

Selectmen's Meeting Minutes
November 21, 2013
Harpswell Town Office
Approved on December 19, 2013

At 5:00 pm the Board of Selectmen visited two street light sites.

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:00 p.m.

Selectmen Present: Elinor Multer, Alison S. Hawkes and Richard A. Daniel

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; Jim Hays, Harbormaster; and Marguerite Kelly, Treasurer

The meeting was recorded and broadcast live on Harpswell Community Television and streamed.

1. Adoption of the Agenda: Chairman Multer moved, seconded by Selectman Daniel to adopt the agenda as amended by removing item 6.1; motion passed 3-0.

2. Public Comment: None.

3. Town Administrator's Report: Administrator Eiane stated she plans to meet with Scott Benson, Senior Program Director of Midcoast Economic Development District and Midcoast Council of Governments, on Monday regarding the Board of Selectmen's goal of marketing Mitchell Field. She asked if one Selectman would be interested in attending the meeting and Selectman Daniel agreed. Administrator Eiane reported John Canal from the Department of Transportation contacted her regarding the concrete barriers on the causeway on Pott's Point. Mr. Canal stated alternatives are being explored and he will keep the Town advised. Administrator Eiane stated Jennifer Rice, from Senator Collins' Office, reached out to her regarding the Federal Emergency Management Agenda (FEMA) preliminary floodplain maps. Administrator Eiane asked for Board concurrence assistance in encouraging FEMA to hold a meeting with the public in Harpswell to review the floodplain map changes and effects. The Board agreed to send a letter to FEMA asking for such a meeting. Administrator Eiane reported the Harpswell Coastal Academy (HCA) has expressed a strong interest in purchasing the former West Harpswell School but needs time to evaluate its options. The HCA has stated it will be prepared to advise the Town by April 1, 2014. The Town's lease with HCA states the Town can market the property if a purchase and sales agreement is not resolved by December 31, 2013. Selectman Hawkes stated she was not interested in marketing as she prefers to have HCA permanently locate there. Selectman Daniel asked if there was a timeline involved with the FEMA maps; Administrator Eiane responded not yet – Robert Gerber believes the 90-day appeal period will begin at the end of the year.

4. Selectmen's Announcements: None.

5. Consent Agenda: Chairman Multer moved, seconded by Selectman Hawkes to approve the consent agenda [October 29 and November 7 minutes; contract amendment with Marshall Grinding; acceptance of resignation from Joyce Thomas of the Fire & Rescue Committee; acceptance of Maine Municipal Safety grant for the Orr's/Bailey Island Fire Department; warrant #54 for \$515,992.96 and payroll warrant #46 for \$15,088.49]; motion passed 3-0.

6. Old Business: Norman Stevens Junkyard Permit: Tabled.

Henry and Charley Rhoads, Lowell's Cove Road, Map 29, Lot 3: Administrator Eiane stated the Board tabled this application at the last meeting to seek the Town Attorney's opinion on whether the Rhoads have demonstrated "right, title or interest" in the property to have "standing" to proceed with the application. Specifically, paragraph two of the Attorney's response states the Rhoads deed does "provide sufficient evidence of the Rhoads' right, title or interest in the intertidal zone to proceed with the ramp and float application. The Board of Selectmen is in no position to referee any private dispute between co-owners of the Map 29, Lot 3

property as to ownership of some or all portions of the intertidal area or as to use of the ramp and float...Furthermore, to the extent that the co-owners may argue that the Rhoads' application may cause "injury to the rights of others," namely, to the co-owners, this argument is misplaced; the phrase "injury to the rights of others," as used in 38 M.R.S.A. § 1022, refers to *public* rights under the Colonial Ordinance of 1641 and as amended in 1647 (*i.e.*, to fish, fowl and navigate)." Donald Picard, one of the land owners, asked if that means none of the other owners can use the ramp and float. Administrator Eiane responded he may have private rights but the Town is not getting involved in private matters. Mr. Picard stated if he is not allowed to use the system then he cannot even have enough room for a haul off, which is shutting off his rights. Selectman Hawkes stated the Rhoads have a deed and Selectmen have been advised not to get in the middle of a possible civil dispute. Mr. Picard asked if he can appeal the Board's decision. Selectman Daniel encouraged him to consult an attorney regarding his rights and how to proceed. Chairman Multer moved, seconded by Selectman Hawkes to approve the ramp and float application as the Harbormaster indicates there is no issue with navigation and there is no injury to the rights of others relating to fishing, fowling and navigation; motion passed 3-0.

