MEETING NOTICE

The Wiscasset Board of Selectmen, Board of Assessors & Overseers of the Poor will meet Tuesday, August 2, 2011 at 7 pm in the Municipal Meeting Room.

AGENDA

1. ***7:00 p.m. call the meeting to order.***

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

3. **7:00 pm Public Hearing for Commercial Waste Haulers.**

   Motion: The Board of Selectmen move to accept BEC Enterprises' Application For License As A Commercial Waste Disposal Hauler.

4. Approval of Treasurer's Warrant: July 26, 2011 and August 07, 2011.

   - Attached letter from Maine Municipal Legal Division regarding RSU payments.

5. Approval of Minutes: July 19, 2011.

6. Special Presentations or Awards:

   None.

7. Appointments:

   A. Approve Frank Sprague and Cindy Collamore's Applications to the Waterfront Committee.

   Motion: The Board of Selectmen move to approve Frank Sprague and Cindy Collamore's applications to the Waterfront Committee.

8. Public Comment on Non-Agenda Items:
   At each regular Selectmen meeting, there will be time devoted to any resident, taxpayer, or, in the case of an organization, an authorized representative of a resident or taxpayer, of the Town of Wiscasset to address the Selectmen regarding any item that is not on the agenda for that meeting. Comments will be limited to five minutes per person. There will be a 30-minute maximum for this section.

9. Department Head or Committee Chair Report:

   None.

10. Unfinished Business:

    A. Discuss maintenance of the White's Island Bridge.

    Motion: At Selectmen's discretion.

11. New Business:

A. Don Jones: Discuss Cable Franchise Fees.

Requested Motion: The Board of Selectmen instructs the Town Manager to open negotiations with Time Warner Cable to reduce the franchise fee paid by Wiscasset residents from 5% to zero.

B. Fireworks Ordinance Discussion: Rick Lang

Motion: None.

C. Open Public Works Bobcat Bid

Motion: The Board of Selectmen authorize the Road Commissioner to award the bid to the lowest qualified bidder.

D. Open Transfer Station Truck Bid

Motion: The Board of Selectmen authorize the Town Manager to award the bid to the lowest qualified bidder.

E. Set a Selectmen Special Meeting on August 11th at 5pm to open the Pier Construction bids.

Motion: The Board of Selectmen set a Special Town Meeting on August 11th at 5pm to open the Pier Construction Bids.

12. Town Manager's Report:

A. Route 1 Traffic Management update.
B. Pier replacement update.
C. Transfer Station compost bin/recycling bins update.
D. Police Chief interviews update.
E. Town Planner interviews update.
F. General update.

13. Other Board Business:

14. Adjournment.

Future Meetings, Workshops and Events.

Aug 3	Airport Com at Airport 6pm
Aug 3	MDOT pedestrian traffic mtg 3pm
Aug 8	ORC 5pm
Aug 8	Planning Com 7pm
Aug 11	Dept. of Motor Vehicles 9 to 3:30 pm
Aug 11	Waterfront Com 6:30 pm
Aug 16	Selectmen's Mtg 7pm
Aug 17	Midcoast Resource Development Center 6-8pm
Aug 18	Public Budget Com Mtg 6:30pm
Aug 22	ORC 5pm
Aug 22	Planning 7pm
Aug 24	Conservation Com 6pm

TO: BOARD OF SELECTMEN

FROM: CHRISTINE WOLFE/RON LEAR

DATE: MAY 5, 2011

RE: COMMERCIAL WASTE HAULERS

ARTICLE 10 SECTION 4.2 OF THE TOWN OF WISCASSET ORDINANCES READ AS FOLLOWS:

> ANY PERSON OR COMMERCIAL ESTABLISHMENT DESIRING A HAULING LICENSE SHALL SUBMIT TO THE TOWN OFFICE A WRITTEN APPLICATION BY MAY 1 EACH YEAR. LICENSES SHALL BE VALID FROM JUNE 1 TO MAY 31 THE FOLLOWING YEAR. THE WISCASSET BOARD OF SELECTMEN SHALL SET RESIDENT AND NON-RESIDENT FEES AND CHARGES FOR HAULING LICENSES EACH APRIL. THE SELECTMEN MAY CONDUCT AN INVESTIGATION OF THE APPLICANT. THE SELECTMEN, AFTER NOTICE TO THE APPLICANT, SHALL HOLD A PUBLIC HEARING FOR NEW APPLICANTS. LICENESES MAY BE REFUSED, AND THE SELECTMEN RESERVE THE RIGHT TO LIMIT THE NUMBER OF LICENSES ISSUED.

NEEDED ACTION:

1. BOARD OF SELECTMEN SHALL SET THE FEE SCHEDULE FOR THE 2011/2012 YEAR. THE EXISTING FEE FOR BOTH RESIDENT AND NON RESIDENT IS $300.00 ANNUALLY. THE STAFF RECOMMENDATION IS FOR THE LICENSING FEE TO REMAIN THE SAME AS IT IS IN LINE WITH WHAT SURROUNDING MUNICIPALITIES CHARGE.

2. APPLICATIONS FOR LICENSE RENEWALS ARE BEING SENT TO PINE TREE WASTE HAULERS, GILES-RUBBISH INC. AND REGIONAL RUBBISH REMOVAL AND WILL BE SUBMITTED FOR BOARD APPROVAL UPON ARRIVAL.

7/19/11 – To Set Hearing Date For August 2, 2011

TOWN OF WISCASSET
MUNICIPAL LICENSING BOARD
51 Bath Road
Wiscasset, ME 04578-4108
207-882-8200 *Fax 207-882-8228*

APPLICATION FOR LICENSE AS A COMMERCIAL WASTE DISPOSAL HAULER

The undersigned hereby applies for a license as a Hauler of Non-Hazardous Solid Waste within the town of Wiscasset for the licensing year ending May 31, 2012.

1. Firm or Trade Name BEC Enterprises
2. State location where business will be done Westport Island, Maine
3. Have you ever held a Waste Disposal Hauler License before? YES ___ NO X

   If yes, where? ___

4. Have you ever been convicted of violating the Solid Waste Ordinances? YES ___ NO X

   If yes, explain: ___

I warrant the truth of the foregoing statements.

Dated at Wiscasset this 18th day of July 2011.

Brian E. Cromwell

Applicant's Name – Please print

Applicant's Signature

Business Mailing Address:
P.O. Box 462
Wiscasset, ME 04578

Address of residence:
655 Main Road
Westport Island, ME 04578

Business Telephone: 207-837-3476

INCLUDE FEE: Resident: $300.00 **NON-Resident $300.00**

For Office Use

Fee Received: ___ Check No. ___

Laurie Smith

From: Legal Services Department <Legal@memun.org>
Sent: Thursday, July 21, 2011 1:39 PM
To: 'Laurie Smith'
Subject: RE: Wiscasset-RSU and Treasurer Warrant

Dear Laurie,

The voters of Wiscasset are not required to approve an appropriation for regional school unit (RSU) expenses. An RSU's budget is approved by the voters of the RSU, first at an RSU budget meeting and then at an RSU budget validation referendum (see 20-A M.R.S.A. Sections 1482-A and 1486, respectively). Once the voters of the RSU have approved a budget, the RSU board of directors issues its warrants directly to the assessors of each member municipality for that municipality's share of the RSU's budget (see 20-A M.R.S.A. Section 1489(1)). The assessors must then commit the RSU assessment to their tax collector, who is both authorized and required to collect it as with all other legally committed taxes (see 20-A M.R.S.A. Section 1489(2)). As I said, the voters of the municipality are not involved in this process at all except as voters of the RSU. No municipal appropriation is required, and the absence of a municipal appropriation does not affect the validity of the RSU budget or the legality of the RSU assessment or the municipal tax commitment.

