment application to change the word structure to infrastructure. Chairman Henderson moved, seconded by Selectman Wallace to authorize the application for infrastructure and pier assessment with changes; motion passed 3-0.

8. Consider Additional Public Hearing for Land Use Items, February 7 – 9: Administrator Eiane stated the Board held a hearing with the Planning Board on Tuesday night and as a result, some proposals may be undergoing substantive changes, therefore requiring another hearing. The Board heard a lot of comment on the village and rural proposals and the Board may need to consider policy level decisions. Ms. Tukey stated the Committee is meeting on Tuesday and would like another opportunity to make changes for public review. The Board agreed to set February 9 as the next public hearing.

9. Town Line Boundary Issue: Chairman Henderson stated the Board met with the Town attorney and asked about reviewing the Town line boundary information gathered by the Carrying Place Assembly (CPA). The Town attorney suggested that since Pierce Atwood was involved with the original review of the 1998 decision that perhaps that firm would be more able to assess the information now. Chairman Henderson said he was willing to consider the advice and approach Pierce Atwood. John Loyd, of the Carrying Place Assembly, stated he was concerned with the approach as he submitted a letter last week that tried to remove from the table any items subject to interpretation for the Town attorney to answer certain questions. Chairman Henderson responded the Board may be willing to have Pierce Atwood review whether the case for the Town line is strong. John Loyd responded that the Carrying Place Assembly isn’t looking for confirmation that its case is strong; it is looking for the Board to believe in it and therefore, support it fully. Chairman Henderson questioned whether that was the sentiment of the fully Carrying Place Assembly as he believed the Assembly wanted a legal opinion regarding its research. Mr. Loyd stated it would be less expensive to have the Town attorney review the questions asked in the letter instead of Pierce Atwood reviewing the full case. Chairman Henderson indicated that, if the Board agreed in the validity of the research, there is no need to have the case reviewed legally. Chairman Henderson moved that there is no need to have a legal review by Town attorney pending resolution that the Harpswell Select Board members, having reviewed the documents or through conversations, are in agreement with characterization of the boundary of the Town of Harpswell as asserted by the CPA and urge the legislature to restore the boundary. Selectman Multer stated she would second the motion but wanted time to review the information handed out tonight. The Board agreed to table this to the next regular

meeting. Any changes to the chronology will be submitted by the Carrying Place Assembly. Chairman Henderson stated he would support carrying forward the funds of \$874.71 for this purpose and he would recommend to his colleagues to place an article on this Town Meeting warrant for up to \$10,000 in funds to continue this cause.

10. Consider Animal Control Ordinance Amendment Re: Penalty for Nuisance Dogs: Administrator Eiane summarized that the Town received a request to add a penalty for nuisance dogs. Lee Johnson, Animal Control Officer, stated he was satisfied with the proposed amendment but that it is very difficult to prove in a situation as there are always two sides. Mr. Johnson stated he seldom has to fine as he will ask people to work together and most of the time that is successful. Chairman Henderson questioned how the fine process works now. Mr. Johnson responded that if he picks up a dog that is running at large he will bring it to the Coastal Humane Society and one has to pay a boarding fee to retrieve the dog. Rarely does he have to assess a fine or issue a summons. Chairman Henderson moved to proceed with the Animal Control Ordinance amendments and to place it on the February 9 hearing and the Board concurred.

11. Request for Proposals for Compactor Container Recycling Center: The Board made one change regarding the submission wording to the request for proposals. Chairman Henderson moved, seconded by Selectman Multer to authorize the Recycling Center manager to send out for bids for the container; motion passed 2-0 (Selectman Wallace abstained).

12. Legislative Update From Selectman Multer, Maine Municipal Association Legislative Policy Committee Member: Selectman Multer provided a brief overview of pending legislation relating to the municipal community that the Maine Municipal Association is supporting. See attached Legislative Bulletin for more information.

13. Consider Secret Ballot Items for March 12, 2011 Annual Town Meeting: The Board discussed potential items for placement on secret ballot. Chairman Henderson moved, seconded by Selectman Wallace to place: timber harvesting, definitions re: mineral exploration, community docks, road ordinance amendment re: driveways, wheelchair amendment, and the appropriation for the Curtis Memorial Library on the ballot; motion passed 3-0. Each Board member recommends each of the ordinances listed above. Chairman Henderson moved, seconded by Selectman Multer to place the Solid Waste Ordinance on secret ballot; motion passed 2-0 (Selectman Wallace abstained). Chairman Henderson and Selectman Multer recommend the Solid Waste Ordinance. Selectman Multer and Chairman Henderson recommend all of the above ordinances. Selectman Wallace did not recommend the Curtis Memorial appropriation.. Selectman Multer will work with the Planner to write up summaries for the ordinances.

14. Consider 2010 Carryover List: The Board discussed the purposes of some accounts and combined some accounts. Administrator Eiane explained the use of contingency in 2010 included \$195.67 for marine patrol/law enforcement and \$290.50 for Mitchell Field zoning and performance standards. Chairman Henderson moved, seconded by Selectman Multer to approve the following carryover list with contingency; motion passed 3-0.

