

WISCASSET BOARD OF SELECTMEN,
BOARD OF ASSESSORS AND OVERSEERS OF THE POOR
FEBRUARY 21, 2012

Preliminary Minutes

(tape recorded meeting)

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

Absent: Vice Chair David Nichols

1. Call to Order

The chair called the meeting to order at 7:03 p.m.

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

3. Approval of Treasurer's Warrant: February 14, 2012 and February 21, 2012

Ed Polewarczyk moved to approve the Treasurer's Warrant of February 14, 2012. Vote 4-0-0.

Ed Polewarczyk moved to approve the Treasurer's Warrant of February 21, 2012. Vote 4-0-0.

4. Approval of Minutes: January 31, 2012 and February 7, 2012

Ed Polewarczyk moved to approve the minutes of January 31, 2012. Vote 4-0-0. Pam

Dunning moved to approve the minutes of February 7, 2012. Vote 4-0-0.

5. Special Presentations or Awards:

Wiscasset Educational Research Panel (WERP) presentation of petition and information gathered

Doug Smith described the background and work of WERP and presented a package of statistics and options the town had, WERP's recommendation, and the initial financial impact of its conclusion.

He said Wiscasset has 23% of the students in the RSU and pays 35% of the total RSU budget. Wiscasset has the second highest cost per student in the RSU, second only to Westport and the RSU has voted down any change in allocation until at least 2013. He explained the various charts and graphs in the package and options reflecting the pros and cons of different structures ranging from remaining in the RSU, and joining an Alternative Organizational Structure, to a stand-alone school system and a consolidation of Wiscasset school facilities.

WERP recommends that Wiscasset withdraw from RSU 12, join an Alternative Organizational Structure (AOS), and move forward with the conclusion of the 2008 Professional Study that recommended closing the Middle School and creating a K-6 primary school and a 7-12 high school. He explained the budget figures for the withdrawal committee that totaled \$45,000.

Doug Smith asked the Board of Selectmen to place on the June warrant an article which reads, "Article: Do you favor filing a petition for withdrawal with the board of directors of regional school unit RSU 12 and with the Commissioner of Education, authorizing the withdrawal committee to expend \$_____ and authorizing the Selectmen to issue notes in the name of the Town of Wiscasset or otherwise pledge the credit of the Town of Wiscasset in an amount not to exceed \$_____ for this purpose?" He said the wording was set by the ordinance and could not be changed. He also asked for approval of the budget.

According to the law, following a favorable vote on the article by the residents of Wiscasset, a withdrawal committee will be formed consisting of a selectman, a member of the public, a member from the group filing the petition, and one member of the regional school unit board. The charge of the withdrawal committee includes researching answers to issues such as how we educate our children, what proposed structure would be formed, cost of withdrawal, budget for withdrawal, how property would be returned to Wiscasset, how transportation services would be managed, etc. After the committee's recommendation is sent to the Commissioner of Education, he will have 60 days to approve the recommendation and, if withdrawal is recommended and approved, the residents of Wiscasset will vote on it.

Ed Polewarczyk asked for clarification of some of the statistics presented. He disagreed with some of WERP's findings and asked to make a presentation of his analysis to the board at a later date. He said he had asked that a committee be formed, which had not been done; instead the selectmen had endorsed WERP. He said from his research, Wiscasset would be worse off by withdrawing from the RSU and would see a significant increase in taxes.

Constance Schumann asked what other towns might join Wiscasset in an AOS. Smith said that informal conversations had taken place, but no town would talk to Wiscasset until after the referendum is passed and the withdrawal process begins.

Pam Dunning recommended that the selectmen set the budget for the withdrawal committee. Judy Colby asked for a legal opinion on the warrant.

Judy Colby moved to place the article on the June warrant. Vote 4-0-0.

Chris Dilts, businessman and chair of the Wiscasset area Chamber of Commerce, stressed the importance of education and urged residents to carefully consider the matter presented and to encourage others to vote.

A Wiscasset teacher expressed concern about dragging out the process and losing students. She said poor decisions by Wiscasset have been made in the past but there are still things about the schools to be proud of.

Kim Andersson of the RSU board said some of the WERP data presented was five years old and was not true. She said state subsidies have been reduced, and Wiscasset would have to find the \$1.7 million that RSU 12 is now absorbing. She added that other towns are subsidizing Wiscasset, not the other way around.

7. Public Comment on Non-agenda Items - none

8. Department Head or Committee Chair Report

A. Assessor agent regarding the completion of Brynjolfsson abatement request

Sue Varney, Assessors' Agent, following a site inspection, had prepared a revised valuation report for this property (96 Bath Road) taking into consideration functional and economic obsolescence. She recommended an abatement of \$404,700 in valuation resulting in a refund amount of \$6,131.21. **Judy Colby moved that the Board of Selectmen approve an abatement of \$404,700 in valuation resulting in a refund amount of \$6,131.21. Vote 4-0-0.**

Varney said while correcting the Brynjolfsson land value, she had also changed the value of the Potter property next door to reflect the purchase of waterfront property from the Brynjolfssons. The increase in valuation of the Potter property would be \$87,500 resulting in a supplemental bill of \$1,325.63. **Pam Dunning moved that the Selectman correct the Potter valuation by adding \$87,500 in valuation and sending a supplemental tax bill of \$1,325.63. Vote 4-0-0.**

