



**MINUTES OF MEETING**  
**Board of Selectmen**  
**April 27, 2010**  
**Southwest Harbor Fire Station Meeting Room**

- I. Roll call/Call to Order – The Chairman called the meeting to order at 6:00 p.m. Present: Town Manager, Robin M. Bennett; Selectmen: Trudy Bickford, Ralph Dunbar, Kristin Hutchins, Dorr “Skip” Wilson, Berten Willey.
- II. Public Hearing: Harbor House CDBG Application: The Chairman called the Public Hearing to order at 6:01 p.m., saying the purpose of this meeting was to take public comment on the Harbor House Community Center’s application for a CDBG Grant. Elena Scotti, Executive Director of Harbor House was invited to speak. Ms. Scotti said Harbor House is applying for the grant to provide more scholarships to lower and middle income students. Currently Harbor House has over 50% of their enrollment in that category. Receiving the grant would provide higher levels of scholarships and allow Harbor House to increase enrollment. Chairman Wilson asked for questions or comments from the public. There were no comments or questions. Chairman closed the Public meeting at 6:06 p.m.
- III Visitors to be heard not on the agenda: Earl Alley brought before the Board his plan to pay for water system upgrades. He read his proposal plan to the Board of Selectmen. The Chairman thanked Mr. Alley and said the Town is reconsidering billing methods, and an article will come before the Town next week at Town Meeting. Mr. Dunbar said there was a lot of work put into the proposal, and suggested it might be an option for the Water/Sewer Board if the vote next week does not pass. Bickford thanked Alley. The Board will contact Earl Alley when the next Water/Sewer Board meeting is scheduled.
- IV. Approval of Minutes of April 5, April 13 and April 20, 2010. It was Moved (Dunbar) and Seconded (Bickford) to approve the minutes as presented. Vote: 5 – 0.
- V. Warrants: Administration: 162 – 169; Water: 10 – 11; Sewer: 32.
- VI. Old Business
- a. Water Project Update: Bennett said it is moving forward. A hole was cut for the analyzer at the filtration plant, and they are now awaiting delivery. Allen Willey reported to Bennett unofficial results that the testing before the aeration was: THM before 41.5 (good) and coming out of aeration it was 0. There would be seasonal fluctuations, but this is a positive sign.

b. Lower Town Dock Update: Dever said the project is good – green hart pilings have been driven – as of this morning the sub contractor was driving the 4 pilings going along the existing dock. May 16 is a reasonable expectation for finish.

## VII New Business

a. Liquor License Little Notch: It was Moved (Hutchins) and Seconded (Bickford) to approve the renewal of the Liquor License for Little Notch. Vote: 5 - 0

b. Liquor License Red Sky: It was Moved (Hutchins) and Seconded (Bickford) to approve the renewal of the Liquor License for Red Sky. Vote: 5 - 0

c. Liquor License Café Dry Dock: It was Moved (Hutchins) and Seconded (Bickford) to approve the renewal of the Liquor License for Café Dry Dock. Vote: 5 - 0

d. SAP Dry Dock: It was Moved (Bickford) and Seconded (Dunbar) to approve the Special Amusement Permit for Café Dry Dock. Vote: 5 - 0

e. Liquor License Fiddler's Green: It was Moved (Hutchins) and Seconded (Bickford) to approve the renewal of the Liquor License for Fiddler's Green. Vote: 5 - 0

f. SAP Fiddler's: It was Moved (Bickford) and Seconded (Hutchins) to approve the Special Amusement Permit for Fiddler's Green. Vote: 5 - 0

g. Liquor License Sips: It was Moved (Hutchins) and Seconded (Bickford) to approve the renewal of the Liquor License for Sips. Vote: 5 - 0

h. SAP Sips: Bickford/Willey 5 - 0

i. Liquor License New: Scott's Dockside Downeast family fare/restaurant/motel. The applicant told the Board that he and his wife hope to run their operation year round. The hours will be 11am – 10pm, 7 days/week. It was moved (Hutchins) and Seconded (Willey) to approve the Liquor License Application for Scott's Dockside Downeast restaurant/motel. Vote 4 – 0 – 1 (abstain Wilson).

j. Mapping Presentation: Noah Hodgett, Senior at College of the Atlantic, has been working with the Comprehensive Plan Committee. He gave a presentation of how GIS could enhance information about the Town, including layering of such things as zones, water and sewer infrastructure, and building age. He explained that the GIS system he works with has many options and can be customized to fit specific requirements. Mr. Ken Hutchins asked if the Harbor GIS information could be integrated into this information. Kristin Hutchins said the Harbor could have an opportunity to oversee an intern. Mr. Hodgett recommended talking to the GIS Lab Manager at the College of the Atlantic.

k. Winter Parking Ban: no issues.

