

**Board of Selectmen's Meeting Minutes**  
**October 27, 2011**  
**Harpswell Town Office**  
Approved on November 10, 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; and Bill Wells, Code Enforcement Officer

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 printed; motion passed 3-0.

**2. Public Comment:** None.

**3. Town Administrator's Report:** Administrator Eiane announced a new State law establishing the 3<sup>rd</sup> business day before an election as the last day for requesting absentee ballots. The deadline for requesting an absentee ballot for the November 8 Referendum is November 3. Additionally, the Town's three voting sites will be open on Election Day from 8:00 a.m. to 8:00 p.m. Administrator Eiane reported the Board requested an update on any pending litigation and there are two cases: 1. David D'Alessandro versus the Town and a number of his neighbors. This is a Rule 80B (review of a governmental action) appeal of a Board of Appeals decision denying his administrative appeal. The Superior Court upheld the Board of Appeal's decision and D'Alessandro has appealed to the Law Court. 2. Matthew Rich versus the Town and other parties-in-interest. This is a Rule 80B appeal of a Board of Appeals decision to deny his administrative appeal as untimely. This is a recent case and the Board will be updated as actions occur.

Administrator Eiane reported the Board asked staff to work with the Midcoast Council of Governments to reach out to Harpswell businesses and improve communication and connectivity. A meeting with Harpswell businesses and MCOG has been scheduled for November 9 beginning at 6:30 with a meet and greet and then a program at 7:00 p.m. Invitations have been sent to business through the Harpswell Business Association and the Town's lists in Assessing and the Clerk's Office.

Administrator Eiane reported the Town's first year offering the Property Tax Assistance Program resulted in 65 applicants and \$22,466.95 in refunds. The Program requires the applicant to have received a State Circuit Breaker refund for the tax year in question, to hold a homestead in the Town and for the taxes from the applicable year to have been paid. Qualifying applicants receive half of the refund amount they received from the State.

Administrator Eiane announced that Saturday, October 29 from 10:00 a.m. to 2:00 p.m. is a medication collection day and the Town Office is a collection site. She encouraged the public not to dispose of unwanted medication in the water stream but rather to properly dispose of them through this program.

**4. Selectmen's Announcements:** None.

**5. Consent Agenda:** 1) Approval of minutes; 2) Road Name Request; and 3) Recycling Center Manager's Recommendation Re: Tractor Trailer Disposal; 4) Appointments: Chairman Multer moved, seconded by Selectman Henderson to approve the consent agenda items; motion passed 3-0.

**6. Wharf Applications**

- **Carla Lejade, Map 58, Lots 52-77, 77 Spruce Cove Road:** The hearing was opened. Joe Leblanc, representing Ms. Lejade, stated the wharf system proposal is for use by Ms. Lejade and she invited all her

neighbors to use it as well. Mr. Leblanc stated there is a legal opinion regarding Ms. Lejade's right, title or interest to the intertidal zone. Ms. Lejade reiterated she will use the system and everyone on her road has been invited to use it. Bill Wells, Code Enforcement Officer, states no one has objected to the proposal and that the public can pass under the system. The Harbormaster has reported there is no navigational issue with the proposal. The float will sit in the mud at low tide. The hearing was closed. Selectman Henderson moved, seconded by Chairman Multer to approve the application and cited the specific findings in the Notice of Decision; motion passed 3-0.

- **Mark Stebbins, Map 23, Lot 93, 6 Dolphin Lane:** Bill Wells, Code Enforcement Officer, reported there was a hearing held and several abutters attended and expressed concerns. Each person appears to have been satisfied with specific answers to the proposal. Mr. Wells stated the float will remain barely afloat at low tide and there does not appear to be hazard to navigation or injury of the rights of others. Selectman Hawkes asked for clarification regarding a memo from Debbie Turner, Assessing Agent, regarding the right, title or interest. It was determined that Ms. Turner clarified the right, title or interest threshold was met. Mr. Leblanc, representing Mr. Stebbins, stated the clearance below the system is 14-feet at low and 5-feet at high tide. Selectman Henderson moved, seconded by Chairman Multer to approve the application and cited the specific findings in the Notice of Decision; motion passed 3-0.

**9. Request for Proposals for Emergency Vehicle for Use by Cundy's Harbor Fire Department:** Jonathon Burbank, Vice President of the Cundy's Harbor Fire Department, a volunteer fire fighter, and member of the Town's Emergency Vehicle Committee, stated the current truck is 20 years old and in need of replacement. The specifications for the new vehicle are detailed in a document. Selectman Henderson expressed confidence in the Committee and Departments for knowing their needs. Administrator Eiane noted there will be one change to the cover sheet to clarify that Annex A & B are items that the Cundy's Harbor Department may purchase on its own for the vehicle, separate from the all-inclusive price. There was a discussion regarding the vendors and about the service relationship. Chairman Multer suggested inserting language allowing alternatives to the proposed specifications. Chairman Multer moved, seconded by Selectman Henderson to approve the request for proposals package as amended; motion passed 3-0.

