

WISCASSET BOARD OF SELECTMEN,  
BOARD OF ASSESSORS AND OVERSEERS OF THE POOR  
NOVEMBER 1, 2011

Tape Recorded Meeting

Present: Chair Judy Colby, Bill Curtis, Pam Dunning, Vice Chair David Nichols, Ed Polewarczyk and Town Manager Laurie Smith

1. Call to Order

Chair Judy Colby called the meeting to order at 7 p.m.

2. Pledge of Allegiance to the Flag of the United States of America

3. Public Hearing for a Liquor License Renewal for M. Thai Restaurant and Thaweasuk and Wiparvon Soikum

The chair opened the public hearing at 7:02 p.m. There were no questions or comments. The public hearing was closed at 7:03 p.m. **David Nichols moved that the Board of Selectmen approve the Liquor License for M. Thai Restaurant and Thaweasuk and Wiparvon Soikum. Vote 5-0-0.**

4. Approval of Treasurer's Warrant: October 25, 2011 and November 1, 2011

**Ed Polewarczyk moved to approve the treasurer's warrant of October 25, 2011. Vote 5-0-0. Bill Curtis moved to approve the treasurer's warrant of November 1, 2011. Vote 5-0-0.**

5. Approval of Minutes: October 18, 2011 and October 20, 2011

**Judy Colby moved to approve the minutes of October 18, 2011. Vote 4-0-1. Pam Dunning moved to approve the minutes of October 20, 2011. Vote 5-0-0.**

6. Special Presentations or Awards - None

7. Appointments

A. Recommendation of Kevin Sprague to the Airport Committee

The Airport Committee had interviewed Kevin Sprague and Pam Dunning recommended waiving the Selectmen's interview process. **Ed Polewarczyk moved to appoint Kevin Sprague to the Airport Committee. Vote 5-0-0.**

B. Recommendation of Edward P. Kavanagh to the Water District Committee

**Ed Polewarczyk moved to appoint Kavanagh to the Water District Committee. Vote 5-0-0.**

On behalf of the selectmen, Laurie Smith thanked Messrs. Sprague and Kavanagh for their service to the town and for volunteering for the committees.

C. Appointment Subcommittee discussion

Town Manager Laurie Smith said the members of the interview subcommittee were appointed the previous April, before the current board was elected. The board discussed whether a permanent subcommittee should be appointed or whether the board should appoint two members of the board each time a candidate applies for a committee. **Pam Dunning moved that the Board of**

**Selectmen select a subcommittee of two for the interview process effective until June 12. Vote 3-2-0.** Curtis and Polewarczyk volunteered. **Pam Dunning moved that in accordance with the Board Rules and Procedures the Selectmen appoint Ed Polewarczyk and William Curtis to the appointment subcommittee until June 12, 2012. Vote 5-0-0.**

7. Public Comment

Donald Jones reminded the board that he had previously brought to its attention a dangerous section of sidewalk on Fort Hill Street where, when the driveway was repaved, the side slope created was elevated to 25%, rather than the 2% specified in the ordinance.

Robert Jones, Ridgeback Pottery asked on behalf of Sprague's and Forgotten Recipes to be allowed to leave their buildings on the pier for the winter. He said they might be open some weekends through December, weather permitting. The current policy refers to seasonal permits from May to October and specifies that buildings must be removed two weeks after Columbus Day. Smith recommended obtaining the opinion of the Waterfront Committee. Judy Colby suggested that if the vendors are allowed to stay through the winter, they should make a non-refundable deposit of \$300 toward next year's rent. It was the consensus of the board to allow the vendors to stay until the policy was reworked. **Judy Colby moved to allow the vendors to stay on the pier until Memorial Day when their new agreements will be signed on the condition that they deposit \$300 toward the next year's fee, which is non-refundable, and to allow vendors to open between now and Memorial Day during which time the Board will revise the policy. Vote 5-0-0.**

8. Department Head or Committee Chair Report - none

9. Unfinished Business

A. Set Tax Abatement Hearing in the matter of Dorothy M. Holbrook v. the Town of Wiscasset to December 6, 2011 at 11 a.m.