l. Harbor Ordinance: Appeal authority. The Chair said the issue came before the Board at the last meeting, and he expressed concerns with the process. The Harbor Committee had a special meeting a couple of weeks ago expressing again their desire to continue hearing Harbor Appeals. Dunbar expressed his desire to see the Harbor Committee continue to hear appeals. Willey agreed. Hutchins explained her concept of the last Harbor Committee meeting that she attended. She said this is the second time lately the Harbor Committee has been put in a difficult position. Bickford also attended that meeting, and said she saw their struggle. She feels any appeal should go to the Appeals Board – they do not have to be experts on the Harbor, but are there to interpret the Ordinance, as that is their expertise. Corey Pettegrow asked how this was presented to the Board at the last meeting. Bickford said she brought up the subject at the

last meeting. Pettegrow: the Harbor Committee did not agree that the Ordinance was followed, and he said it is not applied consistently, and that was the Harbor Committee's feeling. That was why the outcome was the way it was at the last Appeal. Ken Hutchins said the vote, of 6 people present, was 5 – 1 to remain the Harbor Appeals Board. Speaking personally for himself, he does not think Harbor Committee should be the Appeals Board, as it is difficult; he does not agree with Pettegrow that the Ordinance was followed, and there is no leeway to interpret it any different than it is written. It adds an extra step. Knowing what is going on in the Harbor doesn't make the Harbor Committee any more of an expert on the Ordinance – these are his personal feelings. Vaughn Clark: at that process, many felt Dever did follow the Ordinance giving Leonard a ticket, but did not follow the Ordinance by giving two other people warnings. It appeared to be selective enforcement. It was Moved (Bickford) and Seconded (Hutchins) to remove the appeal process from the HC and put it with the Board of Appeals. Discussion: Pettegrow referred to tying up at the Town Dock in a storm condition saying Sunday evening there were two boats tied up at 8pm and at 4am the next morning they were still there. He thought it likely they were not given tickets. Why was one guy ticketed and two others not – why were there two boats tied up Sunday evening and were they ticketed? Pettegrow said he expects Board members with unbiased views to understand. Wilson said no other Board or Committee has the Appeal authority and all must go to the Board of Appeals. Pettegrow asked Wilson how many appeals has he seen over the years from the Harbor. Wilson said these were the only two – adding the change in management is a factor, and this is a learning curve for both the Harbormaster and the Committee - he finds that is difficult. Pettegrow suggested looking at the Management rather than everything else. Hutchins said there may be some validity to Pettegrow's stipulation that the rules may not have been enforced evenly – and that may be a job for the Town Manager to address, but it doesn't take away from his enforcing the Ordinance to begin with. Pettegrow said he felt that the Town Manager was not listening and Bickford and Hutchins “are stacked right on board”. He feels the minds are made up regardless. He does not feel the problem is going away with the current management. Chair said if this were voted by the Board it would have to be a Town vote to change the Appeals process as it stands now in the Ordinance. Vote 3 – 2 (Willey, Dunbar) Motion carried. The language will be presented at a future meeting.

m. Lower Town Dock Parking: Dever said construction on the dock will result in more use which presents a difficulty with parking in the center of the parking lot. He recommends removing parking spaces in the middle of that area. Hutchins asked how many parking spaces – Dever: 7 – being used mostly by Coast Guard. Bickford thought the idea was good. Willey asked how often the dock and ramp is used now. Pettegrow said this move would take some of the strain off the Manset dock, and it is a good facility since it is pretty much protected during a blow. Dunbar agrees parking in the Town is at a premium, and suggested hourly parking restrictions. Hutchins asked if seasonally would make sense. She understands that making this change would make the Lower Town Dock more accessible. Dever said there is less launching there now because of the parking problems. Bickford said with the upgrade being done at the dock, it would make things easier. Pettegrow said the Committee understands the premium on parking, but backing a lobster or fuel truck down there and moving traps on and off, is nearly impossible with the parking spots filled. Hutchins understands both sides, and would be

willing to give it a try. Chairman suggested notifying abutters prior to taking action, and thinks it is a great idea to remove the parking, but abutters need to know it is being considered. Hutchins agreed. Nick Madeira said if the middle area parking is removed, there is another area that might be available to make up some spaces. Wilson agreed, saying he knew the area Madeira was suggesting. Abutting notices will be sent and the subject will be on the Select Meeting Agenda for May 25, 2010.