9. Unfinished Business

A. Wiscasset Waterfront Committee recommendations of the Main Street Pier Policy and Application

Town Manager Laurie Smith said the Waterfront Committee had last fall reviewed the policy to address vendors wishing to remain on the pier through the winter. The committee has recommended that vendors pay a non-refundable \$300 or \$400 fee (depending on size) for winter rental of space on the pier and a \$400 or \$600 fee depending on size for seasonal permits. Brian Buck, Chairman of the committee, addressed questions from the board and the policy was changed to the following. No. 2, first bullet, was changed to delete "for" and substitute "beginning"; No. 3 was changed from "shall" to "may"; No. 5 was changed to add "a minimum of five hours per day, five days per week" at the end of the sentence; No. 7 was changed to delete "adequate" and add "in the amount of \$1 million" after "liability insurance." **Pam Dunning moved to adopt the Main Street Pier Policy as amended. Vote 4-0-0. Pam Dunning moved to apply the \$300 deposit from the fall of 2011 to the winter rental for the 2011-2012 winter season. Vote 4-0-0.**

10. New Business

A. Wiscasset Waterfront Committee recommendations for pier vendors

Brian Buck recommended approval of the applications of Cecilio Juntura and Pamela Shockley as vendors on the Main Street pier. **Ed Polewarczyk moved to approve the applications for Shockley and Juntura. Vote 4-0-0.**

B. Ambulance rate changes

Roland Abbott, EMS Chief, recommended increasing ambulance fees in light of increases in the fees paid by Medicare and the fact that the service has not had a rate increase since 2009. He proposed increases in the rates for the seven levels of service ranging from \$4 to \$45. He said the increased rates would cover the service's expenses. **Judy Colby moved to adopt the amended ambulance rates effective March 1, 2012. Vote 4-0-0.**

C. Selectmen Goals

Smith presented the Selectmen Goals for 2012. **Judy Colby moved to adopt the attached document as the goals for 2012.** In response to Ed Polewarczyk's question on the inventory of public and private land to market to developers, Town Planner Misty Gorski said she is already working on identifying available town or privately owned land and the zone, size, and infrastructure of each parcel in order to have information readily available. She will be asking for board feedback. Polewarczyk also suggested that each new board have three or four months to evaluate committees and appoint new members. **Vote 4-0-0.**

11. Town Manager's Report

A. Dedication of Town Report

Smith said the report is being prepared and she asked for volunteers from the board to choose a person to whom the report would be dedicated. Ed Polewarczyk and Pam Dunning volunteered.

B. General Update

Smith said photocopying rates are being raised to 25¢ for 8½ x 11 copies, notary services will be \$1 for residents and \$3 for non-residents, and marriage ceremonies will be \$10.

Smith asked the board to direct the ORC to make suggested changes to the Sign Ordinance to make allowances for congregate signs and to change the boundary for the historic district to exclude the town office, the bank and gas station across the street. **Bill Curtis moved that the Board of Selectmen direct the ORC to address the size of congregate signs, to change the boundary of the historic district to exclude the town hall, bank and Mobil station on Route 1, and to establish a standard size for lettering which would be visible to viewers. Vote 4-0-0.**

Smith reported on the Penobscot Energy Recovery Company (PERC) meeting she had attended with the Boothbay Region Refuse District Board, the Nobleboro station manager, Selectmen Nichols and Curtis and Transfer Station Manager Ron Lear to discuss why there is a need to look at the tipping fee schedule and how it will be affected by 2018 when the contracts are no longer in place unless action is taken. The committee is looking at options and Smith said Wiscasset should not be affected for a couple of years.

12. Other Board Business

A. Executive Session - Economic Development

Judy Colby moved that the Board of Selectmen go into Executive Session pursuant to 1 M.R.S.A. §405(6)(C) to discuss economic development at Mason Station. Vote 4-0-0.

The board entered executive session at 8:55 p.m. and exited at 10 p.m.

13. Adjournment

Pam Dunning moved to adjourn the meeting. Vote 4-0-0.

Selectmen Goals 2012

Overarching goal: To create a quality place building upon the historic nature of Wiscasset providing quality community services at an affordable rate for citizens.