7. Consider Procedure Re: Disposition of Tax-Acquired Property: Marguerite Kelly, Treasurer, stated she provided the Board with the Town's Tax Acquired Policy, information from Maine Municipal Association and an email from Ken Cole of Jensen, Baird, Gardner & Henry, regarding the issue with installment contracts. In the last 10 years, the Town has acquired 5 properties through foreclosure – 2 homes, one trailer with no land, 1 seasonal cottage and one vacant land. The Town entered installment contracts for all outstanding taxes with 4 but in 2009, the Town was advised to no longer enter installment contracts. If the liens placed on the 2011 taxes are not paid by December 15, the Town foreclosure on the properties will occur automatically. Ms. Kelly asked if this Board would consider working with and conveying property back to the owner(s) for payment of all outstanding taxes, without a written contract. Ms. Kelly noted if there is a mortgage on the property, the bank will likely pay off the lien. The Selectmen agreed to work with all property owners based on each situation.

8. Consider New Project for Small Harbor Improvement Grant: Jim Hays, Harbormaster, requested the Board approve applying for a Small Harbor Improvement Grant (SHIP) through the Department of Transportation (DOT) to replace the main float at the Pott's Point Town pier. Dan Stewart from the DOT encouraged the Town to apply for float replacement funds since the Town's request for SHIP funds for a economic study of the Mitchell Field waterfront was denied. A new float would cost about \$11,000 and the Town is required to match 50%, \$5,500, which has been included in the preliminary 2014 budget. While the current float may last for another 2-3 years, it is heavy and hard to handle and costs \$1,000 a year for winter storage. Deputy Administrator Sawyer noted Mr. Hays is recommending that when the float is replaced, the existing float be stored at Mitchell Field with the previous ramp for possible future use at Mitchell Field. Chairman Multer asked that the float condition be looked at closely prior to storage to assure it could be re-used. Chairman Multer moved, seconded by Selectman Hawkes to approve a SHIP application; motion passed 3-0.

9. Consider Harpswell Community Garden Recommendation Re: Plot Fees: Jane Covey, Harpswell Community Garden (HCG) Coordinator, asked the Board to consider waiving plot fees for educational organizations, such as the Harpswell Community School and 4-H. Secondly she requested a flexible plot fee schedule to encourage more participants as she has heard the \$25 or \$35 fee has been a barrier for some families. The flexibility may also encourage those that can to pay more than the required fee. Selectman Hawkes asked if gardeners are required to work in the community plot; Ms. Covey responded yes for a minimum of 6 hours. Selectman Hawkes requested the HCG increase advertising and participation through the schools. Selectman Hawkes moved, seconded by Chairman Multer to approve the revised application with the flexible fee schedule and to waive the fees for educational and civic organizations. Chairman Multer asked for further definition of "education and civic". Motion passed 3-0. Deputy Administrator Sawyer encouraged the Board to read the HCG year end report and noted the HCG budget for 2014 will be presented to the Board prior to presentation to the Harpswell Heritage Land Trust in the spring.

