

**Board of Selectmen's Minutes**  
**April 12, 2007**  
**Harpswell Town Office**  
Approved April 26, 2007

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**Selectmen Present:** Amy N. Haible, James S. Henderson and Chairman Samuel W. Alexander

**Staff Present:** Kristi K. Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; William Wells, Code Enforcement Officer and Marguerite Kelly, Treasurer

**Call to Order and Pledge of Allegiance:** The meeting was called to order by Chairman Alexander at 6:30 p.m. with the Pledge of Allegiance. The meeting was videotaped and broadcast live on Harpswell Community Television.

**1. Adoption of the Agenda:** Chairman Alexander moved, seconded by Selectman Haible to amend the agenda by replacing item 11 (Housing Committee Report) with Acceptance of \$6,000 from the Maine Department of Environmental Protection Small Community Grant Program; motion passed 3-0.

**2. Town Administrator's Report:** Administrator Eiane explained the Town of Harpswell's special education funding (\$886,000) is in jeopardy. The State Department of Education released two budget scenarios, A and B, and it appears that the school budget will be based on scenario B, which does not include any reimbursement for Harpswell). Administrator Eiane encouraged everyone to send letters to our legislators and stated there are sample letters available on the Town's website. There is also a letter available in the Town Office lobby that people can sign. Administrator Eiane announced there will be a meeting at Mt. Ararat High School on April 23 with Senator Edmonds and Representative Percy to further discuss this situation. Administrator Eiane reported that the Education Committee voted 9-0 against LD 1473: An Act to Provide State Support for State Approved School Construction Projects in certain municipalities. Therefore if Mt. Ararat is rebuilt or rehabilitated, Harpswell will likely bear 18% of the total costs. Administrator Eiane informed the Board that the Town of Freeport has asked the Town to contribute \$2,000 to help fund an audit of the Department of Marine Resources water quality program. Administrator Eiane suggested the Board could potentially consider using economic development funding approved at the 2007 Town Meeting for this purpose.

**3. Selectmen's Announcements:** Chairman Alexander emphasized the importance of the special education issue as the \$870,000 represents a large percentage of Harpswell's school budget. Selectman Haible announced she attended a seminar regarding harmful algae blooms (red tide). Bowdoin College and University of Maine have installed a \$700,000 buoy in Harpswell Sound which measures information relating to algae blooms. Selectman Haible announced she has asked Dr. Laine if he would come speak at a Selectmen's meeting and give a brief explanation regarding algae blooms for the public. Selectman Haible reiterated the seriousness of the issue regarding the potential loss of \$870,000 in special education funding for Harpswell. Selectman Haible encouraged people to sign the letter available in the Town Office that will be sent to our legislators. Selectman Henderson explained that there may be potential hope for Harpswell's special education since the proposed bill regarding capital reimbursement was defeated. Selectman Henderson announced mooring fees are due May 1<sup>st</sup>. Selectman Henderson reminded the public and committee members of the forum with the Board and committees on April 21 at 9:00 a.m.

**4. Old Business:** Administrator Eiane reviewed that the Town was previously awarded a Right-of-Way Discovery Grant in the amount of \$2,500 and the Town Lands Committee recommended proceeding with the Tide Mill Cove Landing site. Administrator Eiane requested the Board's concurrence for staff to proceed with legal assistance regarding abutter encroachments at the Tide Mill Cove Landing. Selectman Henderson moved, seconded by Chairman Alexander to accept the Town Lands Committee recommendation; motion passed 3-0.

**5. Treasurer's Report:** Marguerite Kelly, Town Treasurer, reviewed her monthly report for March (attached as further reference).

**6. Sign Release Deeds Regarding Former Unknown Owner Parcels:** Administrator Eiane explained the Board previously signed release deeds for four of the five parcels formerly with unknown owners. The first release deed released the 2003 tax liens on the properties and these deeds will release the 2004 and 2005 tax liens. Chairman Alexander moved, seconded by Selectman Haible to sign the release deeds for the four parcels; motion passed 3-0.

**7. Consider Process for Remaining Unknown Owner Parcels:** Administrator Eiane explained that one of the unknown owner parcels (Tax Map 62, Lot 170) did not close with the awarded bidder and that there are three possible choices for the Board to consider; 1. proceed with the second bidder; 2. negotiate with the second bidder; 3. place the parcel out to bid. Chairman Alexander moved, seconded by Selectman Haible to negotiate with the second bidder. Selectman Henderson stated that he believed it best to proceed with the second bidder's original bid. Chairman Alexander withdrew his motion. Selectman Henderson moved, seconded by Chairman Alexander to award the parcel (62-170) to the second bidder for the original bid; motion passed 3-0.

