

**Board of Selectmen's Meeting Minutes**

**June 23, 2011**

**Harpswell Town Office**

**Approved on July 7, 2011**

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**Selectmen Present:** Elinor Multer, James S. Henderson and Alison S. Hawkes

**Staff Present:** Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; William Labbe, Emergency Management Agent and Carol Tukey, Planner

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

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

**1. Adoption of the Agenda:** Chairman Multer moved, seconded by Selectman Henderson to adopt the agenda as amended by adding 16.1: Contract with Bowdoin College; motion passed 3-0.

**2. Public Comment:** Robert McIntyre stated the withdrawal vote was close and that he plans to petition again next year, which will be a better time since the Harpswell school consolidation will be completed. Mr. McIntyre commented on points he believed Selectman Hawkes and Chairman Multer previously made regarding the withdrawal issue; both Selectmen disagreed and Mr. McIntyre was asked to cease the negative comments. Mr. McIntyre stated with a 2/3 required majority vote on accepting a withdrawal plan; it is impossible for the Town to accept an inappropriate agreement. Mr. McIntyre requested the Board take a more active roll overseeing MSAD 75, for such topics as the ADA compatibility of Harpswell Islands School. Selectman Hawkes stated Harpswell Islands School is ADA compliant and requested that the information the Town received from the District be provided to Mr. McIntyre. Mary Ann Nahf, chair of Conservation Commission, stated that the Forecaster reporter attended the Commission's meeting this week and printed an article regarding the recently received environmental assessment of the Town-owned properties on Mountain Road. The Commission will be presenting the report to the Board of Selectmen in July.

**3. Town Administrator's Report**

- **Hildreth Road Town Landing:** Administrator Eiane reported that the Town owns a parcel off Hildreth Road accessed by a right-of-way known as Gravel Point Road leading to Ewing Narrows – an area that is heavily used as a public access, including by shellfish harvesters. Staff has been working to clear up the public's access matter since it appears the land at the end of the road is privately owned. The Town Attorney has provided information on the matter. Staff has been receiving complaints that an abutter blocked off access with a rope and then removed the rope, but the current condition of the road makes it virtually impossible to launch a boat from the site. The Board could consider seeking information from past Road Commissioners regarding maintenance of the road and from the public to determine the strength of a prescriptive easement claim. Administrator Eiane stated she has spoken with the abutter who has expressed an interest in discussing the issue and she will report back on the outcome. The Board discussed options for proceeding and agreed to set up a time to speak with the Town Attorney.
- **Harpswell Oceanic Center (HOC) Update:** Administrator Eiane stated that since the HOC approached the Town about leasing the 9 acres at Mitchell Field for a marine aquaculture facility, the Board appointed Jack Sylvester as its negotiator. Tony Barrett and Alan Shaver have been appointed by the HOC as its negotiators; it was disclosed that Mr. Barrett is related to the Town's Treasurer. There will be a negotiators meeting tomorrow. The Board agreed there is no conflict with the Treasurer and Mr. Barrett's relationship since lease negotiations fall under the Selectmen's purview.

**4. Selectmen's Announcements:** Chairman Multer stated she received an announcement for lifeline screening that will take place in Harpswell on July 18. Chairman Multer encouraged anyone interested in participating to consult their own doctor first as the tests may not be necessary or covered by insurance.

**5. Consent Agenda: 1) Approval of the Minutes; 2) Conservation Commission Mission Statement; 3)**

**Request for Haying of Mitchell Field by Two Coves Farm:** Chairman Multer moved, seconded by Selectman Henderson to approve item 1 and 3; motion passed 3-0. Chairman Multer requested to remove item 2 from the consent agenda and add it under 17. Other Business.