**7. Consider Contract with Crooker & Sons, Inc. For Capital Road Project:** Administrator Eiane reported the Selectmen previously met with the Town engineers regarding this project that was originally bid at \$666,000. The engineers engaged the lowest bidder, Harry Crooker & Sons, Inc. to reduce costs and supply a quality product. The final negotiations resulted in a contract price of \$531,018.33 to perform capital work on Lane, Lowell's Cove and Little Island Roads. While the Town wanted the project to begin this fall it will not take place until the spring. Selectman Henderson moved, seconded by Selectman Hawkes to approve the contract; motion passed 3-0.

**8. Consider Snow Plow Contract Extension Request with Goodall Landscaping:** Chairman Multer stated the current snow plow contractor has submitted a request for extension, pursuant to the contract. Since winter maintenance leads to concerns and perhaps dissatisfaction, Chairman Multer suggested the Board advertise its next meeting with this topic and delay making a decision until then. Public comment is welcomed.

**13. Street Light Update:** Chairman Multer suggested a workshop to review each light; Selectman Henderson suggested seeing if time permits at the end of tonight's meeting.

**14. Supplemental Tax:** Administrator Eiane stated, when the Town became an owner of half the interest of this parcel (tax map 42, lot 6); the remaining owner was inadvertently omitted from the tax rolls. The taxpayer came in and asked about the tax bill. The supplemental value for half ownership is \$26,000 resulting in a tax of \$155.44. Chairman Multer moved, seconded by Selectman Henderson to approve the supplemental tax; motion passed 3-0.

**15. Engagement Letter with Runyon Kersteen Ouellette for Audit Services:** The price for the 2012 audit is \$13,000 since staff is now preparing the financial statements. This year will be the 7<sup>th</sup> year and the Board previously agreed to test the market through bidding next year. Chairman Multer expressed concerns about the boiler plate language and the amount of exceptions. Administrator Eiane and Deputy Administrator Sawyer explained the levels of responsibility for the auditors. The Board agreed to seek further information from the auditors regarding the auditor's responsibilities and examples of when a report is not provided.

**10. Consider Norman Stevens Junkyard Application, Map 46, Lot 31:** Bill Wells, Code Enforcement Officer, noted there was a public hearing held at 1:00 p.m. today and no one attended. Mr. Wells recommended approval of the permit as he saw no reason not to issue it. Deputy Administrator Sawyer explained the Board requested a written opinion regarding the Board's responsibility in relation to the relevant statute; the Department of Environmental Protection Agency provided a written response detailing the Town's responsibilities which are limited to the setbacks to wells, water bodies and assuring the appropriate screening from the travelled way, any other issues are the responsibility of the Department of Environmental Protection (DEP). Selectman Henderson requested that the Code Officer walk through the junkyard area itself to check for any obvious issues to report to the DEP; there was a discussion regarding this topic. Chairman Multer moved, seconded by Selectman Henderson to approve the Norm's Auto Salvage Automobile Graveyard/Junkyard permit retroactive to October 1, 2011; motion passed 3-0.

**11. Public Hearing to Consider General Assistance Ordinance Maximums:** The hearing was opened at 7:27 p.m. Administrator Eiane explained the Town must adopt Appendix A and hold a hearing regarding it but Selectmen are unable to alter the specifics. Appendix B covers the levels of assistance for food and staff recommends adopting it as is. Appendix C covers the housing levels, primarily rent, and staff does not recommend adopting this appendix as it is not consistent with rent levels in Harpswell. If Appendix C is not adopted, the maximum levels in Appendix A will be available. Administrator Eiane encouraged anyone in need of assistance to contact the Town to see if they are eligible and if not, the Town will provide information about other possible resources. The Town is audited annually by the Department of Health and Human Services and, assuming the Town complies, it will receive 50% reimbursement of the funds spent for general assistance. The budget for 2011 is \$19,000 and this will be recommended for an increase in 2012. Chairman Multer moved, seconded by Selectman Henderson to adopt Appendix A and B; motion passed 3-0.

## **12. West Harpswell School**

- **Consider Policy Regarding Use:** Chairman Multer stated she is not inclined to consider interim uses of the building because of the piping issues and costs occurred. The Board agreed to move to the next topic before this item. The Board returned to this topic. Selectman Henderson stated the Recreation Director submitted a request to use the building; if the principle is to not allow any uses since contingency was used, does that include no Town recreation? Administrator Eiane suggested that the Board consider maintaining minimal use or proceed to the next level of regular use of 31% of the building to possibly reduce the insurance costs. The Town has no history of use of the building and there may need to be more budgeted funds for oil and other costs. Selectman Henderson asked what the insurance savings would be if the building is used as required; the insurance in the future would reduce from \$13,000/year to \$1,700/year and the Town would receive a refund. Selectman Henderson stated the Town would benefit by interim uses and the Board needs to be diligent in seeking uses and forming a plan guaranteeing regular interim (until Town Meeting) use of 31% of the building to realize the insurance refund. Chairman Multer responded it feels rushed and there are a lot of issues to work out such as what fee to charge, who will clean and supervise etc. Selectman Hawkes agreed the Town should be exploring uses and not let the building remain vacant. Selectman Henderson suggested tabling the proposed policy to the next meeting and asked staff to use it as a template to develop an application and add certain language to the policy clarifying that uses will only be permitted if the number of applicants and degree of uses is sufficient to allow a reduction in the insurance. Selectman Henderson moved, seconded by Selectman Hawkes to use the proposed policy so that staff may develop an application

form consistent with the policy, as revised with the additional language, for the next meeting. The Board discussed the policy should make clear the use will end by March 10, 2012 unless continued at the discretion of the Board and/or Town Meeting. Motion passed 2-1 (Chairman Multer opposed).

