

Southwest Harbor Planning Board  
February 17, 2010 – 6:00 p.m.  
Southwest Harbor Town Office

MINUTES OF MEETING

I. Call to Order/Roll Call: the Meeting was called to order at 6:00 p.m. Present: Lee Worcester, Chris Rawls, Gordon Wissinger, Mike Mansolilli, Eric Davis, Mike Magnani and Code Officer, Donald Lagrange.

II. Visitors to be heard not on the agenda: none

III. **Minutes:** It was Moved Davis and Seconded Rawls to approve the minutes of Jan. 20, 2011 as presented. Vote: 5 – 0 – 1 (Mansolilli). It was Moved Magnani and Seconded Rawls to accept the Minutes of Jan. 5, 2011 as presented. Vote: 5 – 0 – 1 (Davis).

IV. **Finding of Facts**, Anna's Quietside Cottages, Phase II. It was Moved Davis and Seconded Mansolilli to accept the final Finding of Facts for Anna's Quietside Cottages, Phase II. Wissinger asked if this had been distributed by e-mail or was it the first time the Board had seen it. CEO said this was based on the findings reviewed at the last meeting. Vote: 6 – 0.

V. **LUO Workshop.** Chairman said tonight's agenda would be to decide what to move forward to the Board of Selectmen. He recommended reviewing the document at hand.

**Section III e 2 c** Built lots – allows for the change in the height of a building on a non-conforming lot, from 8' to 10' to allow 8' walls. Wissinger said we are now reviewing to be sure they say what the Board intended and it is up to the Board whether they vote again, since there were a number of changes – should the Board vote again or take a poll? Chairman asked if there were any objections to this section. There are none.

**Section VII e 2 1** Campsite – this is on a private lot and allows someone to put a recreation vehicle etc. on their property for 180 consecutive days rather than 30 days. It only allows for 120 days in the Shoreland Zone. Chairman asked if there were any objections. There are none.

**Section VIII Permit Review** – this in its entirety was on the warrant in November, and was not accepted by the Town. Wissinger thought other changes were made to this since November. CEO said there were. Wissinger said the Board went from 80 s.f. Section A.2.d. from 40 s.f. Wissinger said Section i. is part of this but not on the printed text – why was that left off? CEO said he would add 'i' for completeness.

**Section II b 1 c 1** General Regulations and Standards - this gets rid of principal and accessory structures and leaves just structure. CEO: based on structure standards not

dimensional standards. Structure standards are defined in the zones. This allows multiple uses and multiple structures on a lot up to the allowable amount for the zone. Chairman asked if there were any objections. There are none.

**Zone B** the bringing together of Zone B & Zone C based upon the utility available rather than where they are located in Town. Wissinger said he would like to understand removing C and Roman numerals I, II and III. Rawls felt it would not fly with the Town voters. CEO said I, II, and III are already under Roads and Parking Lots, and Landscape buffering will be decided based on level of impact. The Roman numerals come under structure standards. Wissinger said it is confusing as to where they go and it might be reasonable to keep those three items in; Davis said if they are somewhere else, you end up with two different requirements that say almost the same thing. Chairman said in that case they should be located. If we can't find it somewhere else, it should be left in and reviewed at another time. CEO said there is no reason not to leave it in. The Board decided to do that, and CEO will make the change after the meeting. Rawls expressed concern that the change would eventually lead to more density. Wissinger said he understood Rawls concern, and it was a possibility over the long term. Davis said this change should give a structured slow growth. If it appeared it would be too much, the zoning could be changed. Wissinger asked if re-drawing the lines of Zones B & C. It allows development along those corridors where you would expect development to be, but forces Zone C to stay. Magnani: this needs to be clarified more – affordable housing by definition would need to be connected to Town water and sewer. Wissinger said in 100 years this could all be Zone B. Another alternative is to keep the zones as defined, but re-draw the boundaries. Zone B would conform to all areas that have water and sewer and Zone C would be those areas that do not have it. Davis felt that was a valid point. Chairman said if the Town finds that this proposal is beyond what they want, they have the ability to come in and change it.

It was Moved Worcester and Seconded Davis to send proposed Zone B changes & deletion of Zone C of the Southwest Harbor Land Use Ordinance, including Roman numerals I, II and III to the Board of Selectmen for their consideration to place on the Warrant in May 2011. Vote: 4 – 2 (Rawls-Wissinger).

**Section VII e 2:** Concerning campsites, Magnani asked, of the items reviewed, is this important enough to go before the voters? He worries that the perception is self-serving. The Board discussed the change and CEO said it was reasonable as it falls more in line with State recommended time frames. Worcester said, if it appears it would be a problem, it should be deleted.

**Residential Shoreland:** Worcester said this particular change has come to light as the LUO defines residential shoreland as to within 250' of the high water line, and our map does not conform to that with no explanation as to why not. This is mostly in the Norwoods' Cove area. MMA has told the CEO that the descriptions in the ordinance would rule and the zoning map should be made from it. Presentation to the voters will be: 'shall the residential shoreland as depicted on the Town map change to agree with the written description of residential shoreland in section VIII of the land use ordinance in

accordance with State Statutes'? CEO said MMA suggested a Town vote on this. Wissinger asked, if the voters vote against this change, what would MMA suggest? He said if the map is in error, it is a clerical issue, and whether the Town votes on it or not is irrelevant, especially if they vote against this. If you ask them – do you want to maintain the definition of residential shoreland, or do you want it to be different based on this map? Worcester asked if the question had to be asked at all, or should the map simply be changed. Wissinger said if it is true that metes and bounds rule, it is simply a matter of changing the map. Davis said based on the legal opinion, it should be simply a matter of changing the map to match the vote on metes and bounds. CEO said he could not find an instance where the Town voted on the map. CEO said he could not find an attested copy of the map in the ordinance. Davis said if the MMA legal opinion is that metes and bounds rule the description, the only evidence that matters is the one that rules. Worcester said the map is supposed to be in acceptance with the description, and other members of the Board said the map was just drawn wrong, and there should be no need to go to the voters. Wissinger asked that if this goes to the Selectmen, it should go with the explanation that it is still being researched and there may be a request to pull this off the ballot. Worcester suggested following Wissinger's proposal.

Wissinger asked, referring to the separation of Shoreland and Land Use Ordinance, and the changes suggested to the Land Use Ordinance, in particular the combining of Zones B & C, how both could be voted on at the same session, without being contradictory? The Board decided it would be prudent to make the Land Use Ordinance changes at this voting session, prior to separation of the Land Use Ordinance and the Shoreland Ordinance. It was Moved Worcester and Seconded Davis not to separate the Land Use and Shoreland Ordinance at this time. Vote: 5 – 0.

Wissinger will not be available for the regularly scheduled meetings in March. CEO asked the Board to read the memo he was sending to the Selectmen with the ordinance changes.

It was Moved Wissinger and Seconded Magnani to adjourn the meeting at 7:45 p.m. Vote: 6 – 0.