**6. Southern Maine Midcoast Maine Chamber Presentation:** Steve Wallace, President of Southern Maine Midcoast Chamber (SMMC), stated the Chamber represents 16 communities and he has been reaching out to each one. Mr. Wallace reviewed the structure of the SMMC and the services it offers. Mr. Wallace discussed a business survey he developed and the results of the survey by 13 Harpswell businesses. The survey was posted on SMMC's website, and distributed to Harpswell business members of SMMC and other businesses through the Harpswell Business Association.

**7. Carrying Place Assembly:** Malcolm Whidden read a letter he submitted (attached). The Board thanked Mr. Whidden and the other members of the Carrying Place Assembly for their work with the Harpswell/Brunswick Town line matter. Gary Anderson stated they will continue to work with the children in Harpswell regarding Harpswell's history, including canoe trips from the Carrying Place.

**8. Service Update From Comcast Representatives:** Jay Somers, Senior Manager of Government and Regulatory Affairs, introduced Brad Skolfield, Director of Marketing for the Greater Boston Region, who reviewed the project that Comcast has been working on since last year to upgrade the infrastructure allowing more services in this area. The project has been implemented in phases beginning with the high speed upgrade and now with the video upgrades. This current phase should be completed by September and will offer more digital channels and more services such as video on demand. Selectman Hawkes noted issues she has had with the internet and Selectman Henderson with timing-out issues; Mr. Skolfield will follow up. Chairman Multer stated there are many issues with Comcast's customer service; Mr. Skolfield and Mr. Somers responded that they have been working with staff to assure that correct information is provided to customers. Additionally, the support office for this area, currently now located in Kansas, may be moved to New Hampshire which should offer improvements as well. Deputy Administrator Sawyer asked for confirmation that subscribers must install digital boxes or digital adapters by September in order to continue receiving cable television after September; Mr. Skolfield confirmed and stated customers can obtain one digital box and two digital adapters at the Brunswick office at no charge. Mr. Somers stated that a senior citizen's discount of \$2.00 is now available in Harpswell and customers can contact customer service to see if they are eligible. Mary Ann Nahf noted she was told she did not need a digital box or an adapter and asked for clarification; Mr. Skolfield responded she does.

**9. Update on Cumberland County Hazard Mitigation Plan:** William Labbe, Town Emergency Management Agent, introduced Lori Roth, from the Cumberland County Emergency Management Office. Ms. Roth summarized the update of the 2005 Hazard Mitigation Plan that identifies the top hazards in the County (e.g. floods, severe winter storms, severe summer storms, hurricanes) and mitigation plans. Both Administrator Eiane and Mr. Labbe have participated in the update process and a Harpswell project has been included, the Bethel Point culvert. Ms. Roth explained that local adoption of the plan confirms Harpswell's information is accurate and while it does not commit Harpswell to funding, it opens up opportunities such as grants. Once all 28 communities have adopted the Plan, the County Commissioners will act and then the Plan is sent to the Maine Emergency Management Agency. Selectman Henderson noted Harpswell is not compliant with the National Incident Management System (NIMS) and asked if that was necessary to apply for the hazard grants; Ms. Roth will check and let the Town know. Administrator Eiane asked when the next grant deadline was; Ms. Roth responded September 30 and explained the deadlines are typically rolling as they move based on disasters. Ms. Roth noted the Federal Emergency Management Agency has 120 days to approve the plan after MEMA approval.

**10. Report from Harpswell's Restoration Advisory Board Representative:** David W. Chipman, Harpswell's Restoration Advisory Board (RAB) Representative, explained the RAB is a federally mandated board established for all super fund sites. The RAB is comprised of navy representatives, citizens and Town representatives who overlook the clean up of the Naval Air Station Base. Mr. Chipman explained he will become a full-time resident of Brunswick and consequently become a non-resident taxpayer in Harpswell. Mr. Chipman asked the Board if it wanted to consider appointing a full-time resident or he offered to remain as the Town's representative. The definition of membership in the RAB Charter was reviewed and it was determined that Mr. Chipman would be allowed to continue. The Board agreed not to pursue a replacement. Mr. Chipman reviewed the status of the cleanup and further information is attached.