The municipal treasurer is required by law to pay to the RSU, in monthly installments, the amount of the tax assessed by the RSU against the municipality (see 20-A M.R.S.A. Section 1489(4)). If the treasurer refuses to make full, timely payment of monthly RSU installments, there are various legal remedies available to the RSU, including suit, diversion of State funds due the municipality, attachment and sale of the municipality's property, attachment of the municipality's bank accounts, etc. (see 20-A M.R.S.A. Section 1489(6)). In view of the foregoing, in my opinion the selectmen do not have the authority to refuse to approve and sign a treasurer's disbursement warrant for RSU expenses; this is a ministerial or mandatory, not a discretionary, act (see *Maine School Administrative District No. 37 v. Pineo*, 2010 ME 11).

Because 20-A M.R.S.A. Section 1489 is central to your question and to my answer, it is set out verbatim below:

§1489. Regional school unit assessments

Regional school unit assessments must follow the procedures set out in this section. [2007, c. 240, Pt. XXXX, §13 (NEW).]

1. Warrant. In accordance with the budget approved by the voters at an annual budget meeting and in substantially the same form as the warrant of the Treasurer of State for taxes, the regional school unit board shall issue its warrants to the assessors of each member municipality requiring them to assess upon the taxable estates within the municipality an amount that is that municipality's share of the regional school unit's costs.
[2007, c. 240, Pt. XXXX, §13 (NEW) .]

2. Commitment. The municipal assessors shall commit the assessment to the constable or collector. Constables and collectors have the authority and powers to collect the regional school unit's taxes as is vested in them by law to collect state, county and municipal taxes.
[2007, c. 240, Pt. XXXX, §13 (NEW) .]

3. Installments. The regional school unit board shall notify the member municipalities of the monthly installments that will become payable during the fiscal year.
[2007, c. 240, Pt. XXXX, §13 (NEW) .]

4. Payment. A municipal treasurer shall pay the amount of the tax assessed in the fiscal year against the municipality to the treasurer of the regional school unit. The payments must be paid in monthly installments on or before the 20th of each month.
[2007, c. 240, Pt. XXXX, §13 (NEW) .]

5. Gifts. A municipality may use the proceeds from gifts or trust funds allocated for educational purposes to pay its share of the assessment.

[2007, c. 240, Pt. XXXX, §13 (NEW) .]

6. Enforcement. If a municipal treasurer fails to pay the installment due, or any part, on the dates required, to initiate collection procedures, the treasurer of the regional school unit may notify the municipal treasurer of the failure to pay. Interest accrues on each unpaid installment at the rate established under Title 36, section 186 beginning on the 60th day after the date the installment is due under subsection 4. If payment of an installment is not made within 60 days after the due date, the treasurer of the regional school unit may initiate an action in Superior Court to compel payment of the delinquent installment. The court shall determine the amount owed by the municipality to the regional school unit and shall order the municipal treasurer to pay all delinquent installments, accrued interest and any court costs and reasonable attorney's fees incurred by the regional school unit. To ensure prompt payment of the delinquent installments, the court may require that amounts due to the municipality from the State under Title 30-A, section 5681 and Title 36, sections 578 and 685 be paid to the regional school unit until the amount determined by the court is satisfied. The court shall promptly notify the disbursing state agency of the determination and direct the agency to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the regional school unit, the court may order the attachment or trustee process and sale of real or personal property owned by the municipality or the attachment of the municipality's bank accounts or require property tax payments to the municipality to be turned over to the court and may pay the amount owed the regional school unit from the proceeds and return any excess to the municipality.

[2007, c. 240, Pt. XXXX, §13 (NEW) .]

SECTION HISTORY

2007, c. 240, Pt. XXXX, §13 (NEW).

I hope this answers your question. Please let me know if you have any further questions.