**Ed Polewarczyk moved that the Board of Selectmen set the Tax Abatement Hearing in the matter of Dorothy M. Holbrook v. the Town of Wiscasset to December 6, 2011 at 11 a.m. Vote 5-0-0.**

10. New Business

A. Review attached Affidavit required by Maine's DEP pertaining to the Town's closed landfill areas.

**Judy Colby moved that the Board of Selectmen authorize Town Manager Laurie Smith to execute the Affidavit on behalf of the Town of Wiscasset. Vote 5-0-0.**

B. Open Mobile Generator and Trailer Bids

The following bids were received:

Midcoast Energy Systems	\$67,117.00
Maine Solar Power, Inc.	43,240.00
Barry Concrete	34,965.00
Central Electric	31,043.96
Central Electric	32,618.90

**Judy Colby moved that the Board of Selectmen authorize the Town Manager and Wastewater Supervisor, William Rines, to award the Generator and Trailer bid to the lowest most qualified bidder. Vote 4-1-0.** Bill Curtis opposed, saying the specifications were not clear

enough and the board members should have had an opportunity to view the specs before bids were sent out. Dunning said she relied on the department heads and town manager to review specs and that the specs were available before the funds were authorized at town meeting. Smith said she had no issue with selectmen reviewing the specs, keeping in mind the difference between administrative and elected functions. Judy Colby suggested that the Town Manager email the board members notifying them that the specs were available for viewing before being sent out.

#### C. Open Cupola Repair Bid

The only bid received was from the Fieldstone Company, Paul Foley, for \$4,786. Laurie Smith said the engineer who examined the roof said there were two alternatives: replace the roof or repair it, the latter was expected to last eight to ten years. Pam Lear said the engineer did not think the damage around the cupola was too much to repair. Smith said \$15,000 was budgeted for repairing the roof and ceiling in the fire department. Pam Dunning said she was not in favor of spending money to fix the cupola when it had been tried before without success; it should be removed and the roof repaired. The cupola is an integral part of the roof and Smith said she could get estimates on its removal. **Judy Colby moved to reject all bids, to get bids on removing the cupola intact or in pieces and repairing the roof. Vote 5-0-0.**

#### D. Open Electrical Contract Bid for the Memorial Pier

The only bid received was from Central Electric for \$7,555.28. **Pam Dunning moved that the Board of Selectmen authorize the Town Manager to more fully inspect this bid and, if she so approves it, to award it to Central Electric. Vote 4-1-0.**

#### E. Discussion of the replacement of the Christmas tree on the Town Common

Laurie Smith said replacing the Christmas tree would cost approximately \$1,700. This would include removing the old tree and replacing it with a new tree in a size more manageable to light and decorate. If the board approves, Smith and Road Commissioner Greg Griffin will inspect the replacement tree in a wholesale lot in Fryeburg. The cost including having it delivered to Wiscasset and planted by an arborist would be a maximum of \$1,700. A 14-foot Norway spruce has been recommended and is available. The tree is expected to grow to 30 feet. Smith said Norma Gordon and others on the Town Appearance Committee were not in favor of replacing the tree, which Gordon said was a great asset. Smith said there were safety concerns in decorating the tree. **Judy Colby moved to remove the Christmas tree on the town common and that the town Manager and Greg Griffin find a suitable tree to replace it.** Ed Polewarczyk said that if the existing tree is no longer suitable, it did not have to be taken down; another tree could be found to be decorated for Christmas. **Vote 4-1-0.**

#### F. Approval of Warden for November 8th election

**David Nichols moved that the Board of Selectmen approve the appointment of the Town Clerk as the Election Warden. Vote 5-0-0.**

#### G. Fireworks Ordinance certification process

Smith said it was necessary for the selectmen to certify the ordinance to be presented to the voters. **Pam Dunning moved that the Board of Selectmen certify that the attached document entitled "Town of Wiscasset Fireworks Ordinance" will be presented to the voters for consideration on December 13, 2011. Vote 4-1-0.**

#### H. Set Public Hearing date for December 13th election

**Judy Colby moved that the Board of Selectmen set a Public Hearing date of November 15 at 7 p.m. for the December 13 election. Vote 5-0-0.**

I. PACE ordinance discussion

Smith said the PACE program offers home energy improvement financing to residents if the town adopts a PACE ordinance. Information had been given to the selectmen at the previous meeting and Smith asked for the board's views on the ordinance. Ed Polewarczyk had issues with several sections of the ordinance; the town would have to automatically accept changes made to the ordinance and he questioned the section, which requires a municipality to implement an education and outreach program. Town Planner Misty Gorski said the PACE program would provide informational materials. She asked if the board would like to invite a representative of PACE to speak to them on the program. David Nichols said that because a resident had asked about the availability of the program, the board ought to invite PACE to a meeting and there was a consensus that that be done.