**11. Request for Consent Agreement Re: Land Use Matter:** Mr. Moon, property owner of map 50, lot 54, stated he had a small deck that was rotted and when he rebuilt it, he extended the deck by an additional 8' x 16'. Mr. Moon was informed the deck did not comply with standards but his abutter has agreed to the structure's location. Mr. Moon asked the Board to allow his deck to remain as it does not change the essential nature of the neighborhood. It was noted Mr. Moon applied to the Board of Appeals and was denied for several reasons. Deputy Administrator Sawyer stated Mr. Moon constructed the deck without a permit and it 1) exceeds the allowable 30% expansion for the non-conforming structure, 2) makes the structure more non-conforming as the deck goes closer to the abutter's property line and 3) exceeds the allowable 20% lot coverage for the property. Selectman Henderson stated there are reasons for land use ordinances noting this lot is small and will create more run off by exceeding the lot coverage. Based on the circumstances, he could not support the request. Selectman Hawkes asked why Mr. Moon could not have his deck. Deputy Administrator Sawyer noted that in addition to being subject to the Ordinances adopted by Town Meeting, Mr. Moon's property is located within the shoreland zone and the State mandates minimum requirements and municipalities cannot be less restrictive. It is unfortunate that Mr. Moon did not first speak with the Code Office where he would have been informed that his deck proposal did not meet the standards for compliance. Chairman Multer stated that even if the State did not mandate, there are rules on the books that must be complied with. Selectman Henderson explained that certain situations may qualify for exceptions through the Board of Appeals. Mr. Moon stated the structures on the abutting lots are dilapidated and there are feral cats in the neighborhood. Selectman Henderson asked for the Code Officer to check the abutting structures for compliance to standards and for follow up by the Animal Control Officer. Selectman Hawkes stated she believes other structures have exceeded the rules; she was asked to provide specific information for investigation. The Board declined to take action on the request, leaving the matter for the Code Office to proceed with enforcement. C. Matthew Rich questioned the consent agreement process and what gives the Selectmen the authority to consider one; Selectman Henderson read section 13.6.4 of the Basic Land Ordinance.

**12. Update on Curtis Memorial Library Memorandum of Understanding:** Chairman Multer stated the current Memorandum of Understanding (MOU) with Curtis Memorial Library is valid through December 31, 2011. In preparation of the new MOU, Chairman Multer proposed an amendment that would require Curtis to provide Harpswell with budget request information at the same time it does to Brunswick. Selectman Henderson moved, seconded by Chairman Multer to accept the additional language; motion passed 3-0.

**13. Animal Control Fee Schedule Update for Nuisance Dog:** Administrator Eiane explained that Town Meeting passed an amendment to the Animal Control Ordinance regarding nuisance dogs and in order for the Animal Control Officer (ACO) to enforce the new language; the Board needs to establish a fine for a nuisance dog. Chairman Multer moved, seconded by Selectman Henderson to set \$50 for the first offense and \$100 for the second and subsequent offense. Selectman Hawkes asked how the fee was determined; Administrator Eiane responded with input from the ACO based on other existing animal control fines. Chairman Multer suggested that the fine could be greater for subsequent offenses but agreed to proceed with the understanding that the ACO will report in a year on how effective the fee has been. Motion passed 3-0.

**14. Consider Contract with Ransom Environmental For a Phase I Environmental Assessment of the West Harpswell School Grounds:** Administrator Eiane stated that Town voters authorized the use of \$2,400 to conduct a phase I environmental assessment of the West Harpswell School property. Ransom Environmental is prepared to proceed with the work with a 3-week turnaround so the report will be available prior to the August 23 vote by the Town on whether to accept the property. Selectman Henderson noted certain processes were excluded such as an asbestos survey and lead paint inspection; Administrator Eiane acknowledged that and stated the costs would be much greater and only \$2,400 is authorized. The consultants will review existing information available on these issues. This proposal is for a phase I assessment which will provide certain protection to the Town for remediating an environmental hazard if the Town accepts the property. Chairman Multer asked for MSAD 75 to be added to task 1 as a source of information to be reviewed. Chairman Multer moved, seconded by Selectman Hawkes to approve the contract for \$2,400; motion passed 3-0. The Board agreed to authorize the Town Administrator to sign the contract.