Best regards,

Richard P. Flewelling, Assistant Director
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in-state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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MAR 3 1 2010

re-submitted
AUG 1 6 2010
by phone request.
flin

Town of Wiscasset
Board/Committee Membership Form

Full Name: FRANK SPRAGUE

Mailing Address/Street Address: 209 GIBBS ROAD WISCASSET, ME

882-1236
Home Telephone: 882-9814 Work Telephone: SAME E-mail: _____

Occupation: SELF EMPLOYED

I wish to be considered for appointment to the:

WATER FRONT COMMITTEE
Name of Board/Committee

Full member: ✓ Alternate member: ____

Do you currently serve or have you ever served on any Town Board or Committee? NO

If yes, please state which Board or Committee with term expiration. NO

List civic organizations to which you belong now: NO

Prior experience, knowledge, or abilities that you have which would contribute to the activities of the Board or Committee: I HAVE BEEN A RESIDENT OF WISCASSET FOR 56 YEARS. AND HAVE WORKED ON THE WATER FRONT OF WISCASSET FOR OVER 22 YEARS

Date: 3/31/10 Signature: Frank Sprague

Additional comments can be made on the reverse side of this form.

Please return to the Selectmen's Office, 51 Bath Road, Wiscasset, ME 04578-4108

****

For Office Use:

Date received: _____ Date appointed: _____

Term of appointment: _____

Resubmitted to BOS 9/21/10 - Jody Haggett appointed.

Town of Wiscasset
Board/Committee Membership Form

Full Name: Cynthia Collamore

Mailing Address/Street Address: 2 Lobster Lane

Home Telephone: 882-9256 Work Telephone: 882-7767 E-mail: cindykpc@roadrunner.com

Occupation: Admin Asst / Cook ccollamore@svrsu.org

I wish to be considered for appointment to the:

Waterfront Committee
Name of Board/Committee

Full member: ✓ Alternate member: ____

Do you currently serve or have you ever served on any Town Board or Committee? yes

If yes, please state which Board or Committee with term expiration. Waterfront Comm.

List civic organizations to which you belong now: Female Charitible Soc.

Prior experience, knowledge, or abilities that you have which would contribute to the activities of the Board or Committee: Prior Waterfront Committee member

Date: 7-26-11 Signature: Cynthia Collamore

Additional comments can be made on the reverse side of this form.

Please return to the Selectmen's Office, 51 Bath Road, Wiscasset, ME 04578-4108

****

For Office Use:

Date received: ____ Date appointed: ____

Term of appointment: ____

1 207 882 8200
X 109

TOWN of WISCASSET
Rick Lang
Code Enforcement Office
51 Bath Road
Wiscasset, Maine 04578

codes@wiscasset.org

July 27, 2011

Board of Selectmen,

As most of you may be aware, the State of Maine in its last Legislative Session pasted LD 83; an Act to Legalize the Sale, Possession and Use of Fireworks. Under the new law Towns may not adopt rules banning the possession of fireworks. Towns can adopt ordinances prohibiting or restricting the sale and/or the use of fireworks. Any ordinances that are developed by the Town must be forwarded to the Fire Marshal's Office within 60 days of adoption.

SALE:

1. The State will heavily regulate the sale of fireworks, such as the type and location of the building that the fireworks are sold from. A separate building is required for the sale and display of fireworks. They also will be required to have both Federal and State licenses to sell fireworks.

2. The State will most likely require a Site Plan Review by the Planning Board for the expansion of the business, and require the new building be built to the standards to sell the fireworks.

USE:

1. I can see some potential problems here. The only State regulation is that the person using the fireworks be on their property or have permission of the property owner. Fireworks can become a real nuisance, being shot off late at night and/or many nights. Towns will have the right to regulate their use, from the number of days (4th of July, New Years, etc.), to the hours that they may be used, to a complete ban.

One thing that I found interesting was that the law authorized municipal Police, Fire officials and Code Enforcement officials to enforce violations of the consumer fireworks law. I will keep the Board posted as the Fire Marshal's Office develops its rules to the sale and use of fireworks. As with any new law or regulation imposed by the State, I feel that it is important for the Town to remain proactive versus reactive.