J. Community Marquee Policy Discussion

Smith presented a draft Community Marquee Policy, which would govern the materials or information on the marquee. First priority would be given to town meetings, followed by postings of forthcoming events or activities of other governmental agencies, and lastly, postings of forthcoming or continuing educational, social, civic, charitable, cultural or recreational activities. There was a consensus that the third group of social and cultural activities be eliminated, as there would be too much competition for the space. School activities involving children would be listed; however, political events would be prohibited. A second draft will be prepared for the board's consideration.

11. Town Manager's Report

A. Joint meeting with ORC and Planning Board

Smith said joint meetings with the ORC and Planning Board would be held on November 15, 6 p.m. to discuss the Comprehensive Plan and on November 22, at 6 p.m. to discuss future zoning implementation. In particular, Smith said her concern was how areas of the Comprehensive Plan could affect current uses. Ed Polewarczyk said he would like to discuss the Comprehensive Plan and whether it is mandatory or a guide.

B. November 14 DOT Meeting with Edgecomb and Wiscasset, 6 to 8 p.m.

A DOT meeting with Edgecomb and Wiscasset selectmen to set a vision for non-bypass goals is scheduled for November 14. The workshop will be held at Chewonki and will be led by John Reitman, DOT.

C. A Spirit of America Award ceremony for community service will be held in Waldoboro on November 28. The board was asked for a nomination. Bill Curtis nominated the Wiscasset Female Charitable Society. Vote 5-0-0.

D. Smith reported that CMP, owner of the Montsweag Brook Compensation Package, has notified Wiscasset of its contact with the Kennebec Estuary Land Trust about the Montsweag property. At CMP's last meeting with the board, its plans were to retain the property. At that time, CMP was asked for information about the maintenance and inspections of the dam and asked to be kept in the loop. The board indicated its desire to acquire the property; the Town Manager will check whether a town vote is needed and will contact CMP.

E. A copy of the TIGER III Discretionary Grant Application, which was submitted that day, was distributed to the board.

F. Two memos were received from Shelley Winchenbach, Time Warner, about rate increases and clarifying information about Time Warner Cable's franchise fees.

G. Smith reported that as a result of the "For Sale" sign on the Koehling property, she had received an offer substantially below the minimum bid price and asked whether the board wanted to meet to discuss it. The chair asked that an executive session be scheduled to discuss the bid.

#### 12. Other Business

David Nichols reported receiving an email regarding the lapse of Riverbank's permit. Charlotte Boynton (Wiscasset Newspaper) said Riverbank had surrendered its permit early. It would have expired in February 2012.

#### 13. Adjournment

**Pam Dunning moved to adjourn. Vote 5-0-0.**

## TOWN OF WISCASSET FIREWORKS ORDINANCE

### 12. FIREWORKS ORDINANCE

#### 12.1 TITLE AND AUTHORITY

This ordinance shall be known as the “Town of Wiscasset Fireworks Ordinance.” It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of 8 M.R.S.A. § 223-A

#### 12.2 DEFINITIONS IN ACCORDANCE WITH 8 M.R.S.A. § 221-A, SUBSECTION 1-A

Consumer Fireworks. “Consumer Fireworks” has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a third-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. “Consumer Fireworks” does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the state Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Fireworks. “Fireworks” means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;

- D. Fireworks containing any explosive or flammable compound; or
- E. Tablets or other device containing any explosive substance or flammable compounds.

The term "Fireworks" does not include Consumer Fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

### 12.3 SALES

12.3.1 The sale of Fireworks is prohibited.

12.3.2 The sale of Consumer Fireworks is permitted in the Rural and Commercial Districts along Route 1 from the Wiscasset/Woolwich town line to the southerly end of Flood Avenue.

12.3.2.1 The sale of Consumer Fireworks shall occur only on a lot that is conforming as to lot size and on which retail sales are allowed under the Wiscasset Zoning Ordinance.

