

**BOARD OF SELECTMEN
TOWN OF MADISON
APRIL 2, 2013
MINUTES**

Selectmen Present: Chairman Michael Brooks, Josh Shackford, and John Arruda.

Others Present: Town Administrator Melissa Arias; Deputy Fire Chief Richard Clark; and Madison TV Videographer Emilie Riss.

Absent: Fire Commissioners Joyce Elliott & Alan Gilman.

Where and When Posted: Town Hall upper & lower bulletin boards and Madison & Silver Lake Post Offices on June 30, 2011.

Meeting Called to Order: At 5:30 p.m. by the Chairman.

APPROVAL OF MINUTES – Arruda made a **motion** to approve the Selectmen’s Meeting minutes of March 16, 2013; March 20, 2013; and March 26, 2013 as prepared, seconded by Shackford, and so voted **3-0**.

APPROVAL OF MANIFEST – Shackford made a **motion** to approve the Manifest of March 25 – April 3, 2013 in the amount of \$275,456.64, seconded by Arruda, and so voted **3-0**. The Manifest breakdown is as follows: \$25,278.77 for payroll; \$7,733.84 for payroll liabilities; \$117,444.03 for accounts payable; \$125,000.00 for the Madison School District (release date 4/11/13).

THERE WERE NO PUBLIC COMMENTS

FIRE COMMISSIONERS – Brooks said this is the second Selectmen’s Meeting in a row the Fire Commissioners have been invited to but declined to attend. Brooks said this meeting was intended to cover the 2nd quarter of 2013 but the message from the Commissioners was they wanted to delay meeting with the Selectmen until after their next monthly meeting, which is Thursday, April 4th at 6 p.m. The Commissioners said their meeting is open to the public and the Selectmen are welcome to attend. Arias has posted that a quorum of the Selectmen could be present at the Commissioner’s meeting in the event any or all of the Selectmen want to attend.

BOARD/COMMITTEE ASSIGNMENTS – As discussed briefly at the March 20, 2013 meeting, the Selectmen were in favor of leaving the Chairmanship and Board/Committee assignments the same as in 2012.

TOWN MEETING RECAP – Article 5 = Brooks said the Board needs to move forward without delay on a sealed bid package for work on East Madison Road based upon the Town’s Purchasing Policy. Brooks said the Road Agent received a preliminary quote to replace the red-listed double culvert over Frost Brook, just past the cemetery, with a pre-engineered concrete structure. In preparation for the sealed bid language, Arruda asked that the Road Agent provide the current width of the traveled way of East Madison Road and the specifics on the existing culverts. Brooks said the company that provided the preliminary quote will not be disqualified from submitting a sealed bid.

Article 3 = Brooks said another item that remains out there is what to do with the \$50,000 appropriated for the repair or replacement of Engine 1. This was to be a discussion item at the meetings the Commissioners declined to attend.

Article 10 = Arruda asked if anyone has contacted Conway yet about the Madison PEG TV article. Arias said she hadn't because Conway doesn't seem to like to communicate with her; typically a Conway Selectman approaches a Madison Selectmen directly. Brooks said he'll reach out to Selectman DeGregorio to get the dialog going.

Article 9 = Brooks would like confirmation of the amount in the Highway Heavy Equipment Expendable Trust. He assumes there is \$20,000 based on the 2012 and 2013 approved warrant articles.

General Government Buildings - Shackford asked whether the roofing company knows the Town Hall project is a go. Arias said Precision Application has received a copy of the signed proposal and are likely waiting for better weather to schedule the work. Brooks said he asked the electrician about the Madison Garage ceiling fans and the electrician had yet to be contacted by the Road Agent to do that work. Arruda said we're nearly past the 2012-13 heating season anyway so there shouldn't be any rush. Arias pointed out the large quantity of heating oil used by the Madison Garage building this heating season, much more than any other building including Town Hall. The Selectmen wondered what the cause could be and came up with either poorly or non-insulated walls and/or an outdated heating system. Arruda is aware of a propane driven heating system with forced hot air blowers suspended from the ceiling over each workstation that heats just the area where employees are working.

Article 2 = Brooks said if the purchase of a new fire truck is going to be revisited at the 2014 Town Meeting the Town should start to look into a review committee and new bid process. Shackford said that might be putting the cart before the horse.