Transportation's Highway and Bridge Capital program to be used for highway preservation and rehabilitation projects, 30% is dedicated to the state's Budget Stabilization Fund, and 35% is dedicated to the General Fund.

"Circuit Breaker". Over the past biennium the property tax and rent rebates provided under the so-called "Circuit Breaker" program have been reduced by 20%. The budget continues that policy over the next biennium.

Homestead Exemption and Tree Growth Reimbursement. The budget implements no changes to Homestead Exemption program as currently configured, and it allows the Tree Growth reimbursement program to operate as designed, without raiding money from that account. For comparative purposes, after multiple cuts to the FY 2011 distribution, approximately $4.8 million was distributed in Tree Growth reimbursement for FY 2011. The Tree Growth reimbursement appropriation for FY 2012 in this budget is $8.65 million for FY 2012 and $7.95 million for FY 2013.

State Planning Office Deconstructed. The budget also establishes an 11-member committee that is charged with essentially deconstructing the State Planning Office by developing a plan that transfers the personnel and responsibilities of that Office to other departments and agencies within state government. The working group's recommendation, along with implementing legislation, must be submitted to the Legislature for consideration by December 1, 2011. The membership of the working group includes eight state agency commissioners, the Director of the State Planning Office, one member of a local or regional governing body and one member of a municipal or regional governing body.

Court security and municipal law enforcement officers. The budget clarifies that the Judicial Department may use municipal law enforcement officers to provide court security.

Criminal Justice & Public Safety

LD 35 – An Act Relating to Concealed Firearms Locked in Vehicles. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 393**

This Act provides that an employer may not prohibit an employee with a valid concealed firearms permit from keeping a firearm in the employee's vehicle as long as the vehicle is locked and the firearm is not visible. The Act also provides that the employer may not be held liable in any civil action for damages, injury or death resulting from another person's actions involving a firearm or ammunition transported or stored on the employer's property under the authority provided by this law.

LD 82 – An Act To Amend the Laws Governing County Jail Budgeting for York County. (Sponsored by Rep. Moulton of York.) **PL 2011, c. 431**

This Act reduces the amount of property taxes that must be collected by York County for jail purposes pursuant to the 2009 state-county corrections unification system. Current law requires that collection to be $8,667,248. The Act reduces that collection to $8,386,815, a reduction of $280,433. The effective date of the Act is July 1, 2013.

LD 83 – An Act To Legalize the Sale, Possession and Use of Fireworks. (Sponsored by Rep. Damon of Bangor.) **PL 2011, c. 416**

This Act creates a system to legalize the sale, possession and use of "consumer fireworks". Generally, consumer fireworks include products that are tested and certified and meet U.S. Consumer Product Safety Commission standards. The State Fire Marshal is directed to adopt rules prohibiting the use, sale and possession of certain aerial fireworks, such as missile, sky and bottle rockets, helicopters and aerial spinners. Under the terms of the law, municipalities are preempted from adopting ordinances that ban the possession of consumer fireworks. Municipalities may adopt ordinances prohibiting or restricting the sale or use of consumer fireworks within the municipality. A copy of the ordinance must be provided to the State Fire Marshal within 60 days of adoption. Municipalities may also adopt a permitting process for the sale of fireworks within the municipality. Municipalities that choose to issue permits must notify the State Fire Marshal at least 60 days before initiating the permitting program. Municipalities may only issue permits to an applicant who is at least 21 years of age, possesses a federal permit, applies for a permit on a form prescribed by the Department of Public Safety, and meets Maine storage and handling regulations. Before a municipal permit is finally issued, the application must be approved by the municipality's police chief, fire chief and code enforcement officer, if those positions exist. Municipalities may require a reasonable fee for the permit. Municipal police officers, fire officials and code enforcement officers are authorized by the bill to enforce violations of the consumer fireworks law. Beginning in 2013, the Office of the State Fire Marshall must annually submit to the Legislature's Criminal Justice and Public Safety Committee a report regarding the sale and use of consumer fireworks, including information on the issuance and oversight of licenses to sell fireworks, reported fireworks-related injuries, fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The effective date of the law is delayed to January 1, 2012.