- **Consider Use of Contingency for Piping Upgrade:** Administrator Eiane reported Town Meeting referendum appropriated \$25,000 to cover minimal operating costs of the West Harpswell School from acquisition to the 2012 Town Meeting. The Town to date has spent or committed a vacant building insurance policy for \$13,000, security system agreement for \$300, 2000 gallons of fuel for \$6,330, and \$500 for mowing and grounds maintenance and electric bills are due and potentially more fuel. When the company was contacted to start up the boiler, an issue with the oil tank piping was discovered. While the tank complies with current code, the piping apparently does not and once the piping is exposed, it is required to be brought up to code. Alternatives were explored such as closing the building for the winter, which was estimated at \$8,000 to drain the systems, and installing fuel tanks inside the building. Administrator Eiane recommended using contingency for the installation of the new pipe. Chairman Multer stated that these types of issues arise from owning a property and stated that the amount of work to figure out the costs associated with specific uses for the last 4 months to Town Meeting is not worth the effort. Selectman Hawkes noted she is in favor of using the building and at a charge. Selectman Henderson stated the oil piping issue needs to be addressed and moved, seconded by Selectman Hawkes to approve use of contingency for \$6,370 to repair the heating tank pipes. Administrator Eiane stated the proposal includes a manhole and the contractor will try to reduce the size to what is minimally needed and will be required to report any encountered issues to the DEP. Motion passed 3-0.
- **Artwork Update:** Administrator Eiane stated the Board previously held a workshop with John Loyd and others regarding the artwork and Mr. Loyd raised issues with the ownership. Since then, the Town attorney and Mr. Loyd were in communication. Mr. Loyd suggested a court action to form a trust to own the artwork, which was originally donated to “the children of Harpswell”. The Town’s attorney has advised no action is necessary and additionally now that the Town owns the artwork, Town Meeting would be needed to transfer ownership. Selectman Henderson suggested the Board appoint a committee to oversee the care of the artwork and pursue the creation of a trust whose members will be appointed by the Board. Chairman Multer questioned what a committee would do since the artwork has been managed by the Town Administrator in accordance with advice of the Bowdoin College Museum of Art. The artwork will be displayed at the Town Office very soon with the assistance of Bowdoin College. Selectman Henderson stated the committee could be advisory to administration. Selectman Henderson expressed concern that at some point Town Meeting could sell off the artwork and that the Board should bring the trust concept to Town Meeting to protect retention of the artwork. Chairman Multer shared the concern regarding the selling of the artwork. The Board agreed to leave the artwork as is for now.

**16. Other Business:** None.

**17. Public Comment:** None.

**18. Authorization of the Warrants:** Chairman Multer moved, seconded by Selectman Henderson to approve warrant 55 in the amount of \$131,444.15; motion passed 3-0. Selectman Henderson moved, seconded by Chairman Multer to approve warrant 56 in the amount of \$6,330; motion passed 3-0. Payroll warrant #43 for \$17,548.50 was noted for the record.

**19. Administrative Matters:** The Board reviewed the action list and requested the fireworks ordinance discussion be on the next agenda. Administrator Eiane reported the winter sand contractor will hold the price for 2012 at 11.45/yard; the Board asked for this to be on the next agenda. The Board was reminded of an executive session Monday at 9:30 and a workshop at 10:30.

**13. Street Lights:** The Board reviewed the list of the lights proposed for removal that the Town received comment on. Each light was reviewed and a consensus list was developed of which lights to keep and which to remove plus a few were scheduled for another visit. Chairman Multer asked that no changes take place until Day Light Savings in the spring of 2012.

Administrator Eiane announced the Watercraft Task Force is seeking input from the public regarding the Town's need for boats at its meeting of October 31 at 7:00 p.m.

**20. Executive Session Pursuant to 36 M.R.S.A. § 841(2)(E) Re: Infirmary or Poverty Abatement:** Selectman Henderson moved, seconded by Chairman Multer to enter into executive session pursuant to M.R.S.A. § 841(2)(E) to discuss an infirmity or poverty abatement; motion passed 3-0.

**24. Adjournment:** Upon return to open session, it was unanimously voted to grant the hardship abatement as discussed in executive session. The meeting was adjourned at 9:35 p.m.

Respectfully Submitted,

Terri-Lynn Sawyer

Attachments:

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