**15. Appointment:** Administrator Eiane recommended the Board appoint Jason Marshall as interim Code Enforcement Officer and Al Farris as interim Plumbing Inspector from July 1 through July 15 to accommodate scheduling issues in the Code Office. Selectman Henderson moved, seconded by Chairman Multer to appoint Jason Marshall and Al Farris according to the Administrator's memo; motion passed 3-0.

**16. Consider Revision to Mitchell Field Group Use Policy Re: Fees:** Administrator Eiane explained that in response to the Board's direction to address the fees in the Mitchell Field Group Use Policy, staff prepared an amendment that excludes not-for-profit entities from fee charges. The Board discussed other areas of the Policy and agreed to provide comments to staff for Board review at a future meeting.

**16.1 Contract with Bowdoin College for Use of Pool:** Administrator Eiane stated the contract for use of the pool for summer swim is the same as past years. Selectman Hawkes questioned why health insurance is required for each participant. Administrator Eiane responded that Bowdoin College is trying to reduce its exposure but that she understands from the Recreation Director that participants can claim "self pay" on the registration form. The Town's liability insurance covers its instructors. Chairman Multer moved, seconded by Selectman Hawkes to authorize the Administrator to sign the contract; motion passed 3-0.

**17. Other Business: Conservation Commission Mission Statement:** Chairman Multer suggested amending the mission statement by adding in the second paragraph "..., with approval from the Board of Selectman Chair or designee and in conformity with available funding,..." Chairman Multer moved, seconded by Selectman Henderson to approve the mission statement as amended; motion passed 3-0.

**18. Public Comment:** C. Matthew Rich commented on the wharf application process and made suggestions for improvements to the process. Mr. Rich also commented on staff work levels and wage/salary increase processes.

**19. Authorization of the Warrants:** Administrator Eiane noted warrant 36 includes two purchase orders that exceed \$1,000 in value but were originally thought to be less than \$1,000. Chairman Multer moved, seconded by Selectman Henderson to approve warrant 36 in the amount of \$158,158.60; motion passed 3-0. Selectman Henderson moved, seconded by Chairman Multer to approve warrant 37 in the amount of \$38,363.17; motion passed 3-0. Payroll warrant #25 for \$19,616.38 was noted for the record.

**20. Administrative Matters:** 1) Wharf Application Process; 2) Graveyard Point Site Visit; 3) Website Update; 4) Purchase Orders: The Board reviewed the proposed package and procedures regarding wharf applications and made a few changes and asked for the Town attorney to undertake a brief review of the wharves and weirs procedure section; Selectman Hawkes asked staff to work with the Marine Resources Committee to encourage them to be more active in reviewing wharf applications; the Board set August 2 as the date for a site visit to

Graveyard Point Landing; staff reviewed the website upgrade process; Selectman Hawkes asked about establishing a reuse tent at the Recycling Center facility and Selectman Henderson agreed and asked for a Solid Waste Committee meeting to discuss the issue and single stream; the Board agreed to have Selectman Hawkes and staff meet with the Marine Patrol regarding the boat use; Selectman Henderson asked for a discussion, regarding seeking proposals for housing at Mitchell Field, to be on the next agenda; and Administrator Eiane noted staff will work on a fuel bid process with responses at the next meeting.

**19. Adjournment:** The meeting adjourned by unanimous vote at 10:30 p.m.

Respectfully Submitted,

Terri-Lynn Sawyer

Attachments: Malcolm Whidden's Letter  
David W. Chipman 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)]