LD 123 – An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements. (Sponsored by Rep. Davis of Sangerville.) **PL 2011, c. 349**

This Act prohibits the Commissioner of Public Safety from requiring the installation of automatic sprinklers in existing "commercial places of assembly" that are open for no more than 50 days per calendar year. Commercial places of assembly are defined to include bars with live entertainment, nightclubs, assembly halls with festival seating and restaurants.

LD 124 – An Act To Eliminate Certain Restrictions on the Installation of Chimneys and Equipment. (Sponsored by Rep. Harvell of Farmington.) **PL 2011, c. 225**

A recent amendment to the law authorizing the development of rules by the Maine Fuel Board governing installation of fuel-burning devices into chimneys required the Board's rules to allow for the continuing combination of a wood (or "solid fuel") burning device with an oil burning device in the same lined chimney, provided three standards were met and provided the chimney had been existing and in that type of use prior to February 1998. The three standards are: (1) sufficient draft is available for each appliance; (2) the chimney is lined and structurally intact; and (3) a carbon monoxide detector is installed in the building near a bedroom. This Act allows for the combination of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use after February 1998 provided those three standards are met, as well as two additional standards. The two additional standards are: (1) the solid fuel burning appliance has been listed by Underwriters Laboratories or other nationally recognized testing laboratory; and (2) the solid fuel burning appliance is installed in accordance with the manufacturer's specifications.

LD 352 – An Act To Amend Laws Governing Criminal History Record Information. (Sponsored by Rep. Haskell of Portland.) **Emergency Enacted; PL 2011, c. 52 (4/25/11)**

This Act allows the division of licensing and regulatory services within the Department of Health and Human Services to have access to intelligence and investigative information from

Rick Lang

From: Legal Services Department <Legal@memun.org>
Sent: Wednesday, July 27, 2011 8:47 AM
To: 'codes@wiscasset.org'
Subject: RE: Wiscasset - Fireworks

Rick,

At this time, MMA's Legal Department does not plan to draft a model fireworks ordinance. The new fireworks statute allows municipalities to adopt a vast array of licensing and other regulations on the sale and/or use of numerous types of fireworks, so this situation does not lend itself to a generic model ordinance. I think Wiscasset will have to determine what specifically it wishes to regulate and then work with the town's attorney on ordinance language. I do know of a few sources of information on the subject that may be helpful. First, there will be a Legal Note in the August edition of the *Maine Townsman* dealing with the new fireworks law and municipal authority. I believe there will also be a segment displaying various types of fireworks that will become legal at MMA's Convention on October 5, 2011. Finally, since the law requires municipalities to send a copy of any fireworks ordnance they adopt to the State Fire Marshal's office, you may be able to request samples of adopted ordinances from the Fire Marshal's Office.

I hope that this is helpful. Please let me know if you have any questions.

Susanne F. Pilgrim, Staff Attorney
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
Phone: 207-623-8428
1-800-452-8786 (in state)
FAX: 207-624-0187
legal@memun.org

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From: Mary Merrifield
Sent: Tuesday, July 26, 2011 2:59 PM
To: 'codes@wiscasset.org'
Subject: Wiscasset

Rick, MMA Legal Services has received your inquiry. It has been assigned to one of our attorneys, who will respond as soon as possible. Our response time may vary depending on the volume of inquiries, the nature and complexity of your inquiry, and current staffing. We appreciate your understanding and cooperation. If you have a specific deadline, please let us know. Thank you. Mary Merrifield, Legal Services Department

P.S. In the future, please direct your inquiries to legal@memun.org. This is a more direct connection and will insure the fastest possible reply. Thanks.