**8. Mitchell Field Update:** Don Miskell, member of the Mitchell Field Committee, explained the Mitchell Field Committee is helping facilitate a public process whereby the public will provide input and an independent consultant will develop a proposal based on the input. The final proposal will go before the Selectmen and citizens of Harpswell for approval. Mr. Miskell explained that with the \$7,000 anonymous donation, \$5,000 from the Town and \$10,000 in a Federal grant, the Town has hired a consultant, Holt & Lachman, for this master planning process. The Committee met with Mr. Holt and developed a schedule for public planning events. The public forums are scheduled for June 6 and June 26 at 6:30 p.m.; the community design workshop will be July 15 at 12:00 noon; and the third forum on July 31 at 6:30 p.m., all to be held at Harpswell Islands School. Mr. Miskell encouraged everyone to participate in this process, join the meetings and stay tuned for continual updates through the mail, website and regular reports at the Selectmen's meetings.

Administrator Eiane reviewed the Town's economic development policy that has a disclosure clause requiring any interest in use of Mitchell Field be reported to the Board of Selectmen. Administrator Eiane reported the Town has been approached by Bruce Doughty of Washburn and Doughty, a boat building company in East Boothbay, who has expressed an interest in Mitchell Field. Administrator Eiane encouraged the company's participation in the master planning process. Administrator Eiane stated the Cumberland County Sheriff's Department would like to hold a hostage training session at Mitchell Field on April 17, using the buildings and grounds only (no pier). Selectman Haible moved, seconded by Chairman Alexander to authorize the Cumberland County Sheriff's Department to conduct a training exercise at Mitchell Field; motion passed 3-0. Selectman Henderson questioned whether there was an additional policy on how to proceed with interested parties for Mitchell Field. Administrator Eiane responded that there has not been a set procedure and at this point, interested parties are encouraged to participate in the master planning process. Chairman Alexander reported that he has spoken with Bruce Doughty, of Washburn and Doughty, as well, regarding his interest in Mitchell Field. Chairman Alexander stated Mr. Doughty is trying to obtain approval for his business in Bucksport but due to problems there, he is interested in Mitchell Field. Chairman Alexander explained Mr. Doughty would like a commitment by June 1 and he offered the Board to visit his business in East Boothbay. Selectman Haible noted how tempting the offer is but that the master planning process cannot be jeopardized.

**9. 7:00 PM Public Hearing Regarding Harpswell Neck Fire Department Loan:**

- **Sign Services Agreement with HNFD:** Chairman Alexander moved, seconded by Selectman Henderson to sign the Emergency Services Agreement between the Town and the Harpswell Neck Fire

Department; motion passed 3-0. Alan Shaver, on behalf of HNFD, requested the Board remove the clause in the Loan Agreement that states the Town will have a security interest in truck for the term of the loan. The Board discussed this issue and agreed to keep the clause in the agreement based on legal advice indicating that this is not a trust issue. Marguerite Kelly, Town Treasurer, explained the public hearing was a requirement by the IRS because the Town, as a tax exempt entity, is lending to an entity outside the Town. Ms. Kelly stated there were three things to accomplish: sign the emergency services agreement; hold a public hearing; sign the loan documents in the beginning of May, which will include representing the hearing took place regarding the bond. Chairman Alexander asked for others to speak on this matter and no one did. Selectman Henderson moved, seconded by Chairman Alexander to close the hearing; motion passed 3-0.

- **Authorize Town Treasurer to Issue RFP for Borrowing Funds:** Selectman Haible moved, seconded by Chairman Alexander to authorize the Town Treasurer to issue request for long term financing in the amount of \$75,000 for the purchase of a fire truck; motion passed 3-0.

