

Selectmen's Meeting Minutes
September 4, 2014
Harpswell Town Office
Approved on September 18, 2014

At 5:20 pm; Chairman Daniel moved, seconded by Selectman Multer to enter executive session pursuant to 1 MRSA § 405 (6)(D) to discuss labor negotiations; motion passed 3-0.

The Board returned to open session at 6:00 pm.

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

Selectmen Present: Richard A. Daniel, Elinor Multer and Kevin E. Johnson

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; Marguerite Kelly, Treasurer; Bill Wells, Code Enforcement Officer; and Jim Hays, Harbormaster

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

1. Adoption of the Agenda: Chairman Daniel moved, seconded by Selectman Multer to adopt the agenda as amended by adding three items under Other Business: Consider Updating Commitment Forms; Consider Invalidating Recreational Shellfish License; Consider Releasing Retainage to Crooker; motion passed 3-0.

2. Public Comment: Jim Knight read a help wanted ad from the Harpswell Anchor that was seeking a landscaper to do a number of things on a specific property, including mixing and spraying herbicides or insecticides. Mr. Knight stated the Town has an Insect Growth Regulator & Insecticide Control Ordinance that prohibits use of certain chemicals. Additionally Town Meeting recently approved amending the Shoreland Zoning Ordinance to include certain restrictions relating to fertilizers. Mr. Knight stated everyone enjoys the ocean and it is incumbent on everyone to be good stewards. Since the ordinance was created to prohibit use of certain control agents for the brown tail moth in 2004, Mr. Knight requested the Board review it and propose updates to further protect our resources. Mary Ann Nahf, Conservation Commission Chair, stated she noticed the same ad and stated it was a good opportunity to educate the public. The Commission is in the process of creating an outline on how to garden without chemicals.

3. Town Administrator's Report: Administrator Eiane reminded taxpayers that the first installment of the 2014 taxes is due September 15.

4. Selectmen's Announcements: None.

5. Consent Agenda: Chairman Daniel moved, seconded by Selectman Johnson to approve the consent agenda; motion passed 3-0 [August 19, 21 and 22 minutes; a \$50 donation from the Harpswell Community Nursery School for the Bandstand; the Cumberland County Tax Warrant in the amount of \$1,183,087; contract with Bowdoin College for family swim; and warrant #38 in the amount of \$125,536.18, warrant #39 in the amount of \$1,183,087 and payroll warrant #36 in the amount of \$15,217.86].

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

7. Consider Request for Proposals for Auditing Services: Administrator Eiane stated the Town will solicit proposals for certain services periodically. The Town has engaged its current auditing firm, Runyon Kersteen Ouellette, for nine years and sending the service out to bid is not a reflection on the service received. Administrator Eiane stated the Board can be involved in the selection or designate staff to make a recommendation. Selectman Multer asked a couple of questions of Administrator Eiane. Selectman Multer moved, seconded by Selectman Johnson to approve the request for proposals; motion passed 3-0.

8. Consider Re-Seeding Plan: Darcie Couture, Town Marine Resources Coordinator, reported that Dan Devereaux, Brunswick Marine Resources Officer, attended a recent Marine Resources Committee meeting and offered to sell some of Brunswick's excess commercial seed at cost. Ms. Couture stated this is a good time to re-seed with the recent data collected, including pH surveys, of certain areas. If approved, she will join Mr. Devereaux for the trip to pick up the baby clams tomorrow to be seeded on Saturday. Mr. Devereaux also offered the use of Brunswick's airboat to assist with moving teams around the different locations. Chairman Daniel asked about the proposal to place the seeds along the common town borders. Ms. Couture responded the Committee agreed it was a good idea to allocate some for joint areas and some for specific Harpswell areas. Selectman Johnson noted the Committee members and harvesters who were present approved the project. Selectman Multer moved, seconded by Selectman Johnson to authorize up to \$5,000 for the purchase of seed clams from Brunswick; motion passed 3-0.

9. Consider Kelley's Request for Review of McCormack/Brant Wharf Approval: Chairman Daniel moved, seconded by Selectman Multer, to remove this item from the table and open the topic for discussion; motion passed 3-0. John Loyd, McCormack/Brant attorney, stated the Board tabled this item at its last meeting to hear from Joe Leblanc, McCormack/Brant permitting agent. Mr. Loyd stated his associate reviewed all the wharf permits issued from 2012-2014. Of the 50 permits, 27 used +/- measurements on the location drawings; 23 stated precise measurements; only one had as built measurements taken, the McCormack/Brant wharf system. Mr. Loyd stated the Town has no idea of the variability of the 49 built wharves. He asked the Board to take into account that wharves are located in a marine environment, with variables such as the wind, tides, and system designs. Mr. Loyd noted various measurements taken between the McCormack/Brant float and the Kelley's float have resulted in different numbers. The Department of Environmental Protection (DEP) measured 99-feet and the Army Corps Of Engineers got 102-feet; both entities are satisfied with the separation distance. Mr. Loyd reviewed an affidavit signed by his client. He stated his clients have made a number of accommodations for the Kelleys and nothing has worked. Mr. Loyd asked that the Harbormaster address the question on navigation and whether it is impacted by the variable change in the distance between the floats.

Mr. Leblanc stated he met several times with the wharf builder, Paul Morgan, to set pins for the construction, which was completed by June 23. Mr. Leblanc stated there were so many revisions to the drawings because every time there was an adjustment or question, he added the information. Mr. Leblanc handed out several documents, including email communication, pictures, the Army Corps Of Engineer (ACOE) Guidelines. He stated the ACOE requires a 50-foot separation between floats. Mr. Leblanc reviewed all the past measurements and revisions and how he ultimately arrived at the separation measurement of 110-feet +/- . Mr. Leblanc noted the ACOE just did another measurement with his range finder and got a distance of 105-feet. Chairman Daniel stated he understood the measurement cannot be precise and a 10% variance has been discussed. If you use the 99-foot measurement, that would be right at 10%. Mr. Leblanc stated the float is smaller, 8'x16' not the permitted 10'x20', to accommodate a smaller flip storage structure.

Bill Kelley stated he met with the DEP at the start of this process and was told that navigation was a local issue but now they comment that navigation is fine. He noted there are issues with navigating at low tide, not high tide. Joyce Kelley provided a hand out. Mr. Kelley stated the system was not built where it was permitted to be and he believes there was no intent to meet the 110-foot separation distance. The McCormack/Brant float is also smaller so if the larger float is installed, the distance will be even less.

Mr. Loyd stated the Board could insist on precise measurements but not midstream without informing the public. Joyce Kelley stated the Town Planner did not agree that a change from 110-feet to 99-feet is de minimus. Jim Hays, Harbormaster, stated he is responsible for review of the site locations for proposed wharves to determine if there would be a hazard to navigation. The first proposal he looked at had a proposed separation of 95-feet and he believed there would not be any hazard to navigation. He has been in the area many times and he states there is room to navigate and turn around. Selectman Multer stated the Kelleys assert they can only navigate at high

tide and asked if Mr. Hays has been in the area at low tide. Mr. Hays responded he has been there within 1 hour of low tide and if there is an issue, it is with the depth of water, not with the wharves.

Joe Leblanc summarized the events that took place on a video that the Selectmen watched prior to approving the permit. Mr. Kelley stated a flaw in the video was that the ledges cannot be accessed at low tide. Selectman Johnson stated he took a recent ride over by boat at low tide and believes there is more than sufficient room to navigate. Chairman Daniel stated that the variance in the measurement is stretching the limit but finds the Harbormaster's and Selectmen Johnson's findings on navigation compelling. Chairman Daniel moved, seconded by Selectman Johnson to not take any action; motion passed 3-0.

Selectman Multer asked that the Harbormaster and Code Officer get together to discuss whether a definition should be developed for "+/-" indication. Chairman Daniel stated he preferred the give and take through the Board's process but would be ok with a discussion and Selectman Johnson agreed. Ms. Kelley asked if her neighbors would be allowed to put in the bigger float. Administrator Eiane noted the 10'x20' float is approved on the Notice of Decision. Selectman Multer suggested the Board act to indicate that it declines to revoke the permit based on existing conditions including the current float size and anything that changes dimensions are to come back to the Board. Chairman Daniel and Selectman Johnson agreed to leave the Board's action as is. Mr. Leblanc stated his clients plan to see how the smaller float works for them but are reserving the right to go to the 10x20.

11. Public Informational Session Re: Lookout Point Property: Nick Hodgkins, Brownfields Grant Director from the Maine Department of Environmental Protection (DEP), stated the DEP is using grant funds to clean up the Town-owned parcel, recently acquired from Dain Allen, at Lookout Point. There is one area on the property that tested positive for low levels of petroleum. Soil from that area will be removed from the site and replaced with appropriate fill. After a public bid process, DEP contracted with CES, Inc. for the remediation work. John Cressey, CES, Inc. Project Manager, stated three remediation options were evaluated: 1) to remove the contaminated soil to an offsite location; 2) dig up the contaminated soil and bury it on-site; and 3) no action. Mr. Cressey stated options 2 and 3 would require property use/deed restrictions. He recommends option one as it is the most cost effective with no limitations on the property. The project will take about 1.5 days to remove and replace the 50 cubic yards of material; follow up testing of the site will occur the day of the work. Mr. Cressey stated tonight's meeting is part of the public informational process required as part of the grant. Mr. Cressey encouraged anyone with questions or concerns to contact the Town and also to review the available reports relating to this site, which the Town has. The public can comment until September 24, provided there are no concerns, the project will begin September 29. Selectman Multer asked about the rototilling option; Mr. Hodgkins responded it was not a good option so close to the water and it is a long process and difficult to maintain. Mr. Cressey added rototilling would be more costly as well. No one commented from the public.

12. Consider Emergency Medical Services Work Group Recommendations: Chairman Daniel stated staff prepared a report with recommendations relating to fire and rescue services. The Board held a workshop previously and will now discuss the next steps. Selectman Multer suggested after the Board hears comments from the audience members, that the Board hold a workshop to discuss this topic. Selectman Johnson stated he is meeting with the chiefs tomorrow. Mike Helfgott, Orr's & Bailey Islands Board President, stated he hopes the schedule issue does not go any further. The Departments have made recruitment a priority and requiring scheduling is not a good idea for the volunteers. Chairman Daniel stated he understands a rigid schedule will not work and that there could be other ways to gain an understanding of the coverage situation and any possible gaps. Ed Blain, Orr's & Bailey Islands Fire Chief, suggested the facts, such as response time, be reviewed. Both Mid Coast Hospital and the Departments can run call reports. Mr. Blain stated he is disappointed as the Town seems to mistrust the Departments and its dedicated volunteers. Mr. Blain encouraged the public to call the Selectmen and Administration to let them know how the services are doing. Chairman Daniel stated the Town needs to be a partner and more aware of what is going on; and mistrust is not an issue.

10. Request for Proposal for Road Maintenance: Administrator Eiane stated the Road Commissioner has recommended sending out for bids for a maintenance project involving multiple roads and different repairs. The responses are due before the next meeting and the work needs to be completed by mid-November. The Town's usual insurance requirements will be added. Selectman Multer moved, seconded by Selectman Johnson to approve the request for proposals; motion passed 3-0.

13. Consider Electrical Equipment Bid: Deputy Administrator Sawyer stated bids were due at the last meeting and none were received. The Board agreed to hold onto the equipment and then a bid came in the next day. Chairman Daniel moved, seconded by Selectman Johnson to accept the \$50 bid from David I. Chipman; motion passed 3-0.

14. Consider Recommendation and Contract with Marshall Specialty Grinding: Administrator Eiane stated that annually the Recycling Center Manager sends out for bids for grinding the Town's wood pile. One was received and the Manager recommends contracting with Marshall Specialty Grinding, which has done the work before. At an estimated 200 tons, the cost will be approximately \$8,175 (\$36 per ton plus \$75 per truck haul). Selectman Multer moved, seconded by Chairman Daniel to approve the contract; motion passed 3-0. Selectman Multer asked to be provided with what percent of this contract will be covered by fees.

15. Consider Request for Bids for Used Chain Link Fencing at Mitchell Field: Deputy Administrator Sawyer stated the last time the Board received requests to haul away the used chain link fencing from Mitchell Field, it agreed the material should be sent out for public bid. It would cost the Town to dispose of the fencing as it is a difficult material to process through the automated machines. Selectman Multer moved, seconded by Selectman Johnson to approve the request for bids; motion passed 3-0.

16. Other Business: Consider Updating Commitment Forms: Administrator Eiane stated the Board approved the tax rate at \$6.10 per thousand dollars of valuation. In reviewing the calculation, it was realized the incorrect amount of fund balance was used due to the amount having been revised in the final Town Meeting warrant. Therefore, the overlay needs to be reduced by \$33,000 to offset the reduction in balance. The Board is able to determine the overlay amount. If approved, the Board may need to re-sign the commitment sheets; the tax rate and all else remains the same. Selectman Multer moved, seconded by Chairman Daniel to approve the change; motion passed 3-0.

Consider Invalidating Recreational Shellfish License: Administrator Eiane stated the Town's Shellfish Warden is asking the Board to invalidate a recreational shellfish license. The Town's Shellfish Ordinance, section 301.4, states that one cannot have a Town license if he/she has a State license. The Warden is attempting to notify this person to voluntarily turn in the license. Selectman Multer moved, seconded by Selectman Johnson to invalidate the recreational shellfish license held by Ms. Alexander; motion passed 3-0.

Consider Releasing Retainage to Crooker: Administrator Eiane stated she received a request from Crooker to have the outstanding retainage from the 2013 capital road project paid. Most of the work was done in 2013 with the final overlay in 2014. She checked with the Town engineers, who find the request appropriate. Chairman Daniel moved, seconded by Selectman Multer to release the 2013 capital road retainage; motion passed 3-0.

17. Public Comment: None.

18. Administrative Matters:

20. Adjournment: At 8:20 p.m. the Chair adjourned the meeting without objection.

19. The Board held a workshop with Mike Wing, Wage and Salary consultant.

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]