

**Special Selectmen's Meeting Minutes**  
**February 6, 2014**  
**Harpswell Town Office**  
**Approved on February 20, 2014**

5:00 PM: Board of Selectmen met with Department of Transportation representatives regarding options to replace the jersey barriers on Harpswell Neck Road.

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 and Terri Sawyer, Deputy Town Administrator

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

**1. Adoption of the Agenda:** Chairman Multer moved, seconded by Selectman Hawkes to adopt the agenda as amended by adding 2.5 Consider Maine's Voluntary Municipal Farmland Program; motion passed 3-0.

**2. Public Comment:** None

**2.5. Consider Voluntary Municipal Farm Support Program:** Stephanie Gilbert, Farm Viability & Farmland Protection Specialist, Department of Agriculture, Conservation and Forestry, stated the Voluntary Municipal Farm Support Program was enacted into law in 2007. Since the Program affects municipal tax revenue, the legislature held a hearing and then adopted rules to govern the program in 2011. Ms. Gilbert stated no municipality has expressed an interest until recently as Winslow is now working with the Maine Farmland Trust to implement the Program. Ms. Gilbert stated she is working on a sample application and easement for Winslow and can share information with Harpswell as Winslow progresses through implementing this new Program.

The Program allows a municipality to reimburse a farmland operator/property owner a portion of the property taxes in exchange for a minimum of a 20-year conservation easement. The municipality can determine what qualifies such as the residence or not and other specifics that fit the community. An example is if a farm property consists of 40 acres with 10 acres used for farming, a municipality can include the 10 or 40. Chairman Multer asked if the easement can be renewed; Ms. Gilbert responded yes and for less than 20 years. Selectman Daniel asked what happens if the farm ceases being a farm within the 20 years; Ms. Gilbert responded the arrangement ceases and a follow up document is recorded at the Registry nullifying the easement and the municipality could assess a penalty. Ms. Gilbert states the tax break can be through a credit or reimbursement.

Deputy Administrator Sawyer asked if Ms. Gilbert recommends a municipality work through all the details of the program prior to seeking Town Meeting or council approval. Both Ms. Gilbert and Sam Alexander agreed the details should be worked out prior to seeking Town Meeting approval for the program and then for each easement. Mr. Alexander stated this Program is important in Harpswell as a conservation measure and not necessarily for the agricultural benefit. He noted there are three farms that would qualify at this time.

**3. Town Administrator's Report:** Administrator Eiane stated the Board tasked a staff group (the Town Administrator, Deputy Town Administrator and Treasurer) with reviewing the existing emergency services model to see if there is a different or modified model to recommend. The group has laid out its approach, including meeting with certain groups, such as the Fire and Rescue Departments. Administrator Eiane asked if the Board had any questions, concerns or changes to the proposed work scope. Selectman Daniel stated he believes the plan is thorough. Administrator Eiane noted the draft report goal is June 30 but more facilitation time may be needed. Chairman Multer asked how quality of services will be determined; Administrator Eiane responded the paramedic review is providing a quality assurance review including response time. The Board agreed it looked forward to hearing a progress update. Deputy Administrator Sawyer stated the foundation has been poured for the emergency services garage and the contractor expects to begin construction of the building

next week. Administrator Eiane stated the planning board public hearing regarding ordinance amendments was rescheduled from last night due to the weather to next Wednesday, February 12 at 6:30 pm.

**4. Selectmen's Announcements:** Chairman Multer stated that the Cedar Beach/Cedar Island Supporters informed the Town that, as a result of mediation on Monday, the group has reached an agreement with the Aspatores, property owners of the lot abutting the beach called Robinhood Beach. The road access issue has not yet been resolved. Attorneys for both sides are drafting the agreement which will then be reviewed by each party before it is provided to the Town for review. The Town will see what commitments may underlay the agreement. Chairman Multer stated this is encouraging news and she looks forward to seeing the agreement. Selectman Hawkes announced that Friday, February 7, there will be a chili/chowder cook off at Harpswell Community School at 5:30 pm to benefit the 5th grade.