10. Consider Proposed Marine & Natural Resources Planner Position for 2014 Budget: Administrator Eiane stated it is a goal of the Board of Selectmen to consider a new marine services position. She worked with Brunswick's Natural Resources Planner job description and added the marine aspect. This position would report to the Town Administrator and work with the one marine warden, committees, and interface with the Clerk's Office. Administrator Eiane asked if the Board wanted this position to work on the boat; the response was yes. This structural change will move away from law enforcement and the person will not carry a weapon. Chairman Multer stated there is too much emphasis on planning and suggested removing "natural", inserting "marine impact" on subdivision and wharf applications. Selectman Daniel asked if the current work on the flats will continue; Administrator Eiane responded this person will work with the warden and one warden may not be able to perform all the functions the two wardens do, such as water quality testing, clam flat surveys, shoreline surveys. Chairman Multer added a criterion that the person must be able to swim. Jim Hays, Harbormaster, stated he is not sure the law requires that life jackets be worn but that he and the marine wardens do. Joe Leblanc stated there are a number of reviews performed on wharf applications now, including the Department of Environmental Protection, Inland Fisheries and Wildlife, Army Corps of Engineer and the Town. He asked what this person will do. Selectman Hawkes stated the Town needs someone to look over the proposals with Harpswell in mind with Marine Resources input. She noted the State allows use of chromated copper arsenate (CCA) but issues a sheet saying it is not safe for use in homes. Selectman Daniel agreed that pressure treated wood is not good but that the Board cannot deny applications on that basis as it is very difficult to prove 'injury'. Administrator Eiane stated the Town could adopt a local ordinance prohibiting certain materials. Mr. Leblanc stated he understands the issue and takes it seriously by changing the upright structures to ACQ from CCA. The Board made additional changes such as requiring the person to be proficient on the computer, adding "or closely related" to the degree fields.. Administrator Eiane stated the two current marine warden's pay and the Town Planner's pay, ranges from \$45,000 to \$55,000 so for budgeting purposes only she used \$55,000. Selectman Daniel added "coordinating with other towns on regional issues" to the description. Also "open space" in relation to marine matters was added along with "working on public access issues of clammers. The Board agreed the proposal as amended can be reviewed by the Budget Advisory Committee. Administrator Eiane stated Cumberland County asked for an opportunity to speak with the Board and has said it could restructure a warden position to better fit with the Town's needs. Chairman Multer and Selectman Hawkes agreed they want a new position that works for the Town. Selectman Daniel stated the Town's relationship will continue with the County even with the one warden and law enforcement services and the Board should respect the County's request for a meeting. The Board agreed.

11. Consider Accepting the Gift of a Flag Pole for the Bandstand Area at Mitchell Field: Chairman Multer moved, seconded by Selectman Hawkes to accept the flag pole for use at the Bandstand area with thanks; motion passed 3-0.

12. Consider Contract with Pine Tree Waste for Solid Waste and Recycling Disposal: Deputy Administrator Sawyer stated the Board accepted the bid response from Pine Tree Waste for both solid waste and recycling disposal for 2014. The Town attorney has reviewed the proposed contract. Selectman Hawkes moved, seconded by Selectman Daniel to approve the contract; motion passed 3-0.

13. Consider Next Steps for Strategic Planning for Emergency Services: Administrator Eiane stated another goal of the Board's is to look at long-term planning for providing emergency and fire services. In 2012, the Board adopted a mission statement for a committee to look at the issues but no one has applied. Also the Board authorized staff to apply for a grant for this purpose. Recently the Board received material suggesting staff should review the issue and make a recommendation. Administrator Eiane asked if the Board wants to continue with a broad base committee or have staff work on it and continue work on the grant. Chairman Multer stated she sees two different decisions – 1. What to do with rescue?; and 2. When fire services become an issue in the long range, what to do? Selectman Daniel asked which staff would work on the project; Administrator Eiane responded it will be her, the Deputy Town Administrator and Treasurer with outreach to the Departments. There

was a discussion regarding only one department billing the insurance companies. The Board agreed to have staff focus on the rescue issues. Selectman Daniel asked if the Fire and Rescue Committee was continuing; Administrator Eiane responded it was comprised of the three fire chiefs and three rescue captains, which with resignations has caused the Committee to be short on members. She asked if the Board wanted to consider a different composition. Chairman Multer responded the composition can be up to the Committee. Administrator Eiane asked if the Board wanted to consider the planning grant concept of low income/senior needs assessment since staff will be working on the rescue topic. Selectman Hawkes and Chairman Multer agreed that the grant could conceivably be for just the rescue issue. Administrator Eiane stated she would come back with more information at the next meeting. [Joe Leblanc commented later that perhaps the billing of the insurance companies is a particular skill set and maybe one person could do it for all three departments.]