Dry hydrants development reserve	\$15,690
Contracted Services: Town Planner	1,190
Community development	3,480
Legislative assistance agent	4,000
Land acquisition	1,279
Vehicles & equipment replacement	41,500
HCBC digital conversion	25,000
Boat/motor replacement	32,000
Voting machines	12,300
Heating assistance reserve	13,145

Generator replacement	41,000
Town Office & facilities improvements	28,000
Self-insurance reserve	2,221
Marine hazards	3,522
Failed septic system reserve	7,648
Recycling	39,293
Vision/assessing	20,235
Emergency services equipment	1,990
Mitchell Field – deeds & legal	6,500
Mitchell Field - other	3,065
Town Line Boundary	875
FEMA assistance	575
Energy Conservation	10,000
Heating assistance	1,450
Swim donations	3,651
Plus contingency	49,135
Total	368,744
Plus capital roads	237,900

15. Consider Possible Exception to Freedom of Access (FOA) Statute: Selectman Multer asked Chairman Henderson and Selectman Wallace to support an exception to the FOA to eliminate email addresses, for those who have signed up for distribution of information emailings from their municipalities. Selectman Multer stated she spoke with Senator Gerzofsky and he would support the legislation if the Maine Municipal Association does not oppose it. Selectman Multer moved, seconded by Selectman Wallace to support legislation to have email addresses (not names) from distribution lists exempt from the FOA. Chairman Henderson stated he is a member of the Board of the Freedom of Information Coalition and he raised this issue at the Coalition's recent meeting and it is not supported. The Legislature's Right to Know Advisory Committee does not support any exemption for email lists. Chairman Henderson cannot support such an exemption as email distribution lists are voluntary and such an exemption could lead to many other issues not foreseen. Selectman Multer further clarified her motion to have the Board go on record as advocating an exemption to the FOA for email addresses of individuals who sign up for regular electronic distribution of news of government units. Motion passed 2-1 (Chairman Henderson opposed). Selectman Multer noted there is legislation to make the FOA clear that the FOA cannot be used to get around court rulings that certain documents are not subject to public scrutiny.

16. Other Business: Chairman Henderson moved, seconded by Selectman Wallace to accept Joanne Rogers' resignation from the Planning Board effective January 11, with regret; motion passed 3-0.

Sam Alexander asked if it is known when the pipeline easements will be returned to the owners. Administrator Eiane responded there are additional soil tests taking place and depending on the results, she is hopeful in 2011.

17. Authorization of the Warrant: Chairman Henderson moved, seconded by Selectman Multer to authorize warrant #89 (2010 warrant) in the amount of \$13,499.23; motion passed 3-0. Chairman Henderson moved, seconded by Selectman Multer to authorize warrant #90 (2010 warrant) in the amount of \$6,727.28; motion passed 2-0 (Selectman Wallace abstained). Chairman Henderson moved, seconded by Selectman Wallace to authorize warrant #3 (2011 warrant) in the amount of \$600,264.22; motion passed 3-0. Chairman Henderson moved, seconded by Selectman Multer to authorize warrant #4 (2011 warrant) in the amount of \$171.63; motion passed 2-0 (Selectman Wallace abstained). Payroll warrant #2 in the amount of \$13,781.72 was noted for the record.

18. Public Comment: Robert McIntyre requested the Board meet on other nights than the MSAD 75 School Board. Mr. McIntyre stated at tonight's School Board meeting a proposed budget was presented and it appears

that Harpswell's assessment will be ½ million less than last year, so taxpayers can keep West Harpswell School (WHS) open without causing a tax increase. Mr. McIntyre reported MSAD's attorney, Peter Lowe, recommended against allowing the opposing view in the information MSAD may release regarding the closure of WHS. Mr. McIntyre asked the Board of Selectmen to consider mailing a special bulletin with information regarding the WHS vote. David Johnson, MSAD 75 School Board member, thanked the Town of Harpswell for allowing him to serve 4 times (14 year) on the school board and he has been very proud to have served as an agent for the State. Mr. Johnson stated that his term expires this year and it is time for him to step aside and spend time with this family and the therefore he will not run again. The Selectmen thanked Mr. Johnson for his many years of dedicated service.

The Board handled administrative items: a meeting on 1/20 at 6:30 was scheduled to address budget items; a junkyard site visit was scheduled for February 3 at 3:00 p.m.; it was discussed that the Harbormaster is working on signage for Quahog Bay regarding no discharging and Chairman Henderson raised concern about camping on Little Snowe; and it was noted that the Town has budgeted funds for a wetland delineation and survey for the Hildreth Road tax-acquired property.

19. Adjournment: The meeting adjourned by unanimous vote at 9:30 p.m.

Respectfully Submitted,

Terri-Lynn Sawyer

Attachments: Legislative Bulletin

[Attachments are available at the Town Clerk's Office or by email at harpswell@town.harpswell.me.us]