FIRE DEPARTMENT & COMMISSIONERS - Shackford said the first item of business should be to determine the legality of the Fire Department's organization and whether the Fire Commissioners are a Town authorized group. Brooks asked who has the burden of proof to prove if and when the Fire Department was organized per RSA 154:10 and when and how the Commissioners came to be. Brooks pointed out that the Highway and Police Department budgets are both larger than the Fire Department's budget yet there is no Road or Police Commission. Arruda said the Selectmen are the group in charge of the overall Town budget, including Highway and Police, so he's having a hard time believing Attorney Meier's opinion that the Selectmen aren't ultimately in charge of the Fire Department budget.

Brooks said he asked Arias at a recent meeting to dig around and try to find documentation or meeting minutes around the time of the 1983 Memo and the 1994 Policy written by the Selectmen about the Fire Commissioners. Brooks said the minutes of the Selectmen's meeting from August 9, 1983 show that Town Counsel was present and Bruce Brooks was Chairman. Several sets of Selectmen's meeting minutes around the time of the 1994 Policy also show that Attorney Cooper was present. Therefore, Brooks intends to draft a letter to Attorney Cooper, still of Counsel at Cooper Cargill Chant, and ask him to search his memory bank for any recollection. Shackford asked Brooks whether there's a conflict of interest with Randy Cooper being Town Counsel for 40 years and participating in these Selectmen's meetings that involved Fire Department matters and Chris Meier now representing the Fire Commissioners. Brooks said it's likely, but you also have to be concerned about the perception of a

conflict; whether or not it's determined that one actually exists. Brooks said he doesn't like the situation with the same firm being used by two Town groups or the idea that two Town groups can't sit down at a table and attempt to work things out without attorneys getting involved. Shackford said organization within the Fire Department has changed on a number of occasions in the past yet it doesn't seem to have been properly documented or voted on by the legislative body (Town Meeting).

Richard Clark said he filed a Whistleblowers Protection Act complaint with the NH Department of Labor last week due to the hostile work environment at the Fire Station. Clark also filed a Request for Documents per RSA 91-A with the Town Clerk today seeking copies of Fire Department and Fire Commissioner meeting minutes. Clark said there doesn't appear to be minutes that document any of the Fire Department or Fire Commissioner meetings where the internal reorganization of the department took place. Clark said he personally worked very hard to get the Commissioners to comply with RSA 91-A and take minutes of their monthly meetings during one of the Chief's recent winter getaways. Clark said he thought his recent request to the past recording secretary for minutes from 2006 to present was going to come through because he was originally told the minutes existed on a computer somewhere. However, Clark said he was told last night that the minutes couldn't be found. Clark said his biggest concern at this point is these on-going matters with the Fire Department and Commissioners will cause a division within the existing membership that will be widespread and detrimental to the public. At this point, Clark said he's willing to be the sacrificial lamb and take the matter(s) as far as he needs to in order to get a remedy. Clark said a new position has been established within the Fire Department without discussion and a vote at a properly posted meeting. Rumor has it that funds will come from the operating budget to pay the individual for their position of recording secretary. The Selectmen said there appears to have been several decisions made recently that either haven't been properly made during a meeting or couldn't possibly have taken place within the particular span of time for which a meeting would've needed to be posted, including the decision to retain an attorney. Arias asked the Selectmen what will happen if an invoice is received from Cooper Cargill Chant for legal services provided to the Fire Commissioners. Arruda said the invoice won't be paid. Brooks said the Commissioners may sign off on the invoice but since there isn't any legal line within the Fire Department budget the invoice will have to be paid by the Commissioners individually. Brooks pointed out the recent change in the RSA 91-A statute that makes individual board members responsible and liable for up to \$2,500 should they be found in violation of the Right-to-Know Law. Brooks is almost certain there was a breach in the Right-to-Know Law by the Commissioners in not properly posting meetings and taking minutes when fairly significant decisions were made. Brooks said it would be ridiculous to file a lawsuit over a Right-to-Know violation but said it could be done if we can't find a way to work things out.