#### 10. Wharf Applications:

- **Reconsideration of Varujan Ozcan, Map 16, Lot 346, 25 Windsor Lane, Denied March 1, 2007, Request for Reconsideration Approved March 15, 2007:** Joe Leblanc, representative for Ozcan, presented the new proposal and explained that based on the Board's previous recommendations, the proposal has been made 30 feet shorter. Additionally, the new proposal realigns the float up to the riparian line and includes using a new deck material for the float that allows light through to the area beneath the float. Mr. Leblanc stated that the Army Corps Of Engineers has approved their proposal after two site visits to review the eel grass. Mr. Leblanc consulted other lobstermen that have assured him that the abutter (Mr. Clemons) could maneuver his boat past the Ozcan's proposed wharf. James Clemons (abutter) spoke in concern of the proposal relating to the eelgrass and definition of mean low water. Chairman Alexander explained the Board reviews wharf applications under the Wharves and Weirs Act and not Army Corps standards. Mr. Clemons expressed concern with his ability to navigate his boat past this proposed wharf to the side of his own wharf. The Board agreed there is adequate room to navigate to Mr. Clemons' wharf. Selectman Haible moved, seconded by Chairman Alexander to approve the revised Ozcan proposal; motion passed 3-0.
- **James Clemons, Map 16, Lot 376, Windsor Lane:** Bill Wells, Code Enforcement Officer, presented that the application was an expansion to the existing wharf system that meets the 25-foot sideline setback. Chairman Alexander moved, seconded by Selectman Haible to approve the Clemons proposal as it doesn't cause an injury to the rights of others or create a navigable issue; motion passed 3-0.
- **Sandra McCurdy, Map 45, Lot 35, 50 Elton Farm Road:** Bill Wells, Code Enforcement Officer, explained that this proposal is an unusual layout due to the cove which causes the riparian lines to overlap. In Mr. Wells' opinion, Ms. McCurdy has a right to this area and noted that all abutters were notified and that no objections have been received. Selectman Haible moved, seconded by Chairman Alexander to approve the McCurdy proposal as it doesn't cause an injury to the rights of others or create a navigable issue; motion passed 3-0.
- **Anne Cotton, Map 13, Lot 227, 100 Knight Way:** Bill Wells, Code Enforcement Officer, explained that this proposal is to replace an existing wharf and will not exceed the existing wharf's length. Tim Forestor, of Echo Inc., explained the new proposal will be less impactful and will not encroach onto the eel grass. Selectman Haible noted that although the float doesn't encroach onto the eel grass, a parked boat at the float could potentially harm the eel grass. Chairman Alexander moved, seconded by Selectman Henderson to approve the Cotton proposal as it doesn't cause an injury to the rights of others or create a navigable issue; motion passed 3-0.
- **Lauritsen (Tobey), Map 67, Lot 5, Little Yarmouth:** Bill Wells, Code Enforcement Officer, presented the application and recommended approval. Chairman Alexander moved, seconded by

Selectman Henderson to approve the proposal as it doesn't cause an injury to the rights of others or create a navigable issue; motion passed 3-0.

**11. Acceptance of Small Community Grant Funds:** Chairman Alexander moved, seconded by Selectman Haible to accept \$6,000 from the Maine Department of Environmental Protection Small Community Grant Program; motion passed 3-0.

**12. Abatements:** Chairman Alexander moved, seconded by Selectman Haible to grant as the Board of Assessors an abatement in the amount of \$22,300 of assessed value for 2006 taxes to Dana Field for Map 12, Lot 188-5 due to an error as Mr. Field didn't own taxable property; motion passed 3-0. Chairman Alexander moved, seconded by Selectman Henderson to grant as the Board of Selectmen an abatement in the amount of \$22,300 of assessed value for 2005 taxes to Dana Field for Map 12, Lot 188-5 due to an error as Mr. Field didn't own taxable property; motion passed 3-0.

**13. Consider Contract for Open Space Plan with FB Environmental of Portland, Maine:** Administrator Eiane explained the Town sent out a request for proposals and after interviewing consultants, the selection committee recommended hiring FB Environmental, which the Board previously approved. Administrator Eiane requested the Board approve the contract for \$10,000 for FB Environmental to create an open space plan on or before September 17, 2007. Selectman Haible noted that the Conservation Commission and Harpswell Heritage Land Trust will be involved in the process that will identify areas for inclusion in the Open Space Plan which can be used as a planning tool. Selectman Haible moved, seconded by Chairman Alexander to accept the contract with FB Environmental; motion passed 3-0.