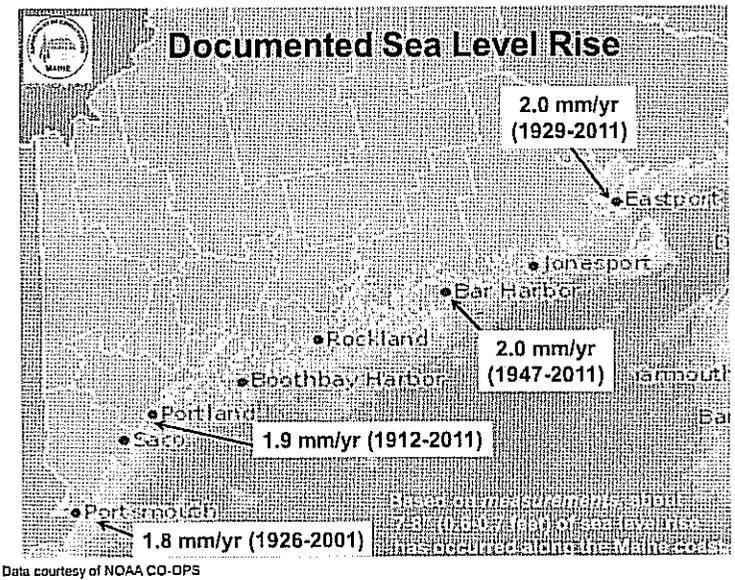
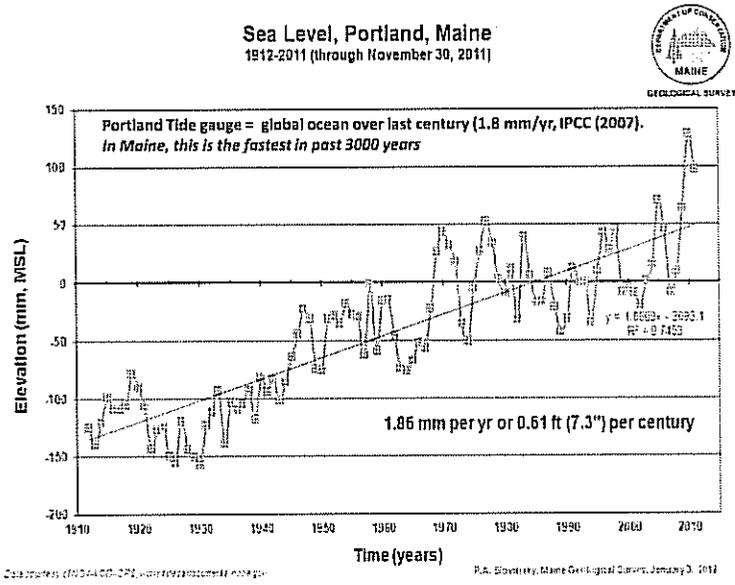
Goals:

1. Economic Development
 - a. Perform a land inventory of public and private land to market to developers
 - b. Answer the question "why Wiscasset" and create marketing through print and web.
2. Grow our resources at the Airport.
 - a. Partner with the Texas Flying legends to create a permanent home for them at the airport.
 - b. Find our niche as an airport especially in relation to Brunswick Naval Air Station.
3. Review town committees
 - a. Evaluate the need for the committees
 - b. Determine whether there should be a length of service for members
 - c. Define the purpose of the committee
 - d. Give the committees direction from the Selectmen
 - e. Establish a reporting procedure between Committees and Selectmen
 - f. Hold a workshop with the committees
4. Ambulance service
 - a. Maintain current service
 - b. Maximize revenues
5. Insurance Service Office (ISO) rating for public fire protection

Coastal Hazard Resilience Project

Background

For the past hundred years there has been a documented gradual rise in the sea level on the coast of Maine. Based on records maintained by NOAA, the increase has ranged from 0.6 to 0.7 feet at recording stations in Portland, Bar Harbor and Eastport as shown in the following two graphics (these graphics are from a report prepared by the Maine Geological Survey and the Southern Maine Regional Planning Commission summarizing a similar project recently completed for Scarborough, Old Orchard Beach, Saco and Biddeford).



A number of authorities predict that this gradual rise will be reinforced by the impacts of melting Antarctic and Greenland ice sheets and ocean thermal expansion, resulting in about a total increase of two feet in sea level over the next 100 years. This predicted sea level rise could impact state, county and municipal infrastructure such as roads, railroad tracks, culverts, bridges, sewage treatment plants, water and sewer mains, piers, public and private buildings, stormwater management systems, habitat and emergency evacuation routes.

Proposed Competitive Coastal Grant Request

The Lincoln County Regional Planning Commission is working cooperatively with the Maine Geological Survey and the Maine Coastal Program (MCP) to evaluate the potential impacts of increases in sea level in coastal Lincoln County. To accomplish this, the LCRPC applied for and received from the Maine Coastal Program a Competitive Coast Grant of \$35,040. The program requires a 25% local match, which is being accomplished with a cash contribution from Lincoln County and in-kind services from LCRPC staff.

Project Detail

Recently, LIDAR topographic data has been made available for coastal Lincoln County. This data will allow much more accurate modeling of the topography of coastal areas and analysis of the impact of an increase in sea level. The proposed Coastal Hazard Resilience Project will evaluate the potential impact of a two-foot increase in sea level on the coastal areas of Lincoln County (for planning purposes, the project will also evaluate sea level increases of 3.3 feet and 6 feet). The project area includes portions of Waldoboro, Bremen, Bristol, South Bristol, Damariscotta, Newcastle, Edgecomb, Westport Island, Boothbay, Boothbay Harbor, Southport, Monhegan Island, Dresden, Alna, Nobleboro and Wiscasset.

The project will focus on the impacts of sea level rise on public infrastructure, such as roads, bridges and key public facilities. To accomplish this, the project will:

- Develop a more accurate highest annual tide (HAT) and examine the impact of sea level rise (SLR) scenarios on the HAT. The HAT is the upper boundary of coastal wetlands and is regulatory edge of the shoreland zone in coastal areas. For 6 months in 2011 high tides were within 6" of the HAT. The HAT represents static inundation and a better understanding of the limit of the HAT could allow communities

in the county to identify at-risk areas that might require more protection. The project will then apply three different SLR scenarios (2', 3.3' and 6' increase in sea level) to the HAT to examine impacts.

