

Special Selectmen's Meeting Minutes
August 22, 2013
Harpswell Town Office
Approved on September 5, 2013

At 5:30 p.m., Chairman Multer moved, seconded by Selectman Hawkes to enter executive session pursuant to 1 MRSA § 405(6)(C) regarding acquisition of real property; motion passed 3-0.

The Board returned to open session at 6:10 p.m.

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:10 p.m.

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

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; Bill Wells, Code Enforcement Officer; 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 Hawkes to adopt the agenda as amended by adding consider Crooker & Sons, Inc. change order under 13; motion passed 3-0.

2. Public Comment: Mary Ann Nahf, Conservation Commission chair, reported the Commission, in partnership with the Casco Bay Estuary Program, has been working to resolve run off issues in to the New Meadows River from certain areas in Harpswell. A few issues relating to Town roads have been corrected but a few private areas remain an issue. One main area of focus is a culvert on the Wallace Shore Road. The Commission submitted a letter of intent and has been invited to submit a grant proposal. The Commission will ask the Board for a letter of support at the next meeting. Selectman Hawkes asked if a match is required; Ms. Nahf responded it may be in-kind services but she will check. The grant award will be announced in January. Chairman Multer noted she'd like the Budget Advisory Committee to consider funding an account that could be used as grant matches throughout the year. Administrator Eiane noted funds can only be expended for a purpose approved by Town Meeting.

3. Town Administrator's Report: Administrator Eiane reported the Town of Harpswell local property tax assistance program was enacted in 2011 based on the State's program. Over the three-year period, \$66,798 has been issued in tax/rent relief at an average of \$327 per household. In 2011 there were 65 households, 2012 was 75 and 2013 was 64. Recent legislation eliminated the State Circuit Breaker Program and revoked local authority to offer similar programs effective August 1. The State may reinstate the local authority. Until then, Harpswell's program is on hold and if allowed to continue, Harpswell's ordinance will require revisions. Since this year was a condensed due to the August 1 deadline, Deputy Administrator Sawyer phone each applicant from last year to assure applications were received by July 31. On tonight's warrant is a total expenditure of \$19,950 for 64 households.

4. Selectmen's Announcements: Selectman Daniel announced there will be a public forum on Sunday, August 25 at 5:00 at Centennial Hall (936 Harpswell Neck Road) regarding recreational opportunities of Harpswell's public lands. He stated the last forum was excellent and encouraged the public to attend.

5. Consent Agenda: Chairman Multer moved, seconded by Selectman Daniel to approve the consent agenda [\$5,700 in donations for the Bandstand; Julie Swol's resignation from the Bandstand Committee; Christopher Hall's appointment to the Bandstand Committee; warrant #38 for \$167,967.69 and payroll warrant #34 for \$15,125.45]; motion passed 3-0.

6. Consider Request for Proposals (RFP) for Wood Grinding: Administrator Eiane stated the wood grinding is an annual event and this year, Mr. Cantu included a new option for the contractor to remove the Town's

woodpile for grinding off site. Responses will be reviewed and brought back to the Board for decision. Chairman Multer stated she wants some information regarding the reliability of the factory as payment is sent after the wood is processed. Chairman Multer moved, seconded by Selectman Hawkes to approve the RFP; motion passed 3-0.