12.3.2.2 The sale of Consumer Fireworks shall comply with all federal state and local laws, ordinances, rules and regulations.

12.3.2.3 The sale of Consumer Fireworks requires a conditional use permit from the Wiscasset Planning Board under Article VIII, Site Plan Review; a business license from the Wiscasset Town Clerk under Article IX, Section 9, of the Ordinances of the Town of Wiscasset; and an annual license from the Board of Selectmen. The application for the annual license shall be on a form provided by the Town and require the payment of an application fee in an amount set by the Selectmen that will offset the Town's processing and inspection costs. A public hearing shall be held for the first annual application and may be held for

renewal applications. The Board of Selectmen shall issue a license if they find the applicant:

12.3.2.3.1 has not been convicted of a Class A, B or C crime;

12.3.2.3.2 has not, through the use of Fireworks, Consumer Fireworks or in any other way, created a danger to the general public; and

12.3.2.3.3 has complied with all federal, state and local laws, ordinances, rules and regulations.

#### 12.4 USE PROHIBITED

12.4.1 No person or group of persons shall use, display, fire or cause to be exploded Fireworks, except in a fully permitted fireworks display.

12.4.2 No person shall use, display or cause to be exploded Consumer Fireworks, except in compliance with all federal, state and local laws, ordinances, rules and regulations. The use of Consumer Fireworks requires a permit from the Wiscasset Fire Chief or his or her designee on a form to be provided by the Fire Department. Application for a permit should be submitted at least seven (7) days prior to the discharge or use of the Consumer Fireworks. A permit must be obtained prior to discharge or use of the Consumer Fireworks. This permit at minimum shall include the name and address of the applicant, date of application, date of discharge, hours of discharge, location of discharge, written permission of landowner if location is not on land owned by applicant, plot plan showing area of discharge and signature of applicant. The Fire Chief or his or her designee shall issue a permit if it is found that the use will not create a fire danger, a danger to the persons at the location of the discharge, or a danger to the general public. A copy of the approved application shall be forwarded to the Wiscasset Police Department and Code Enforcement Office. The Selectmen shall establish a fee for the Consumer Fireworks use permit.

#### 12.5 FIREWORKS DISPLAY

A Fireworks display requires a permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221 – 237, and particularly section 227-

A. The Fire Chief, or his or her designee, shall inspect the proposed display site at the time of the inspection conducted by a representative of the Maine Public Safety Department under 8 M.R.S.A. § 227-A(2). A Fireworks display shall comply with all federal, state and local laws, ordinances, rules and regulations.

## 12.6 CONDITIONS TO USE OR DISPLAY OF CONSUMER FIREWORKS

12.6.1 The Town assumes no liability for injuries that result from the use or display of Fireworks or Consumer Fireworks regardless of the status of a permit.

12.6.2 Consumer Fireworks cannot be used or displayed within 300 feet of any combustible structure or within 50 feet of overhead power lines.

12.6.3 Spectators may be no closer than 100 feet from the discharge point of Consumer Fireworks.

12.6.4 Permits issued for the use or display of Consumer Fireworks shall specifically identify and restrict the date, time, duration, location and direction (if restricted) of the fireworks discharge or display.

12.6.5 Any permit issued for the use or display of Consumer Fireworks may be denied or revoked by the Fire Chief or his or her designee where cause exists that environmental or any other condition should preclude such issuance.

12.6.6 It shall be unlawful for any person or firm to use or display Consumer Fireworks without providing for the cleanup and removal of all debris.

12.6.7 Any person using or displaying Fireworks or Consumer Fireworks must not consume alcohol, be under the influence of alcohol or be otherwise impaired while discharging the fireworks.

12.6.8 Means to extinguish any spot fires resulting from the use or display of Fireworks or Consumer Fireworks must be available. This includes fire extinguishers and garden hoses. Access to 9-1-1 must also be available during the use or display of Fireworks or Consumer Fireworks should an emergency arise.

12.6.9 A permit for Consumer Fireworks will not be issued if the forest fire danger is greater than a Class "3". A permit is issued for one day; alternative (rain) dates may be listed on the permit.

## 12.7 CIVIL PENALTIES

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than five hundred dollars (\$500) per occurrence and not more than twenty-five hundred dollars (\$2,500) per occurrence, plus attorney's fees and costs.