- Examine the impact of SLR on the February 1978 storm of record, which is considered to be a 100-year storm event. The historic high water level from the 1978 storm will be applied to each of the 17 tidal gauges in Lincoln County to develop still water levels, which are best for enclosed areas vs. open coast. The three SLR scenarios will then be applied to examine impacts. This procedure does not take into wave action, which is applicable to the open coast. It does include the limited storm surge of 3.5' from the 1978 storm, which is statistically projected to occur once every 14 years. To include any additional storm surge is beyond the scope of the project due to the substantial additional data analysis required but the projected 100-year storm event will include a relatively moderate surge of 3.5 ft.
- These analyses will then be used to develop impact data on roads, bridges and key public facilities such as schools, fire stations, pumping stations, hospital facilities, sewage treatment plants, etc. DOT or MEMA 911 road layers will be applied to the HAT and the various scenarios to identify road flood depths. Adding the key public facilities layers will identify potentially at-risk facilities. The project can also look at infrastructure impacted under SLOSH (Hurricane CAT 1 and CAT 2) scenarios, but not added sea level rise, to identify existing infrastructure at risk. It should be noted that while virtually any facilities that are available on a GIS layer can be evaluated, there is very limited GIS information in Lincoln County for residential and commercial buildings so these will not be included in the project.

The project will be overseen by a committee consisting of a representative of the County Commission, several members of the LCRPC Board, a representative of Lincoln County EMA and a representative from each coastal community. The principal project staff persons will be Peter Slovinsky, a marine geologist with the Maine Geological Survey, and Lincoln County Planner Bob Faunce.

The project will not result in any mandates or other requirements for any towns. Communities will be provided the results of the study but it will be up to them to decide whether or not to proceed from that point on. The LCRPC will, of course, offer to assist any towns that want to use the study results to update capital improvement plans or local development

ordinances or undertake any other actions but these decisions will be made by the communities themselves.

Project Timeframe

The project will begin in March 2012 and be completed within 18 months. Meetings with individual towns to present the results of the project will take place during the summer or fall of 2013.

Future Activities

Depending on the study results, the LCRPC may propose additional future work tasks, such as preparing model ordinances and regulations that communities can use to help mitigate impacts of sea level rise.

MEMORANDUM

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: Last Step in the Retirement System changeover

Dt: March 2, 2012

The Town of Wiscasset voted on December 13th, as part of the special election, to join the Maine Public Employee Retirement System (MePERS). As I noted to you in my memo of December 1st, 2011 the changeover from the current Acadia/ADS plan to Maine State Retirement and ICMARC would require several steps

These steps included:

1. The amendment of the current retirement plan.
2. The amendment of union contracts to provide for the elimination of the current plan and the adoption of the two new plans.
3. The adoption of the ICMARC plan (currently the Town has the 457 plan)
4. The termination of the current Acadia plan.

Step 1:

The Selectmen voted in January to amend the current plan to allow employees to transfer balances over to the Maine State Retirement System.

Step 2:

The contracts currently reference the Acadia retirement plan as the one the Town will contribute matching dollars on behalf of employees. The Town could adopt additional plans without the change in contract language; however it couldn't terminate the plan without adjusting the contracts. The unions agreed to change in contract language last December.

Step 3:

The Town has already adopted the ICMARC 457 plan which is a matching program similar to the current ADS/Acadia plan. This ICMARC plans will replace the Acadia money purchase pension plan.

Step 4:

The Town will need to terminate the current Acadia plan, this will allow for the leftover funds to be transferred to the ICMARC plan or distributed in accordance with IRS rules.

I have met with employees on a number of occasions to address these issues and allowed them to meet with representatives from both ICMARC and MePERS so that they can make the best individual choice on how to handle their current funds. These changes will not cost the Town any additional funds, in fact the Town will see a savings from the current costs.

**TOWN OF WISCASSET MONEY PURCHASE PENSION PLAN
NOTICE OF PLAN TERMINATION**

TO: Participants and Beneficiaries of the Town of Wiscasset Money Purchase Pension Plan

FROM: Plan Administrator

DATE: March _____, 2012

RE: Plan Termination

This notice is to inform you that the Town of Wiscasset Money Purchase Pension Plan will be terminated effective March 31, 2012. All participant accounts shall be 100% vested upon Plan termination. Following Plan termination, you will be entitled to a distribution of your account balances.

For your reference, the Town of Wiscasset (the "Town") maintains a Code Section 457(b) Plan for the benefit of all employees. You may elect to defer a portion of your salary to the 457(b) Plan on a pre-tax basis. In addition, the Town will make a matching contribution to the 457(b) Plan in an amount equal to each employees' elective deferrals up to a maximum of six percent (6%) of compensation. You will be provided with additional information concerning the terms and conditions of the Code Section 457(b) Plan as well as the appropriate enrollment materials.

Following Plan termination, you will be entitled to a distribution of your account balance under the Money Purchase Pension Plan. You will be provided with a distribution election form as well as a special notice describing the tax consequences of distribution. As will be explained in these forms, you will be given the option to elect to take all or a portion of your account as a taxable distribution or in a direct rollover to an individual retirement account ("IRA"), the Town of Wiscasset 457(b) Plan or other eligible retirement plan..

If you have any questions, please contact the Town Manager.

**TOWN OF WISCASSET MONEY PURCHASE PENSION PLAN
AMENDMENT**

This Amendment, executed this _____ day of March, 2012, by the TOWN OF WISCASSET (the "Employer"), a Plan Sponsor of the TOWN OF WISCASSET MONEY PURCHASE PENSION PLAN (the "Plan").