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

8. Wharf Applications

- **Daniel & Linda Hebert, Map 43, Lot 11, 187 Doughty Point Road:** Bill Wells, Code Enforcement Officer, reviewed the proposal to construct a residential wharf system consisting of: 4'x12' stairs, 6' x 235' fixed pier, 3'x50' ramp and 12'x20' float. Selectman Daniel asked if there was any limit on length; Mr. Wells responded no and the applicant wants to reach water. Mr. Wells reported there were no comments at the hearing or received from the Marine Resources Committee. Chairman Multer expressed concern regarding the length and how long future wharves will be if everyone wants to reach the water in a tidal cove. Selectman Hawkes expressed concern about the rate wharf applications are received. Mr. Wells stated previous Boards have discussed that same issue without resolution. Chairman Multer moved, seconded by Selectman Daniel to approve the application as there is no hazard to navigation or injury to the rights of others; motion passed 3-0.
- **Bruce & Heather Davis, Map 3, Lot 76-1, 165 Hildreth Road:** Mr. Wells reviewed the proposal to rebuild a discarded residential wharf system consisting of: PT wood, 3.5'x20' access ramp, 5'x16' pier, 3'x36' ramp and 10'x20' float. The system is proposed to be repaired and located at this site. Administrator Eiane asked if there were subdivision requirements; Mr. Wells responded this subdivision was created prior to the common lot/dock provision for subdivisions. Tim Forrester, Environmentalist for Eco-Analyst, clarified for the Board that indirect footprint relates to items with seasonal impacts such as the float, shading etc. Chairman Multer moved, seconded by Selectman Hawkes to approve the application as there is no hazard to navigation or injury to the rights of others; motion passed 3-0.
- **Heather Dick, Map 52, Lot 90, 36 Perry Lane:** Bill Wells reviewed the proposal to construct a seasonal wharf system consisting of a 3'x12' ramp, 4'x4' box pier, 3'x32' ramp and 10'x20' float. Mr. Forrester stated the goal was to get the float to water while considering eel grass. The entire system is seasonal (seven months), including the box pier that will be removed. Mr. Forrester stated the public could pass in front of the float. Chairman Multer moved, seconded by Selectman Daniel to approve the application as there is no hazard to navigation or injury to the rights of others; motion passed 3-0.

9. Consider License for Private Utility Line Under Abner Point Road: Mr. Wells stated the Town Attorney, Sally Daggett, has prepared a License Agreement for the Board's review and signature and for Mr. Allen's signature. Mr. Allen has agreed to pay \$1,000 in legal fees prior to the Town Attorney doing the work. The document needs to be recorded at the Cumberland County Registry of Deeds. Chairman Multer stated she was unhappy a penalty was not considered. Mr. Wells stated he has issued several Street Opening Permits and apparently Mr. Allen was confused by the Ordinance and did not consider boring as needing a permit. Ms. Daggett has determined Town meeting needs to approve an easement for the power lines to remain under Abner Point Road. Administrator Eiane stated the Board can approve a license for up to one year and this license agreement states the Board will place an easement article on the 2014 Town Meeting warrant. Chairman Multer moved to table the item to explore penalty options, seconded by Selectman Daniel. Selectman Hawkes suggested the Board should address the issue and collect a penalty later. Selectman Daniel stated he would like to know more about the details of this case. Bruce Allen stated he is building a new house at Mackerel Cove and due to the view he wanted to place the power lines under Abner Point Road. He was advised a year ago he would need a Street Opening Permit and he read the Ordinance and did not understand it and neither did his attorney. He installed temporary power through a neighbor and delayed formal installation. He then began to consider the process again and someone suggested he bore under the road and he believed that was not subject to the Ordinance. Mr. Allen stated he agreed to pay the \$1,000 and that should cover the permit, penalty and legal costs

and he wants to finalize his power. The Board discussed the fee for a Street Opening Permit and Mr. Wells stated it is minimal considering the legal review, inspections and possible bonding required. Mr. Wells noted Mr. Allen never asked the Code Office about boring under the road. Selectman Daniel stated since the License is for a short time and is revocable if not complied with, he was in favor of proceeding. Chairman Multer withdrew her motion and Selectman Daniel withdrew his second. **Selectman Hawkes moved to approve the License to April 1, 2014 with the \$1,000 payment.** Chairman Multer asked for more information regarding fees/penalties. Deputy Administrator Sawyer stated the Town had a number of issues with property owners installing sewer, water, utility lines through Town Roads and therefore, the Town adopted the Street Opening Ordinance. The Ordinance requires certain information from the applicant, including a legal title opinion regarding the applicant's legal interest to do the work in a public place. If the opinion determines the Town owns the fee interest then only Town Meeting can give an easement. If the Town does not own the fee and adequate evidence is provided to support a permit, then the Code Officer, after obtaining legal review, may issue a permit. Apparently the Town Attorney has determined the Town owns the fee interest where Mr. Allen conducted the work. Deputy Administrator Sawyer agreed the Ordinance can be made clearer, she does not agree that the Ordinance does not cover boring as she believes it does under the definitions of "public place" and "excavation". Mr. Allen did open the Road – maybe not the surface but certainly within the public place to make an opening for the conduit. The Ordinance is to protect Town roads and taxpayers multi million investment in them. Mr. Allen stated if the Town finds that he owes more money, he will pay what is required. C. Matthew Rich stated in addition to legal fees, the Town incurs other expenses relating to situations where someone starts or completes work without a permit such as staff and Selectmen time. Selectman Daniel seconded the motion and it passed 3-0.