n. Harbor Committee Appointments: two applications: Nick Madeira and Dan Bartlett. Bickford would like to not make any more appointments and look at the size of the committee. Pettegrow said we should follow the Ordinance. Two new appointments tonight will be the first time the Board has had 12 members in some time. Hutchins said that they would have a better chance to get something done in an evening meeting – quite often there is not a full committee at a meeting; Chairman asked if there was an issue in the balance of members. Hutchins said it is pretty balanced. Dunbar said the Board is capable of handling twelve members and there are two applications. Dever said he agrees that there are too many people. It was Moved Wilson and Seconded Dunbar to appoint Bartlett and Madeira to the Harbor Committee. Wilson said the topic is closed and will not be discussed again. Bartlett works at Hinckley and holds a non commercial lobster license. He is interested in everyone being able to use the Harbor whatever their interest. He believes in balance, protecting the environment and helping people on the water to use it to their enjoyment and benefit. Wilson said the Board is concerned that people who get appointed do not show up for meetings, and stressed that responsibility. Vote: 5 0 Nick Madeira: resigned from the Committee because of a change of job, and has returned and has a long term commitment to Hinckley and Southwest Harbor. He would like to be involved in the Harbor Committee, and has first hand knowledge of the mooring field, can add good input to developing the Harbor and foster better relationships between the boatyard and commercial areas of the Harbor. Dever agrees Madeira would be a credit to the committee, but there are several speeding incidents and a violation that goes to court next week, and he said Madeira interfered with the Harbormaster in approaching a potential offender. Madeira said he would like to see factual information as he does not recall ever having interfered with the Harbormaster. Pettegrow said he would respect the input of Madeira. Hutchins asked Madeira how he would answer the Harbormaster. Madeira said he would uphold the Ordinance. Mr. Hutchins said the Committee took a vote that they would like Madeira as a member of the Harbor Committee. It was Moved (Willey) and Seconded (Dunbar) to appoint Madeira to the Harbor Committee. Discussion: Wilson said it raises some questions in his mind as to authority and Hutchins said while she respects the Harbormaster's concerns she would like to see Madeira on the Committee. Bartlett said over the past two or three years there has been a shift in the speeding, and with Madeira as the Dockmaster, just within the last two weeks there has been e-mail from management in the yard that there will be no toleration of speeding in the Harbor. Vote: 5 - 0

o. Hook Property: Bennett has gotten a number and that was not in service. Letters are not responded to, and this has gone on for years. Letters have asked the owner to talk about the future of the property. The Harbor Committee wants to fill in the Hook parking area and level it off, and is looking for funding to do that. Wilson suggested dumping the sand that is swept up around Town into that area. Hutchins said

she thinks it is appropriate to fill in the parking area. It was Moved (Dunbar) and Seconded (Willey) that the Town put a few loads of gravel in the Manset Town Dock (Hook) parking area and level it off to the standards it was in when the Town started leasing the property. Discussion: Dever said it will take a lot, but be very careful what you use – do not get any fill with clay. Bennett said there is no signed copy of a lease anywhere. Wilson said the property is rented in lieu of taxes, and Bennett said in the file is a letter draft lease agreement for a year unsigned, which was apparently done sometime in the 90's. Hutchins asked for verification of figures. Vote: 5 – 0. Hutchins said this Board to some extent needs to think about a plan B if the property were not to be available in the future. Bickford suggested asking for an offer of first refusal and does not like the thought of eminent domain. Pettegrow agreed. Hutchins asked if the Board wanted to talk about plan B, or just go with the status quo. Wilson said if he felt the use of the property was in jeopardy he would have no qualms about going for eminent domain. Dunbar cautioned about pressuring the people involved in the ownership of the land. Hutchins said the Town should put money aside in the event a purchase becomes possible. No final decision.

p. Harbor House Sewer Repair: Elena Scotti told the Board that Harbor House had a back up from a sewer pipe. The repairs would cost about \$1,000, and for Harbor House that is a lot; they would like the Town to share in the cost. She suggested Harbor House pick up the cost of the materials and the Town Crew do the work. Dunbar said if the Town could assist and Harbor House pick up the cost of materials he would have no objection. Bickford said Harbor House should be responsible. It was Moved (Dunbar) and Seconded (Hutchins) that the Town Crew dig up the area that is in disrepair and that Harbor House will supply the materials for repair. Vote: 5 -0.

q. Infrastructure evaluation RFP: Chairman welcomed Patricia Biegler, the new Public Works Director. There were three responses from the Request for Proposal. Sewall, Olver and CES responded. Based on the criteria set forth in the RFP, the recommendation is to award the bid to Olver Associates. Dunbar said he is happy we agree. Willey said doing this will be wasting money. Hutchins said this is a more thorough overview than what we know now, and is in full support of creating a master plan. Bickford agreed, as did Dunbar. Biegler said she reviewed the proposals page by page, rating each item, and Olver had the best score of all the proposals. Dimond said the comments in the past, taking nothing away from the other two candidates, were very favorable for Olver, and all reports from them were conservatively stated, and clearly expressed. There is approximately \$1.25 million dollars for the County, and thinks the Town could get funds for some of this work, and using an engineering firm to write some of this grant would be useful. Willey agreed that Olver had the best presentation. It was Moved (Hutchins) and Seconded (Bickford) to accept the recommendation of the Town Manager to use Olver Associates for he engineering study, pending Town vote. Vote 5 – 0. Hutchins said it appears the Town has \$39,000 at their disposal and does it make sense to look over the proposal and add more. Dunbar suggested going with the base fee for the time being. Dunbar suggested putting this on the agenda for the meeting after the Town Meeting. Dimond suggested that having the ability to spend more money for “good” reason, should be considered. Dunbar said the original vote was for the base fee. Bennett said the total amount available if the Town votes in the positive would be