**5. Consent Agenda:** Chairman Multer moved, seconded by Selectman Hawkes to approve the consent agenda; motion passed 3-0 [January 17, 23 and 29 minutes; accept heating assistance donations: Ned Simmons \$80, Robin & Jeanne Brooks \$50, Elizabeth Huston \$285, Ned Dewey \$100, Richard & Beverly Gelwick \$50, John and Rosemary Anderson \$2,000, Richard & Helen Regan \$100; accepted a resignation from Brad Agius from the Marine Resources Committee and one from Bob Muller from the Harbor & Waterfront Committee; and authorization of warrant #6 in the amount of \$128,840.62 and payroll warrant #6 in the amount of \$14,219.41].

**6. Old Business: Sean McCormack & Martha Brant wharf Application, 16 Sea Spot Run, Map 38, Lot 6:** Code Enforcement Officer Bill Wells stated the Board tabled this application and conducted a site visit to review the concerns that had been raised. Joe Leblanc, owner representative, stated since the Board's January 28 site visit, he hired a marine contractor to perform several maneuvers with a boat at the proposed wharf site and at the Kelley's site. Mr. Leblanc handed out diagrams of the maneuvers and showed a video of them being performed. Mr. Leblanc noted that the video was made at about 3:45 pm with the -2.1-foot tide lowest at 5:14 pm. Due to the low tide, a ledge was exposed where the Brant/McCormack wharf was proposed to be built initially, resulting in a revision to the application to move the float 15-feet to the North. The new location allows for about 110-feet between the Kelley's float and the proposed float and the Department of Army Corps of Engineers requires 50-feet. David Silk, Kelley's attorney, asked if the buoys in the video represented the proposed system line as originally proposed or the revised location; Mr. Leblanc responded the original location since the location was changed after that day. Anthony Theriault, marine expert for the Kelleys, handed out details regarding his background and his opinion that the proposed Brant/McCormack system will unreasonably obstruct reasonable navigation. Mr. Theriault stated that while the video was impressive, the operator was obviously well experienced and to less experienced boat handlers the crowding of this site will be intimidating and will cause navigational issues. Mr. Theriault added that lobstermen have lobster pots inside this area that will also be affected and he suggested the alternative site that Mr. Forrester has proposed is far superior. Chairman Multer stated the Board's role is to determine if there is a hazard to navigation as proposed and not which of two locations is best if neither blocks navigation. Tim Forrester, Kelleys' consultant, handed out a packet that he reviewed. Mr. Forrester began to review the proposed alternative site that he believes is better and will not cause an issue with navigation. Chairman Multer reiterated the Board is reviewing the existing site proposed in the application (as revised tonight by 15-feet to the North) only. Bill Kelley noted the video was done when the outer ledge was still open and not when it was closed, which is when the problem occurs that he, and lobstermen, have to pass his wharf to turn around. Mr. Kelley also noted there was no wind at the time of the video which worsens the situation. Joyce Kelley stated she wants her neighbors to have a wharf but not in that location since it impacts them. Mr. Silk agreed the alternative location is not under consideration and the Board's charge is to determine if the proposal interferes with the right to fish, fowl and navigate. Mr. Silk states the application has changed repeatedly and includes some inaccuracies such as stating there are no lobster traps in the area, which there are. Mr. Silk states the other side says there is no issue with navigation but they used an expert driver on a non-windy day and this proposed system will impair navigation at low tide. He states the burden to demonstrate that there is no navigational issue is on the applicant and they have not done so. John Loyd, Brant/McCormack

attorney, introduced Barry Cromet, licensed Coast Guard Captain and charter boat operator. Mr. Cromet handed out pictures of an existing marina showing the restricted slip turn around area stating every boater has to plan, approach slowly and know when to increase power to drive the stern, regardless of wind or current. Mr. Cromet stated a 30'x70' turn around area is more than reasonable.