WITNESSETH:

WHEREAS, the Town of Wiscasset desires to terminate the Town of Wiscasset Money Purchase Pension Plan; and

WHEREAS, Section 14.03 of the Plan document authorizes the termination of the Plan.

NOW, THEREFORE, the Plan is hereby terminated effective as of March 31, 2012. Upon termination, all amounts credited to participant accounts shall be 100% vested and distribution shall be made in accordance with the terms of the Plan document as set forth in Section 14.03 of the Plan document.

IN WITNESS WHEREOF, the Employer has caused this Amendment to be executed by its duly authorized representative as of the date first above written.

WITNESS:

TOWN OF WISCASSET

By: _____
Its:

**TOWN OF WISCASSET MONEY PURCHASE PENSION PLAN
PROPOSED RESOLUTIONS
(to be presented to the Town Council)**

RESOLVED: To terminate the Town of Wiscasset Money Purchase Pension Plan (the "Plan") effective March 31, 2012.

RESOLVED: That the Town Manager be, and hereby is authorized and directed to execute such documents and take such additional action as she shall deem necessary and proper to carry out the intent of the resolutions hereinbefore provided.



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

2/13/2012

Laurie Smith, Town Manager
Town of Wiscasset
51 Bath Road
Wiscasset, ME 04578-4108

Subject: Pavement Milling & Hot Mix
Asphalt Overlay
Project No.: STP-1792(700)X
Town of Wiscasset

Dear Ms. Smith:

The Maine Department of Transportation will soon advertise the subject project for construction, and pursuant to 29-A MRSA § 2382 (7) we have established a "Construction Area". A copy of 29-A § 2382 is enclosed for your information. Also included is an agreement, which requires signature by the municipal officers, and additional background documents.

The agreement stipulates that the municipality will issue a permit for a stated period of time to the MDOT contractor for transporting construction equipment (backhoes, bulldozers, etc.) that exceed legal weight limits, over municipal roads. The agreement acknowledges the municipality's right to require a bond from the contractor to "guarantee suitable repair or payment of damages" per 29-A MRSA.

29-A MRSA § 2382 (7) states that "the suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers". In other words, municipal officers determine the suitability of repairs on municipal ways and bridges.

The State cannot force municipalities to allow overweight vehicles to travel on posted municipal roads. Municipal postings supersede overweight permits. However, the agreement requires municipalities to make reasonable accommodations for overweight vehicles that are operated by contractors and the MDOT in connection with the construction project.

The specific municipal roads involved are not necessarily known at present, as the contractor's plan of operation won't be known until just prior to the start of work. If the municipality plans to require a bond; the amount of the bond should be determined prior to the start of work. If the project number administratively changes, you will be notified, and the agreement modified accordingly. Please return the completed agreement to my attention. Should you have any questions, please contact me at 624-3410.

Sincerely,

George Macdougall, Engineer
Contracts & Specifications
Bureau of Project Development



PRINTED ON RECYCLED PAPER

Return this AGREEMENT, when completed, to:

Maine Department of Transportation
ATTN.: Mr. Scott Bickford, Contracts & Specifications Engineer
#16 State House Station, Child Street
Augusta, Maine 04333-0016

Project No. STP-1792(700)X
Location: Town of Wiscasset

Pursuant to 29-A MRSA § 2382, the undersigned municipal officers of the **Town of Wiscasset** agree that a construction overlimit permit will be issued to the Contractor for the above-referenced project allowing the contractor to use overweight equipment and loads on municipal ways.

The municipality may require the contractor to obtain a satisfactory bond pursuant to 29-A MRSA § 2388 to cover the cost of any damage that might occur as a result of the overweight loads. If a bond is required, the exact amount of said bond should be determined prior to the use of any municipal way. The Maine DOT will assist in determining the amount of the bond if requested. A suggested format for a general construction overlimit bond is attached. A suggested format for a construction overlimit permit is also attached. This construction overlimit permit does not supersede rules that restrict the use of public ways, such as posting of public ways, pursuant to 29-A MRSA § 2395.

The maximum speed limit for trucks on any municipal way will be 25 mph (40 km per hour) unless a higher speed limit is specifically agreed upon, in writing, by the Municipal Officers.

TOWN OF WISCASSET
By the Municipal Officials

Project No. STP-1792(700)X

SPECIAL PROVISION 105
CONSTRUCTION AREA

A Construction Area located in the **Town of Wiscasset** has been established by the Maine Department of Transportation (MDOT) in accordance with provisions of 29-A § 2382 Maine Revised Statutes Annotated (MRSA).

- (a) The section of highway under construction in Lincoln County, Project No. STP-1729(700)X is located on US Route 1, beginning at Lee Street and extending 0.63 mi. to the Donald Davies Bridge.

Per 29-A § 2382 (7) MRSA, the MDOT may “*issue permits for stated periods of time for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:*

- A. Must be procured from the municipal officers for a construction area within that municipality;*
- B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:*
- (1) Withholding by the agency contracting the work of final payment under contract; or*
- (2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.*
- The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;*
- C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and*
- D. For construction areas, carries no fee and does not come within the scope of this section.”*

The Municipal Officers for the **Town of Wiscasset** agreed that an Overlimit Permit will be issued to the Contractor for the purpose of using loads and equipment on municipal ways in excess of the limits as specified in 29-A MRSA, on the municipal ways as described in the “Construction Area”.