14. Consider Request from US Department of the Interior Re: Eagle Island as National Historic Landmark: Administrator Eiane stated when she received this request from the US Department of the Interior she contacted the Friends of Eagle Island and was told the request to place Eagle Island on the National Historic site list was made years ago. Apparently the request languished in Washington for years and has now resurfaced. The Department is asking the Town to waive the 60-day comment period regarding the designation. The property has not been on the tax roles and is owned by the State of Maine. Joe Leblanc stated that once something is listed in the registry as a historic site, any changes to the site become very complex and he did not recommend waiving the comment period. Administrator Eiane stated she could invite others to comment on this topic to the next meeting if the Boards tables it. The item was tabled.

15. Consider Disposition of Town Vehicle: Deputy Administrator Sawyer stated the most recently returned vehicle from Cumberland County is a 2008 Ford Crown Victoria with 149,469 miles. Based on internet values for rough trade-in, the value is \$2,725. Selectman Hawkes stated she wanted to put it out for bid with a minimum of \$2,500. Chairman Multer agreed at \$2,000. Deputy Administrator Sawyer stated she assumed the vehicle has a handling package at the extra value but is not certain. Selectman Daniel agreed to a \$2,250 minimum bid. Chairman Multer moved, seconded by Selectman Hawkes to place the vehicle for public bid with a minimum of \$2,250; motion passed 3-0.

16. Sign Special Town Meeting Warrant for December 7, 2013 Re: Dedicated Paramedic: Chairman Multer moved, seconded by Selectman Hawkes to approve and sign the warrant; motion passed 3-0.

17. Consider Town Office and Recycling Center Holiday Schedule: Administrator Eiane stated the Town's policy and Union contract allows the Board to authorize a half day holiday on Christmas Eve and New Year's Eve. The work schedule was discussed. Selectman Hawkes moved, seconded by Chairman Multer to close the Recycling Center/Transfer Station at 12:00 noon and the Town Office at 12:30 pm on Christmas Eve and New Year's Eve; motion passed 3-0.

18. Other Business: Selectman Daniel stated that the Harpswell Neck Fire and Rescue Department held elections and Gail Hart is the new Rescue Captain and Lisa True is the new Rescue Chief.

19. Public Comment: None.

20. Administrative Matters: The Board scheduled an ordinance workshop with the Planner and Code Officer on Tuesday, December 4 at 4:30 pm; and a salary/wage workshop on December 10 at 4:00 pm. Deputy Administrator Sawyer stated one of the Board's goals is to consider improvements at Wharf Road. The Town engineer has reviewed the site and has determined there are a number of limitations. One option is to construct a 84-foot long boat ramp and a turnaround area for a vehicle with no trailer with limited parking further up on Wharf Road at a cost of at least \$39,000 - \$51,000 (plus a possible retaining wall cost). Since the turnaround would not accommodate a trailer, someone who wants to launch a boat on a trailer would have to back down the

steep incline of Wharf Road, a significant distance. Option 2 is to designate the site as a small boat launch and construct the turnaround, adjust the rocky entrance and create limited parking further up on Wharf Road at a cost of at least \$24,000 - \$34,000 (plus a possible retaining wall cost). Option 3 is to leave the site as is with minor improvements such as adding a bench. Chairman Multer suggested adding money to the land acquisition account for land improvements and putting this off. The Board agreed that at a cost of more than \$51,000, improvements that do not include a vehicle with a trailer to launch a boat is not an option. Selectman Hawkes stated she wants to do something and suggested putting the limitations back through the committees. Chairman Multer stated the site is very restrictive and even if something is permitted, there is a risk it may not be implemented. Deputy Administrator Sawyer will report back after the committees have weighed in and once the grant outcome is known. Administrator Eiane stated she drafted a future acquisition policy based on what the Board discussed at its goals workshop; the Board agreed to review at the next meeting.

21. Adjournment: At 8:30 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer
Deputy Town Administrator

Attachments:

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