Selectman Hawkes expressed concern that the video was not done during the lowest part of the tide when Kelley's access is most limited. Administrator Eiane read an excerpt from the state statute indicating that the municipal officers must determine there is not "an obstruction to navigation". Jim Hays, Harbormaster, stated he is Coast Guard certified for 100 tons and that a boater will run into restrictions everywhere in Harpswell and proper boat handling will get you safe to the shore. Mr. Hays stated when the Kelleys cannot access their float without turning around; they could tie their boat to the mooring and proceed into the float by dinghy. With proper boat handling, Mr. Hays believes the Kelleys will not have much trouble. Mr. Hays noted the proposal is within the riparian rights of the property owner. Mr. Theriault stated the risk remains that the proposal will obstruct safe navigation with the wind, ledges and lobster pots causing complications. Chairman Multer asked if there was a possibility any referenced lobstermen have concerns; Martha Brant stated the representation of "lots of pots" is a gross exaggeration as there are only a couple. John Loyd stated the statute states "obstruction to navigation" and the Kelley's history of using the entire length of the channel is the equivalent to one using .25 of a mile to turn around in Casco Bay. Brant/McCormack should not be in a box when the neighbors can turn in less area. Mr. Loyd noted the revised location is 15-feet further from the Kelleys and the proposal does not change the tide level. Mr. Loyd read the state statute and stated the proposal is not an obstruction to navigation. Selectman Hawkes noted the Board reviews fishing and fowling as well. Mr. Loyd clarified that in the intertidal zone, the Board reviews fishing, fowling and navigation and in the channel it reviews navigation.

Selectman Daniel asked if the Board can act on the 15-foot revised proposal. Mr. Leblanc stated the length has not changed and the public may pass under the structure in the intertidal zone. Mr. Wells stated the application has not been permitted and there is a revised drawing that the Board could act on. Mr. Hays looked at the area, reviewed the proposal and concluded the proposal will not be an obstruction to navigation. The hearing was closed at 8:15 pm. Chairman Multer moved to approve the application, as revised by 15-feet, based on the assertion by the Harbormaster that it does not constitute an obstruction to navigation and does not interfere with the rights of others to fish, fowl and navigate. Selectman Daniel stated he believes there is enough room for both systems and he hopes the parties work together. He feels strongly the proposal is not an obstruction and he places an importance on land owner rights. Chairman Multer stated she regrets the parties could not settle on an agreement. Selectman Hawkes stated she is a lobsterman's wife and she relies heavily on the harbormaster. Selectman Daniel seconded the motion and it passed 3-0.

**7. Consider Requesting Department of Transportation (DOT) to Review Speed Limits on Basin Point Road:** Ronald Ponziani, Road Commissioner, stated he wants to have the DOT survey Basin Point Road. The survey should result in recommendations on how to control the speed either by reducing the speed limit or in other ways. Mr. Ponziani stated he received so many complaints about excessive speed and he tried to control it with speed bumps, which were not favorably received. The current speed limits are at 20 and 35 miles per hour. Chairman Multer moved, seconded by Selectman Daniel to authorize staff to submit the form requesting the DOT to survey Basin Point Road; motion passed 3-0.

**8. Treasurer's Report:** Marguerite Kelly, Treasurer, reviewed her monthly report for December 2013 (attached). Ms. Kelly noted the State of Maine may reduce revenue sharing to municipalities. Ms. Kelly updated the Board on the two parcels that the Town foreclosed on in December. The property owner of the second home has made a payment and the owner of the principal home has not. Ms. Kelly stated that she and Deputy Administrator Sawyer met with the Harpswell Community Broadcast Corporation station manager and station administrator on Tuesday. They reviewed their processes, the 2013 actual expenses and revenue and the 2014 proposal, and re-submitted it on a summary form. Ms. Kelly stated she was comfortable with the processes and

noted that Magnum & Co. prepares the bi-weekly payroll and all associated payroll reporting. Chairman Multer asked about the Town's tax collection rate; Ms. Kelly stated with the consistent level of collection, the Town was able to move \$24,000 from deferred revenue into income. The Comcast annual grant of \$6,000 is shown on net basis since it is used to pay the annual lease amount for the equipment.

**11. Consider Request from Harpswell Business Association for Economic Development Funds:** Dick Moseley, President of Harpswell Business Association, stated outside vendors are requesting payment earlier and earlier. He requested Selectmen authorize the use of economic development funds for two items: 1. \$700 for a wall poster at the Brunswick Train Station; 2. \$500 for Harpswell headers in the Allure of the Coast publication. Selectman Daniel asked if these funds were part of the HBA's request before the Budget Advisory Committee. Mr. Moseley responded the request going to Town Meeting will be used in the fall to pay for the 2015 expenses for both these items. This specific request is for the 2014 expenses for the two items. Selectman Hawkes expressed concern about the Town paying for annual expenses to benefit a small number of Harpswell businesses. Mr. Moseley stated the poster and ad header will be the same as last year. Mr. Moseley stated the HBA membership fee is \$75 and Chamber membership fee is \$250. Selectman Daniel moved, seconded by Chairman Multer to approve \$1,200 use from the economic funds; motion passed 2-1 (Selectman Hawkes opposed).