As noted above, a bond may be required by the municipality, the exact amount of said bond to be determined prior to use of any municipal way. The MDOT will assist in determining the bond amount if requested by the municipality.

The maximum speed limits for trucks on any town way will be 25 mph (40 km per hour) unless a higher legal limit is specifically agreed upon in writing by the Municipal Officers concerned.

MUNICIPAL OVERLIMIT PERMIT FOR CONSTRUCTION

MUNICIPALITY: _____

Phone: 207- _____ ; fax: 207- _____

APPLICATION FOR OVERLIMIT PERMIT TO MOVE CONSTRUCTION EQUIPMENT AND LOADS IN EXCESS OF LEGAL LIMITS ON MUNICIPAL WAYS

Construction Time Period:

Per 29-A § 2382 (7) MRSA, application is hereby made to the MUNICIPALITY OF _____ for An Overlimit Permit to move construction equipment, material, objects or loads in excess of legal limits over ways maintained by the MUNICIPALITY in support of construction operations for the following Maine DOT project

Project Description:

Project Identification Number (PIN):

NAME OF PERMITTEE (Construction Company):

STREET/P.O. BOX:

CITY:

STATE/PROV:

ZIP / POSTAL CODE:

PHONE:

FAX:

This object or load cannot be readily reduced to the legal limits.

Signed by:

(name & title)

Permit is granted. A copy of this signed permit will be provided to the permittee as prove of permit. This permit will automatically expire at the physical completion of the above construction project. The original permit will be held on file at the municipality.

Signed:

Municipal Official

BOND # _____

Date: _____

MUNICIPAL CONSTRUCTION BOND

KNOW ALL MEN BY THESE PRESENTS: That (name of construction firm)
 _____ and the Municipality of _____, as
 principal, and.....
 , a corporation duly organized under the laws of the State of and having a
 usual place of business
 as Surety, are held and firmly bound unto the Treasurer of the Municipality of
 _____ in the sum of
 _____ and 00/100 Dollars (\$))
 to be paid said Treasurer of the Municipality of _____ or
 her/his successors in office, for which payment well and truly to be made, Principal and
 Surety bind themselves, their heirs, executors and administrators, successors and assigns,
 jointly and severally by these presents.

The condition of this obligation is such that if the Principal designated as Contractor in
 the Contract to construct Project Number _____ in the Municipality of
 _____ promptly and faithfully performs the Contract,
 without damage to the municipal ways, other than normal wear and tear; then this
 obligation shall be null and void; otherwise it shall remain in full force and effect.

However, if the Principal designated as Contractor causes damage to any municipal way
 beyond normal wear and tear, in the construction of the above project through the use of
 legal weight, legal dimension trucks or equipment; or overweight or over-dimension
 equipment or trucks (as defined in 29-A MRSA) on the municipal ways, then this bond
 may be used to guarantee that the contractor either repairs or pays for the damage caused
 by the use of its equipment or trucks. The degree of damage beyond normal wear and
 tear will be determined by municipal officials with the assistance of the Maine
 Department of Transportation.

The Surety hereby waives notice of any alteration or extension of time made by the Municipality.

Signed and sealed this day of, 20.....

WITNESS:

SIGNATURES:

CONTRACTOR:

Signature.....

.....

Print Name Legibly

Print Name Legibly

.....

.....

WITNESS:

SIGNATURES SURETY:

Signature.....

Signature.....

Print Name Legibly

Print Name Legibly

NAME OF LOCAL AGENCY:

ADDRESS

TELEPHONE

NAME OF SURETY

SURETY ADDRESS:.....

BOND # _____

GENERAL GUIDANCE

CONSTRUCTION OVERLIMIT PERMIT AND BONDING

The Maine Bureau of Motor Vehicles (BMV) establishes requirements and standards for the permitting of non-divisible over dimensional and overweight vehicles and loads (collectively overlimit loads) on state roads. These state motor vehicle permits are available on-line. 29-A MRSA and Secretary of State Administrative Rules Chapters 155-157 apply. Additionally, municipalities and county commissioners may issue overweight permits for travel on municipal and county ways maintained by that municipality or county. These permits are typically single trip permits requiring vehicle registration data, intended route etc.

However, in this case we're dealing with *Construction Permits* involving overlimit loads in support of construction projects. According to 29-A MRSA § 2382 (7), a Construction Permit is a permit "for a stated period of time that may be issued for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation". According to 29-A § 2382 MRSA, the construction overlimit permit must be procured from the municipal officers for overweight loads on a municipal way in support of a construction project within that municipality.

By signing the attached agreement, the municipality agrees to issue construction overlimit permits to the MDOT construction contractor.

Frequently Asked Questions:

A. Why sign the document in advance of the actual construction contract?

Response: There are three primary reasons: First, to comply with 29-A § 2382. Second, to ensure that there are no surprises regarding the use of municipal roads by the Maine DOT contractor (to reasonably reduce risk and thus keep the cost of construction down) and third, to ensure the town is aware of its rights to control its own roads, and its rights to require a separate contractor's bond. (This is in addition to the Payment Bond and the Performance Bond the Maine DOT requires of the contractor).

B. Different roads may require different levels of scrutiny. How is a posted road handled?

Response: Despite the general construction overweight permit, the contractor cannot exceed the load limit on a posted municipal road without specific municipal permission. 29-A § 2395 MRSA notes that any ways requiring special protection (such as posted roads) will continue to be protected and overweight permits are superseded by such postings. In such a case the contractor would have to use an alternate route.