**14. Orr's Island Lease Agreements:** Administrator Eiane stated that approximately five years ago, the Department of Transportation (DOT) informed the Town the State did not own the land at the Orr's Island Bridge and that the Town likely did. Upon attorney advice, the Town entered into lease agreements with most of the wharf owners at the property. Recent requests to lease to new people have created the need for a clear policy regarding the allowed uses and to whom to lease. Administrator Eiane reported that the Town Lands Committee believes the site could possibly be part of the Devil's Back conveyance from Lynscott, which contained a clause for the land to remain forever wild. Administrator Eiane reported that Curt Lebel, Assessor, reviewed the Lynscott deed and old pictures of the area and that, in his opinion, the ownership of the land at the bridge may be unknown as the land may be manmade. Chairman Alexander stated, in his opinion, that the land at the bridge is not part of the Lynscott deed as the land is beyond area transferred in the Lynscott deed. The Board agreed that until the ownership issue is made clearer, the Town should continue with leases. Harold Maney, Sr. stated he saw DOT when they filled in the land and created it. Mr. Maney requested the Board allow him to fill in an area that has been eroding by his wharf or for the Town to do it. Selectman Henderson responded that in his opinion, lease holders could maintain the land under the wharf for safety issues but one would need to obtain proper permits. The Board discussed whether the use should be limited to commercial fishing, whether to allow new tenants and how to handle moving a tenant from one location to another. Jack Dunning stated that he is not a commercial fisherman but has been at this location for 20 plus years. Chester Morgan questioned why the lease can't be transferred to another person and why half a million dollars in insurance coverage is necessary when there are safety issues with the road itself in that area. Chairman Alexander moved, seconded by Selectman Henderson to adopt the following policy: *"The Board of Selectmen shall decide on an annual basis whether to enter into annual lease agreements with certain individuals who historically have had commercial wharves attached to Town-owned property at the Orr's Island Bridge. The Board shall determine the annual lease fee, require proof of insurance that names the Town as additional insured from all lessees, and make final determinations about with whom the Town should enter into lease agreements."* Motion passed 3-0. The Board agreed to enter into leases with the existing tenants and discussed how to handle new requests. Selectman Henderson stated that based on the newly adopted policy, new requests

such as Debra Kaler's (fiancée of Ellsworth Brockett who held a lease prior to this death) would not be permissible. Selectman Haible disagreed as in her opinion, Ms. Kaler would qualify once she submits evidence of her inheriting Mr. Brockett's belongings. Selectman Haible moved, seconded by Chairman Alexander to continue the lease agreements from last year and to award Ellsworth Brockett's lease opportunity to Debra Kaler; motion passed 2-1 (Selectman Henderson opposed).

**15. Consideration of Wind Turbine Request:** Administrator Eiane explained she previously met with Richard Newman regarding his interest in exploring wind power for Town use and that Mr. Newman has requested two years of utility invoices for review. If the Town decides to move further, a wind study would be necessary which requires Town Meeting approval. Richard Newman stated there are three favorable points: 1. control and limit electrical costs; 2. environmental benefits; and 3. he will explore this idea pro-bono. Mr. Newman explained this will be a long process and has a fifty-fifty percent chance of success. The Board approved Mr. Newman investigating this option.

**16. Acceptance of Maine Coast Heritage Trust Gift in Lieu of Taxes:** Chairman Alexander moved, seconded by Selectman Haible to accept \$300 gift from the Maine Coast Heritage Trust in lieu of 2007 taxes for Whaleboat Island; motion passed 3-0.

**17. Consider 2007 Salary & Wage Adjustments:** Selectman Haible moved, seconded Chairman Alexander to accept the 2007 wage adjustments as indicated on the Administrator's 4/10 list, effective 1/1/07; motion passed 3-0. Selectman Henderson requested a summary of total payroll and benefits for Town personnel.

**18. Authorization of the Warrant:** Kristi Eiane, Town Administrator recommended approval of Warrant 18 and Payroll Warrant 16. Chairman Alexander moved, seconded by Selectman Haible to approve Warrant 18 for \$789,030.26; motion passed 3-0. Selectman Haible moved, seconded by Chairman Alexander to approve Payroll Warrant 16 in the amount of \$12,902.11 motion passed 3-0.

**19. Approval of the Minutes:** Selectman Haible made a change in item 9. Chairman Alexander moved, seconded by Selectman Henderson to approve the minutes as amended; motion passed 3-0.

**20. Public Comment:** There were no public comments.

**21. Adjournment:** Chairman Alexander moved to adjourn. The meeting was adjourned by unanimous vote at 9:30 p.m.

Respectfully Submitted,

Terri-Lynn Sawyer

Attachments: Policy Regarding Lease of Town-Owned Property at the Orr's Island Bridge  
Emergency Services Agreement