\$39,000. Wilson said there is a lot of information available. Dunbar said it would be advisable to sit down with Olver and go over rates and negotiate some of the extra items.

r. Water Commitment \$136,665.70: It was Moved (Bickford) and Seconded (Hutchins) to approve the Water Commitment of \$136,665.70. Vote: 5 - 0

s. Sewer Commitment \$78,521.10: It was Moved (Bickford) and Seconded (Hutchins) to approve the Sewer Commitment of \$778,521.10. Vote: 5 - 0

The Water and Sewer Commitments were signed by the Board of Selectmen.

t. Dobbs Production Request: It was Moved (Dunbar) and Seconded (Bickford) to approve Jeff Dobbs' request to use the Town cable channel. Vote: 5 - 0

u. 2010 Annual Town Meeting: Bennett said Monday night, May 3, 2010 at 6:00 p.m. is Town Meeting.

v. Meeting Schedule:

May 6, 2010: 4:30 p.m. at the SWH Town Office

May 11, 2010: Regular meeting is cancelled but there will be a

Public Hearing on the LUO change scheduled for the ballot in November at 6:00 pm at the Fire Station.

VIII. Manager's Report: The Police Open House saw approximately 50 people, and it went well with a great speech by the Chief. The PUC approved a 33% increase effective April 1<sup>st</sup>. The Lower Town Dock was granted 50% funding of the recent Change Order #3 by DEP (improvements to the existing dock about \$10K). Main Street sidewalks Maine DOT should be completing their work this week. The week of May 10<sup>th</sup>, Goodwin will begin work. Bickford wants to send the bill for the sidewalk to the State. Clark Point Road culverts will need to have some contract work because of the size and scope. Annual reports were delivered – Dunbar said he has had complaints about delivery of the annual reports being tossed on lawns and not “delivered”. There were 91 tax liens issued April 1<sup>st</sup>; the new back hoe was delivered: There was discussion concerning the actual time of delivery of the back hoe. Bobcat will be arriving tomorrow. Dunbar questioned why the back hoe was purchased before the Town Meeting vote. He said that was contingent on voter approval of the Capital Improvement Plan. Bennett: We said we were going to make the second part of the payment after the new budget is passed. Hutchins said the Board had this conversation beforehand. Dunbar read: “it was moved Hutchins seconded Bickford to accept the highway dept recommendation to purchase a backhoe contingent on voter approval 4 – 1. Wilson: What problem would that create if it doesn't pass? Bennett said you would have to honor the contract, and it was understood that the Town was purchasing it early to avoid extensive repair costs Hutchins: said she does remember the Board agreeing to purchase it in order to avoid the needed and extensive repair costs and the Board allowed themselves to believe the budget would be passed, and recognized that we would pay for it anyway. Bennett: the vendor knew, as we discussed it, that the second payment was contingent on voter approval and Bennett wrote a letter to that effect to the vendor, and he was at the meeting when this was discussed. Certainly if something happened to the funding, we would have to work with the vendor. \$13,000 is not an insurmountable amount. Hutchins reminded the Board that they also did that with the pilings at the wharf, and while it was uncomfortable, she said the Board recognized both times that it was something they needed to do. Special Olympics – the Police Department will be

involved in some activities for this. Joe Marshall will be the moderator for Town Meeting on Monday.

IX. Other Business: Bickford: suggested that the Board should review by-laws of all the committees – that is the Board’s job; Hutchins: put this on an agenda for future conversation; Dunbar: fuel oil bids. He said Southwest Harbor missed out on getting in with the High School. Bennett said the High School went ahead and did their own thing, and didn’t consult other Towns. Bennett is working with Durlin Lunt and the Town of Mt. Desert to put out bid at the end of this week. The League of Towns took up the proposal of Southwest Harbor to work cooperatively. The League voted to sponsor the meeting and invite facilitator Ron Beard; the best time to shoot for would be early fall. They have asked Bennett to contact Beard. Wilson suggested a central location – possibly the High School.

X. Sign warrants: It was Moved (Hutchins) and Seconded (Bickford) to sign the warrants as presented. 4 – 0 – 1 (Wilson)

XI. Adjournment The meeting was adjourned at 8:43 p.m.