C. Is there any reason why the contractor cannot be held to indemnify and hold harmless the Municipality beyond the simple posting of a bond?

Response: The objective of our standard letter is to deal with overweight equipment and trucks on municipal ways during construction of an Maine DOT construction project. The bond merely provides a measure of protection against damage to municipal ways as a direct result of construction activity. Other areas of risk and indemnification are beyond the scope of our letter.

D. Are we required to obtain a bond?

Response: No. In fact, few municipalities have required a construction bond. It is a matter of risk management.

E. If used, what amount should be required on the bond?

Response: Previous MDOT letters used to speak about a maximum bond amount of \$14,000 / mile (\$9,000 / kilometer) of traveled length, however 29-A § 2382 sets no maximum. The amount of the bond (if any bond is required at all) is based on the individual situation. The MDOT will assist in providing a bond amount estimate if so requested.

F. Why the blanket approval?

Response: The blanket approval we seek is the reasonable accommodation by the municipality to allow the Maine DOT contractor to use town ways (if required) to haul overweight construction equipment and trucks. This theoretically gives the municipality and the MDOT time to discuss exceptions to a blanket approval. In general, this avoids unnecessary risks and saves money for all concerned in the long run.

G. Who determines the suitability of repairs?

Response: For municipal ways, the suitability of repairs may be determined by municipal officers. The MDOT will assist.

H. What is a non-divisible load?

Response: Per Chapter 157 (The Administration of Over-Dimension and Overweight Permits) under the Secretary of State administrative rules (See Rule Chapters for the Department of the Secretary of State on line), a non-divisible load is defined as: A load which, if separated into smaller loads or vehicles, would:

- 1) make it unable to perform the function for which it was intended;
- 2) destroy its value or;
- 3) require more than eight work hours to dismantle using appropriate equipment. Sealed oceangoing containers, spent nuclear materials in casks, and government-controlled military vehicles and their loads will be considered non-divisible

I. What is the standard for Overweight trucks and equipment?

Response: Overweight means a weight that exceeds the legal limits established in 29-A MRSA Chapter 21.

J. This is an unorganized township with no county or municipal roads. Why should I respond?

Response: Because of limited staff, we send out a standard letter to cover contingencies and minimize risk to the construction process. From time to time the letter may not have a practical application. In most cases of unorganized territories, the agreement is signed and returned as a matter of routine. This ensures that surprises will not be encountered after the start of construction regarding travel over municipal and county ways.

Additional tips:

False Information - Permit are invalidated by false information. A permit is invalidated by the violation of any condition specified by the terms of the permit or by false information given on the application. On evidence of such violation of falsification, the permittee may be denied additional permits.

Proper Registration - Overload permits do not relieve the registrants of vehicles from their obligations to properly register their vehicles in accordance with Motor Vehicle Laws.

Agent's Power of Attorney - If you do require a contractor's bond, make sure you have a copy of the Surety Agent's power of attorney authorizing the surety agent to sign for the surety. Keep the power of attorney with your duplicate original bond at the municipality. The contractor will also have a duplicate original.

Other bonds - The Maine DOT requires a payment bond and a performance bond of the contractor which is held against unsatisfactory performance on the part of the contractor for all construction projects over \$100,000. (The Miller Act (40 U.S.C. 270a-270f) normally requires performance and payment bonds for any federal aid construction contract exceeding \$100,000. 14 MRSA § 871 provides a similar requirement for state funded construction projects.) These bonds cover the proper performance of the contract and the payment of all employees, suppliers and subcontractors.

SPECIAL PROVISION 105
OVERLIMIT PERMITS

Title 29-A § 2382 MRSA Overlimit Movement Permits.

1. Overlimit movement permits issued by State. The Secretary of State, acting under guidelines and advice of the Commissioner of Transportation, may grant permits to move nondivisible objects having a length, width, height or weight greater than specified in this Title over a way or bridge maintained by the Department of Transportation

2. Permit fee. The Secretary of State, with the advice of the Commissioner of Transportation, may set the fee for single trip permits, at not less than \$6, nor more than \$30, based on weight, height, length and width. The Secretary of State may, by rule, implement fees that have been set by the Commissioner of Transportation for multiple trip, long-term overweight movement permits. Rules established pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

3. County and municipal permits. A county commissioner or municipal officer may grant a permit, for a reasonable fee, for travel over a way or bridge maintained by that county or municipality

4. Permits for weight. A vehicle granted a permit for excess weight must first be registered for the maximum gross vehicle weight allowed for that vehicle.

5. Special mobile equipment. The Secretary of State may grant a permit, for no more than one year, to move pneumatic-tire equipment under its own power, including Class A and Class B special mobile equipment, over ways and bridges maintained by the Department of Transportation. The fee for that permit is \$15 for each 30-day period.

6. Scope of permit. A permit is limited to the particular vehicle or object to be moved, the trailer or semitrailer hauling the overlimit object and particular ways and bridges.

7. Construction permits. A permit for a stated period of time may be issued for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.