10. Consider Request for Use of Mitchell Field as Access to Abutting Property for Tree Harvesting

Operation: Staff stated the Board has been provide information from members of the public opposed to this proposal. Robert Bond, of Dirigo Timberlands, stated he is working for Elizabeth Childs to harvest trees on her property (map 14, lot 65). Mr. Bond stated he has options for removing the trees and requests the Board allow him to use Mitchell Field to remove the wood. Deputy Administrator asked why Ms. Child's property is not an option; Mr. Bond responded it is but that he would have to use an abutter's driveway and would likely cause damage. Mr. Bond stated the harvest will take about 4 weeks, with two trips per day using 18-wheel tractor trailers and the trips can be at the best times deemed by the Board. The property does not have any drainage issues and is dry enough for him to do the work. Mr. Bond stated he is harvesting the area under option one of the Town's Shoreland Zoning Ordinance that limits the harvest to 40% and does not require a permit. Mr. Bond stated he will not be harvesting any within 75-feet of the water. Selectman Hawkes stated the public is concerned about walkers, including the elderly. Chairman Multer expressed concern of the weight of the trucks. Mr. Bond stated the roads were constructed by the Federal Government and he believes they can sustain the weight. He prefers to use the center road to access the outer perimeter road to the common property line. Deputy Administrator Sawyer stated the Board has an infrastructure study showing the main road needs some attention. The Board agreed to wait to address this topic until the Mitchell Field Implementation Committee can review the request.

11. Open Bids for Hildreth Road: There were no bids received for the 14-acre parcel with the minimum bid requirement of \$175,000. Deputy Administrator Sawyer stated she heard from a resident asking the Board to consider setting the minimum lower to allow for someone needing affordable housing to purchase it. However, lowering the price does not guarantee it will be someone in need – that would require specific criteria which staff can investigate if the Board wants to pursue. The Board discussed the next steps and was in consensus to list the property with a realtor. Staff will propose a process.

12. Old Business

- **Conservation Commission Mission:** Chairman Multer removed this item from the agenda.

- **Consider Work Scope for Long Point Road Stabilization Project:** Administrator Eiane stated the Board previously tabled this topic pending information on the number of crashes, which has been provided. Chairman Multer stated with only 2 accidents the intersection is not ranked as having a high level by the Department of Transportation as they use 8 accidents as an indication. Selectman Daniel stated he was happy to have the information and believes drivers know to use caution at that intersection. Chairman Multer moved, seconded by Selectman Daniel to approve the work order with Gorrill & Palmer for the Long Point Road stabilization project; motion passed 3-0.

13. Other Business: Consider Change Order with Harry Crooker & Sons, Inc.: Administrator Eiane stated this change order is to alter the schedule and has no monetary impact. The final paving is proposed to now take place in the spring, giving time for the work to settle. Chairman Multer asked that neighbors be kept informed. Selectman Daniel moved, seconded by Chairman Multer to approve the change order; motion passed 3-0.

14. Public Comment: C. Matthew Rich stated the Shoreland Zoning Ordinance limits residential wharf systems to 6-feet in width and that wharves are actually being built much wider like 10-feet. He spoke with Bill Wells who indicates the 6-foot limits the deck. Mr. Rich states it should include the cribs, supports etc. Mr. Rich suggested the Town should require deposits for wharves that could be used when they break free. There should be conditions on the owner such as financial capacity and certain inspections implemented. Mr. Rich stated he believes wharves should be reviewed by the Board of Appeals as the Shoreland Zoning Ordinance does not allow new structures within the 75-foot setback.

15. Administrative Matters: The Board signed a catering license; rescheduled the Marine Resource Services meeting to September 12 at 9:00 a.m.; scheduled an executive session regarding the possible acquisition of real property for August 29 at 4:30 p.m.; and agreed to accept Street Light Request forms until the first meeting after daylight savings. Selectman Daniel thanked Administrator Eiane for writing the letter to the Eagle Scouts that the Board signed as it meant a lot to them and was mentioned during the pinning ceremony.

16. Executive Session: At 8:20 p.m. Chairman Multer moved, seconded by Selectman Daniel to enter executive session pursuant to 1 MRSA § 405(6)(C) regarding acquiring public easement; motion passed 3-0.

17. Adjournment: The Board returned to open session at 9:05 p.m. and 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]