**9. Consider Contract with Standard Waterproofing, Inc. for Work at Former West Harpswell School Building:** Deputy Administrator Sawyer stated as part of the Town's lease with Harpswell Coastal Academy, the Town agreed to make certain building improvements with the lease proceeds. At the end of 2013, the Town had \$10,000 in lease payments and received another \$2,000 in January. A request for proposals was sent out for sealing the windows and spraying foam insulation in certain areas. The response received was from Standard Waterproofing, Inc. for \$11,500 and staff recommends contracting with the company for the work. Chairman Multer asked what the two exceptions were; Deputy Administrator responded two changes to the specifications as outlined in the response which is part of the contract. Chairman Multer moved, seconded by Selectman Hawkes to approve the contract; motion passed 3-0.

**10. Consider Applying for Maine Tennis Grant:** Deputy Administrator Sawyer stated Gina Perow, Recreation Director, would like to apply for a Maine Tennis Grant for tennis equipment. Receiving the equipment will allow her to continue offering a tennis program at no cost to the children. Chairman Multer moved, seconded by Selectman Hawkes to approve the grant application; motion passed 3-0.

**12. Set Public Hearing Date for 911 Enhanced Ordinance amendments for 2/13/14:** Chairman Multer moved, seconded by Selectman Hawkes to set the hearing for February 13 at 7:00 p.m.

**13. Consider Future Acquisition of Land Policy:** The Board reviewed input from the Shoreland Zoning Task Force (SZTF) on the draft acquisition of land policy. Mary Ann Nahf, SZTF Chair, noted the Task Force thought it important that accommodations be made for commercial boats such as parking and boat ramp sizes. The Board asked staff to work in the suggestions and come back to the Board.

**14. 2014 Budget Review:** Deputy Administrator Sawyer stated Harpswell Community Broadcast Corporation submitted a summarized 2014 budget request, which was provided to the Board. Chairman Multer asked about the increase in the building line and utilities line. Donna Frisoli, Station Manager, stated the \$3,500 in the building line is for the replacement of three doors. The utility line increase is estimating a 10% increase in electricity in addition to an increase in propane. Chairman Multer stated the Town should be responsible for replacing the doors as it owns the building. Selectman Hawkes agreed as the Town should have a schedule and be checking the condition of its buildings and be aware when repairs need to be done. The Board noted the utility line increase is greater than 10% and asked Ms. Frisoli to follow up on more detail. The Board discussed a work scope to update the condition report of the water tower for \$1,500. Chairman Multer suggested having the

engineer update the report to put in writing that the Town can wait 1 to 2 years without performing any work. She suggested collecting reasons to remove the tower into a one page summary for the public. Selectman Daniel stated there seems to be a strong sense to keep the tower and he is willing to hear the ideas and give this some time. Administrator Eiane stated the Recreation Director and Committee are requesting \$3,500 for Trufant-Summerton Athletic Field. The advertising sign revenue has not been covering the costs of maintenance to the Field and certain items have been delayed, such as aerating and fertilizing the Field. The Board agreed to the \$3,500 budget request.

**15. Other Business:** Consider Setting Time for the Business Meeting: Chairman Multer moved, seconded by Selectman Hawkes to set the start of the business meeting at 10:00 am; motion passed 3-0.

**16. Public Comment:** None.

**17. Administrative Matters:** The Board scheduled a workshop with the Department of Environmental Protection regarding the Lookout Point property for February 12 at 4:00 p.m. The Board was asked to keep the schedule open for a possible meeting with the Cedar Beach/Cedar Island Supporters; Chairman Multer noted CBCIS must give at least a 24-hour request to meet.

**18. Adjournment:** At 10:03 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer  
Deputy Town Administrator

Attachments: Treasurer's Report

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