8. Gross vehicle weight permits. The following may grant permits to operate a vehicle having a gross vehicle weight exceeding the prescribed limit:

A. The Secretary of State, with the consent of the Department of Transportation, for state and state aid highways and bridges within city or compact village limits;

B. Municipal officers, for all other ways and bridges within that city and compact village limits; and

C. The county commissioners, for county roads and bridges located in unorganized territory.

9. Pilot vehicles. The following restrictions apply to pilot vehicles.

A. Pilot vehicles required by a permit must be equipped with warning lights and signs as required by the Secretary of State with the advice of the Department of Transportation.

B. Warning lights may be operated and lettering on the signs may be visible on a pilot vehicle only while it is escorting a vehicle with a permit on a public way.

With the advice of the Commissioner of Transportation and the Chief of the State Police, the Secretary of State shall establish rules for the operation of pilot vehicles.

9-A. Police escort. A person may not operate a single vehicle or a combination of vehicles of 125 feet or more in length or 16 feet or more in width on a public way unless the vehicle or combination of vehicles is accompanied by a police escort. The Secretary of State, with the advice of the Commissioner of Transportation, may require a police escort for vehicles of lesser dimensions.

A. The Bureau of State Police shall establish a fee for state police escorts to defray the costs of providing a police escort. A county sheriff or municipal police department may establish a fee to defray the costs of providing police escorts.

B. The Bureau of State Police shall provide a police escort if a request is made by a permittee. A county sheriff or municipal police department may refuse a permittee's request for a police escort.

C. A vehicle or combination of vehicles for which a police escort is required must be accompanied by a state police escort when operating on the interstate highway system.

10. Taxes paid. A permit for a mobile home may not be granted unless the applicant provides reasonable assurance that all property taxes, sewage disposal charges and drain and sewer assessments applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from those taxes. A municipality may waive the requirement that those taxes be paid before the issuance of a permit if the mobile home is to be moved from one location in the municipality to another location in the same municipality for purposes not related to the sale of the mobile home.

11. Violation. A person who moves an object over the public way in violation of this section commits a traffic infraction.

Section History:

PL 1993, Ch. 683, §A2 (NEW).

PL 1993, Ch. 683, §B5 (AFF).

PL 1997, Ch. 144, §1,2 (AMD).

PL 1999, Ch. 117, §2 (AMD).

PL 1999, Ch. 125, §1 (AMD).

PL 1999, Ch. 580, §13 (AMD).

PL 2001, Ch. 671, §30 (AMD).

PL 2003, Ch. 166, §13 (AMD).

PL 2003, Ch. 452, §Q73,74 (AMD).

PL 2003, Ch. 452, §X2 (AFF).

Michael Smith
Beth Smith
147 Old Bath Rd
Wiscasset ME 04578
882-7146

February 24, 2012

Ms. Laurie Smith
Town Manager
51 Bath Rd
Wiscasset, ME 04578

Dear Ms. Smith,

We respectfully offer the Town of Wiscasset the amount of \$30,000 for the "Koehling Property" located at 215 Gardiner Rd. in Wiscasset. Our offer is contingent on the following:

1. Ability to obtain financing.
2. A satisfactory title search.
3. Review of whatever records the Town may have regarding the premises and the tank removal to satisfy that there is no environmental contamination.
4. Reasonable assurance by the departments of Planning and Codes that the land may be used for commercial purposes (we understand that there may be a planning board process that would have take place when we decide to build).

We would be willing to close no later than 45 days from the date we enter into a purchase and sales agreement. We are looking forward to expanding our business and are excited for this opportunity. We hope to hear from you soon.

Respectfully submitted,


Michael A. Smith


Beth A. Smith

RELEASE DEED

THE INHABITANTS OF THE MUNICIPALITY OF WISCASSET, a body corporate, located at Wiscasset, Lincoln County, Maine, for consideration paid, release to JENNY SPAULDING, of Wiscasset, Lincoln County, Maine (P.O. Address: 689 Gardiner Road, Wiscasset, ME 04578), all interest acquired in land in Wiscasset, Lincoln County, Maine, depicted on Wiscasset Tax Map R03, Lot 069-011, by virtue of real estate tax liens recorded in the Lincoln County Registry of Deeds at the following Book/Page numbers: 3474/173, 3709/9, 3881/39, 4044/205, 4175/277, 4297/284 and 4418/311.

The purpose of this conveyance is to release any interest which Wiscasset acquired in said real estate by virtue of said real estate tax liens recorded in the Lincoln County Registry of Deeds at the following Book/Page numbers: 3474/173, 3709/9, 3881/39, 4044/205, 4175/277, 4297/284 and 4418/311. This conveyance shall not operate as a waiver of any current year's real estate taxes which may be due or become due.

The said Inhabitants of the Municipality of Wiscasset have caused this instrument to be signed in its corporate name by Judith Colby, William Curtis, Pamela Dunning, David Nichols and Edward Polewarczyk, its Selectmen thereunto duly authorized, this _____ day of _____, 2012.

INHABITANTS OF THE
MUNICIPALITY OF WISCASSET

Witness

By _____
Judith Colby, Selectperson
Chairman of the Board

Witness

By _____
William Curtis, Selectman

Witness

By _____
Pamela Dunning, Selectperson

Witness

By _____
David Nichols, Selectman

Witness

By _____
Edward Polewarczyk, Selectman

STATE OF MAINE

Lincoln, ss.

_____, 2012

Then personally appeared before me the above-named _____, Selectperson of the Town of Wiscasset, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of the said Inhabitants of the Municipality of Wiscasset.

Notary Public

Printed name: