

Selectmen's Meeting Minutes
June 14, 2018
Harpswell Town Office
Approved July 12, 2018

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

Selectmen Present: Richard A. Daniel, Kevin E. Johnson and David I. Chipman

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; Mark Eyerman, Planner; Marguerite Kelly, Treasurer; and Fred Cantu, Code Enforcement Officer

1. Adoption of the Agenda: Chairman Daniel moved, seconded by Selectman Chipman to approve the agenda as amended by removing item 6; passed 3-0.

2. Public Comment: Donna Frisoli, Harpswell Community Television Station Manager, stated that the reallocation will be completed soon and Channel 13 will be 15. Channel 14 may be displaced by 7% but we'll know more soon and hopefully will not see any major change. The Federal Communications Commission reports there are thousands of applications from Wireless Internet Service Providers (WISP). Ms. Frisoli stated WISPs can be on water towers and offer towns free internet and emergency communication. Garret Knight asked to speak about Selectmen Chipman's involvement relating to the water tower; Chairman Daniel responded he could speak at the agenda item relating to the topic.

3. Selectmen's Announcements: None.

4. Town Administrator's Report: Administrator Eiane stated the Town has been assembling a great team of firefighters and tonight there are three new candidates: Matthew Richard, David Hall and Mary Hambley. Administrator Eiane reviewed each candidate's background. If hired, these three will bring the team to nine plus the Fire Administrator. Chairman Daniel moved, seconded by Selectman Johnson to hire the three named people; motion passed 3-0. Administrator Eiane announced the American Red Cross is holding a blood drive at the Town Office tomorrow from 8:00am – 1:00pm. Administrator Eiane reported the Town hosted a Cumberland County Commissioners' meeting at the Bailey Island Library Hall, which was a grant recipient location. The Town has received over \$340,000 in Cumberland County Development Block Grant funds since becoming a member in 2007. Also the Commissioners toured the Orr's/Bailey Island Fire Department, a grant recipient location as well. The perflourinated compounds (PFCs) testing occurred at Mitchell Field and Steve Deatheridge will be coming to Harpswell at the end of the month to review the results.

5. Consent Agenda: Selectman Chipman noted the May 31 minutes should list black powder, rim fire and shotgun in the Use of Firearms Ordinance. Selectman Chipman moved, seconded by Selectman Johnson to approve the consent agenda [May 17 and May 31 minutes; appointed Forrest Mason to the Harbor and Waterfront Committee and David Morton as a full member to the Town Lands Committee; signed two Orr's Island Lease Agreements; approved warrant #24 in the amount of \$776,764.29, warrant #24a in the amount of \$628.76, warrant #24b in the amount of \$700 and payroll warrant #23 in the amount of \$20,016.65]; motion passed 3-0.

6. Violation Matter Nye Richardson, 7 Hugh Avenue, Map 21, Lot 103: Removed.

7. Michael Miller Et Al. Wharf Application, 949 Cundy's Harbor Road, Map 64, Lot 50: Fred Cantu, Code Enforcement Officer, stated he did not attend the on-site hearing and introduced Joe Leblanc, applicant representative, to review the application. Mr. Leblanc stated the site is unusual and very woody. There is some granite to connect the pilings to and the proposal is for a 4'x8' access platform, 4'x6' set of stairs, 6'x10' fixed wharf, 3'x40' ramp and 10'x20' float. This system is over low water and as such, a Bureau of Submerged Lands easement has been obtained. Chairman Daniel moved, seconded by Selectman Chipman to approve the

application as the Harbormaster indicates there is no hazard to navigation and there is no injury to the rights of others; motion passed 3-0.

8. Treasurer's Report: Marguerite Kelly, Treasurer, reviewed her monthly report for May (attached).

9. Request for Reconsideration of the Petition Regarding the Water Tower: Chairman Daniel reviewed the background regarding this matter. Selectman Chipman stated he has distanced himself from the Friends of Mitchell Field. Chairman Daniel asked if Selectman Chipman climbed the water tower. Selectman Chipman responded yes to retrieve the power cord and since he was curious about the lead, he took some samples. Chairman Daniel and Selectman Johnson both expressed concern that Selectman Chipman did not check with them first and have the Town send samples for testing. Chairman Daniel asked Selectman Chipman to return the paint chips to the Code Office; Selectman Chipman responded he would. Chairman Daniel asked Selectman Chipman if he believes there is a conflict of interest or an appearance of a conflict of interest that prevents Selectman Chipman from sitting in judgement on this issue based on the new sample; Selectman Chipman responded no. Chairman Daniel asked if Selectman Chipman believes his actions have a negative impact on the public's opinion of his ability to be impartial on this matter. Selectman Chipman responded that some think he is not a good Selectman but there is misunderstanding on what a Selectman's role is. Selectman Chipman stated he has spoken with hundreds who want to save the tower and they are his constituents. Selectman Johnson asked where they all were or why they didn't show up to Town Meeting and he stated Selectman Chipman is disenfranchising the voter. Chairman Daniel stated he has no desire to have a vote to recuse Selectman Chipman at this point and shut down his vote but he wanted to make clear Selectman Chipman's actions. Robert McIntyre stated the Town Attorney stated this is not a conflict of interest; Chairman Daniel responded the Attorney did say that at the time, noting things could change. Chairman Daniel noted Selectman Chipman stated earlier he has not been involved with the Friends of Mitchell Field for two months but yet paint chips from the water tower made their way to the group.

Dorothy Rosenberg stated she submitted a written request for reconsideration of the Board's May 2 decision to reject the petition. Ms. Rosenberg reviewed the request. Chairman Daniel stated with the Board's May 2 decision, there was a 30-day appeal period to a court or judge and he asked Ms. Rosenberg why they let that lapse. Ms. Rosenberg responded they were not bound to go to court and they would rather solve the situation in a less adversarial way. Chairman Daniel asked other than by word, what proof does Ms. Rosenberg have that the paint chips were taken from the tower. Ms. Rosenberg responded that she believes the word of a Selectman just the same as when Town staff took samples and when Utility Services took samples. Selectman Chipman stated when Utility Services made its presentation of its report, they stated lead is everywhere but it's not. Ms. Rosenberg stated she asked the Water Tower Task Force to have more samples taken and the request was declined. Garret Knight stated he is baffled why Selectman Chipman participating in this topic as he is putting his interest above the voter and has spent his own money relating to this matter. Chairman Daniel stated he does not condone Selectman Chipman's actions and there may come a time and place for recusal. Selectman Chipman stated he is a Selectman and he's doing his job by listening to his constituents. Ned Simmons stated he served as alternate on the Water Tower Task Force and he read a statement opposed to the attempts to void the March 10 Town Meeting vote to demolish the water tower. Donna Frisoli stated she is tired of hearing about the sanctity of this year's Town Meeting when the 2017 Town Meeting voted to spend \$22,000 on the water tower maintenance and that wasn't done. She believes it is Chairman Daniel that is biased against the tower. Gary Vincent stated he understands testing the water tower given it's to be destroyed but he doesn't understand why the tests are being linked to a reversal of the Board's vote. He stated almost all the founding members of the Friends of Mitchell Field spoke at Town Meeting and the article 29 failed, and not due to costs as the article did not contain any costs. Robert McIntyre stated he believes the proposal submitted to the Town prior to Town Meeting from the Friends of Mitchell Field was a good and thorough one. He added cell phone companies are interested in the water tower. Selectman Johnson noted they are not here and have not contacted the Town. Selectman Johnson stated he has been accused of being biased against the tower but he climbed it years ago with Selectman Chipman

and has been open to ideas. No viable ideas have come forward. Mr. McIntyre disagreed and reviewed the Friend's position again. Selectman Chipman stated the Energy and Technology Committee chair just attended a technology seminar and he was asked by a wireless company if the Town has a water tower. Chairman Daniel added Selectman Chipman brought up at the Board's goals and objectives workshop new technology such as 5G and its possible placements on power poles. The water tower is not the Town's only option for cell phone coverage and the Energy and Technology Committee is looking into all the options. Gary Vincent asked the Board to demand that the information regarding improprieties of staff be turned over to the Board instead of allowing the innuendoes being made by the Friends of Mitchell Field. Chairman Daniel agreed the information should be provided and noted it doesn't relate to the topic of reconsideration. Mr. Vincent noted the Friends keep saying the voters were not educated and its proposal was not vetted but there is nothing in the warrant at all mentioning the Friends. He stated the Friends are just unhappy by the vote and he noted if he was unhappy he could start a petition to not pay \$75,000 to Harpswell Community Television but where does it stop. Chairman Daniel noted in order to reconsider the Board's prior vote; it has to be opened up by either himself or Selectman Johnson as they are the only two that voted in favor. Neither Chairman Daniel nor Selectman Johnson moved to reconsider. Mr. Vincent asked the Board's position regarding the innuendoes; Selectman Johnson and Chairman Daniel agreed the accusations have been troubling and started right after Town Meeting. Chairman Daniel stated we will seek legal advice on the matter.

10. Contractor Recommendation for Water Tower Removal: Administrator Eiane reported that she, Fred Cantu, Code Enforcement Officer, Marguerite Kelly, Treasurer and Mark Eyeran, Planner, reviewed the three proposals received in response to the Town's request for proposals for demolition of the water tower. Staff interviewed all three companies and is comfortable recommending, when the Board is prepared to move forward, Iseler Demolition, Inc. at a bid of \$34,600. Iseler specializes in demolishing water towers and has completed many. Iseler hopes the Town will make a firm decision by August as it plans to remove another water tower in New Hampshire. Iseler's plan is to complete the project in one day and has indicated there is nothing in the 2014 Utility Services report regarding lead that concerns them. The other two companies proposed to take longer and are less experienced. The Town has soil sample results and Iseler will put down plastic and wood below the tower to prevent anything from getting in the soil. References were checked and were all good. Iseler asked if the Town wanted to remove the brush and if so, the price could be reduced by \$2,500. Harpswell Neck is willing to have a tanker available on the day of the demolition. Chairman Daniel asked if staff is comfortable with the plan; Administrator Eiane responded affirmatively and asked Fred Cantu to expand. Dorothy Rosenberg provided each Board member with a hand out. Fred Cantu stated he did some research regarding lead standards and the Maine Department of Environmental Protection (DEP) has standards relating to areas where children will be present like play areas and residential standards. The Environmental Protection Agency's standards are even a bit lower than Maine's. Occupational Safety and Health Administration has requirements for the safety of employees handling lead. Mr. Cantu stated the Town's test results don't meet any of the thresholds. The plan is to cut the water tower into 23 sections after spreading fire retardant plastic on the ground and plywood and then remove everything. Mr. Cantu believes the plan is a good one and it should go forward. Ms. Rosenberg stated the information she just gave the Board is to inform them that they have called a Special Town Meeting. Chairman Daniel asked if this pertains to the agenda item. Ms. Rosenberg responded yes and she has flagged this matter to the Town Administrator to consult your attorney in advance to be prepared for this. The Special Town Meeting is to vote on the body of the petition and will be held on August 11 and there will be a hearing before then. Ms. Rosenberg stated she just wanted the Board to be aware of this as it will not be conducted under the auspices of the Town as they are the legislatures and the Constitution allows them to do this. She requested the Board take this into consideration in terms of liability exposure should they go ahead with the contract for the water tower demolition. Selectman Chipman stated the Board doesn't have to make a decision tonight as Iseler wants to know come August. Selectman Johnson suggested the Board could select the contractor with a contract date determined later. Mary Ann Nahf asked what does this mean to have a Special Town Meeting not under the auspices of the Town. Chairman Daniel responded he believes a citizenry has an option when a Select Board refuses to reconsider that it can seek a notary public and petition him/her to place a warrant article up to a vote.

Ned Simmons stated he read the statute and recalls it saying that the Select Board could get an injunction to call the meeting invalid and he hopes they will do that. Chairman Daniel stated that is an option. Mr. McIntyre states the statute section is 2521 of Title 30-A, Chapter 121. The feature in Maine law states the Board, when presented with a valid petition, shall place it for a vote and if the Board had done so, he states they would not have sought to do this. Chairman Daniel asked if there were any comments regarding agenda item 10; Selectman Chipman suggested waiting to sign a contract. Garret Knight asked each Selectman if they knew the petition was coming. Chairman Daniel and Selectman Johnson responded no and Selectman Chipman responded no, not officially. Chairman Daniel suggested tabling the contract matter to seek legal advice. Jim Henderson asked if by tabling this item it means the Board has not rejected reconsidering the petition. Chairman Daniel responded the Board did not take up the request for reconsideration under item 9 so it fails. Dennis Gagnon asked why delay the contract decision as this process has been delayed long enough. Chairman Daniel asked Mr. Gagnon if lead played a part in your decision in how you voted at Town Meeting; Mr. Gagnon responded no. Chairman Daniel moved, seconded by selectman Johnson to table the contract for two weeks; motion passed 3-0.

11. Mitchell Field Pier Demolition Contractor Requisition and Warrant: Mark Eyerman, Planner, stated the end is in sight. He reviewed the requisition that represents substantial completion of the project and gave a detailed status report. Selectman Chipman moved, seconded by Selectman Johnson to approve the requisition for \$386,339.00 [warrant #14 \$382,219.10]; motion passed 3-0.

12. Request for Proposals for Cleaning of Roadside Ditches: Administrator Eiane stated the Road Commissioner was initially thinking of a request for proposal for ditching but that work should be under \$4,000. Instead there are culverts that need to be replaced in certain areas and Administrator Eiane asked for permission to seek bids for that work. Selectman Chipman moved, seconded by Selectman Johnson to approve the request for proposals for culverts; motion passed 3-0.

13. Selectmen's Goals and Objectives: Deputy Administrator Sawyer stated the draft goals and objectives are a result of the May 31 workshop and she welcomes input. Selectman Johnson noted he wants to add the review the Orr's Island Bridge Lease Agreement and policy. Selectman Johnson moved, seconded by Selectman Chipman to approve the goals and objectives; motion passed 3-0.

14. Contract Addendums

- **Project Management Services Agreement with Plan ME:** Administrator Eiane stated the Board signed an agreement with Plan Me for pier project services at the end of November 2017 for services through June for \$9,100. The project continues and she asked to extend the contract until October 31 at a not to exceed amount of \$6,000. Selectman Chipman moved, seconded by Selectman Chipman to extend the contract as outlined; motion passed 3-0.
- **Planning Services Agreement with Plan ME:** Administrator Eiane stated the Town moved from an employee position to contractor and positive feedback has been received. Administrator Eiane recommended continuing the contract until June 30, 2019 at \$60/hour. Selectman Chipman moved, seconded by Selectman Johnson to approve the extension; motion passed 3-0.

15. Public Comment: Robert McIntyre stated the Department of Transportation made a visible improvement at Judkin's Corner and he encouraged the Board to task the Road Commissioner to pursue other possible locations. Chairman Daniel noted the Board has discussed other groups such as a safety group to come together when situations call for it.

16. Other Business: Administrator Eiane reminded the Board set July 11 at 6:00pm as the non-resident taxpayer meeting at Harpswell Community School and it was noted in the recent Bulletin. Deputy Administrator Sawyer reported the Board previously approved sole sourcing for wood demolition with Cross Excavation given the price is reasonable. Mr. Charles Perow, Recycling Center Manger, reports the price will be \$0 per ton of brush,

\$36/ton for the first 6 loads of demo going to an energy plant, and \$54 per ton for loads after that are going to a landfill. These prices compare to others that are charging \$0 brush, \$45 demo, and \$66 demo. The Board was in consensus. The Board discussed Mr. Eyerman's suggestion for an end of pier demolition celebration; Deputy Administrator Sawyer reported she has a submerged lands application for Mackerel Cove to sign and noted she has signed the Board of Appeals application for a variance at the Pott's Point wharf parking.

17. Administrative Matters: The Board set July 19 as the staff appreciation luncheon.

18. Adjournment: At 7:58 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer
Deputy Town Administrator

Attachments: Treasurer's Report
Friends of Mitchell Field Warrant for a Special Town Meeting