Arruda said he likes the idea of putting a diverse group together between now and next time meeting that will hash out this one issue and prepare a warrant article for the voters to consider in 2014. The Selectmen said the group could be an odd number of interested unbiased individuals who don't have any "dog in the fight" and possibly a representative of the Fire Commissioners/Fire Department and Board of Selectmen (if those aren't viewed as conflicts). Brooks said he feels the citizens committee won't be worth the time and effort required of the individuals involved. Shackford asked Brooks for an alternative solution and Brooks said he would ask for a Receiver from the Attorney Generals Office to come in and get to the bottom of the issue. Brooks said this would be similar to what is currently being done at Tri-County CAP. Shackford said he would welcome someone from the State coming in for the purposes of an immediate intervention and unbiased ruling. Brooks asked Arruda if he is able to attend the Fire Commissioners meeting Thursday night. Arruda said yes but only to listen, not to discuss or debate

anything. Shackford said he has no intention of attending a Commissioners meeting at the Fire Station because those meetings should happen at the Town Hall during a Selectmen's Meeting.

TRANSFER STATION ELECTRONICS – Brooks said there are currently electronics stored all around the Gaylord container at the Transfer Station and it's unclear whether the current container is full or empty. The Town received an e-mail recently from NRRA stating that the Town has the option of paying an additional \$105 for a "pack-out" fee where the hauling vendors loads all electronic units into the container so Town employees don't have to struggle with the heavy units. The Selectmen were fine with having the additional fee charged with each electronic container haul until a better solution comes along. The Selectmen would like to get rid of the current accumulation of electronics at the Transfer Station as soon as possible. Arruda said the Solid Waste Advisory Committee has invited a local electronics vendor to their April 18th meeting to discuss another proposal for electronics disposal so he will report back to the Selectmen afterward.

REACH THE BEACH RELAY RACE & TOWN PROPERTY USE APPLICATION – The Selectmen were okay with the application to use the Madison Garage parking lot for overflow parking in September, especially considering the Police Chief already initialed off and specified the need for two police details during the road race.

NH REVERSE 911 – The Selectmen briefly discussed a letter from the NH Bureau of Emergency Communications about the upcoming option for towns to participate with the Reverse 911 alert system. Shackford said the system is an effective means of contacting residents or certain areas of town in the event of a significant emergency. Although the Selectmen are inclined to sign onto the program, Arias was asked to schedule a presentation from the Division of Emergency Services and Communications at a future Selectmen's Meeting.

WELFARE APPLICATION REVISION – Outgoing Direct Assistant Administrator Michele Duke has revised the Town's welfare application to mirror that in the Local Government Center's 2004 model welfare guidelines that were adopted by the Selectmen in 2005. The only comment of the Board was that the headings for the various components of the packet be better synchronized and placed in either alphabetical or numerical order. Arias explained that one of the forms was titled as an Appendix because it goes with and updates a part of the Welfare Guidelines while other forms are given alphabetical Form headings for the application and other documents used internally by the welfare administrator for the applicants file.

Motion: Brooks made a **motion** to adopt the new welfare application package together with appendix A (Allowable Levels of Assistance Payments), to be reformatted slightly before being circulated, seconded by Arruda, and so voted **3-0**.

Decision: The revised Allowable Levels of Assistance Payments and revised application package with internal forms was adopted by the Board.

VEHICLE LESSEE RESOLUTION – Brooks read the Lessee Resolution regarding the Master Lease Purchase Agreement dated as of April 1, 2013 between Tax-Exempt Leasing Corp. (Lessor) and Town of Madison (Lessee) and Schedule No. 01 – Exhibit E.

Motion: Arruda made a **motion** to accept the Lessee Resolution, seconded by Shackford, and so voted **3-0**.

Decision: The lease paperwork will be signed under Signature Items later in the meeting and a draft copy of these minutes will be required as proof of the Selectmen's vote.

SIGNATURE ITEMS –

Manifest

Payroll & Accounts Payable Checks

Town Property Use Agreement – Madison Garage 9/13/13 (if approved above)

Lessee Resolution w/Tax-Exempt Leasing Corp for Hwy truck & police cruiser – Arruda

Intent to Cut Timber #13-283-02T – Swamy (228-007)

Timber Tax Warrant & Worksheet #12-283-16T – Lucy Trust (254-010)

Current Use Land Use Change Tax A-5 & A-5W – Elaine Connors Trust (228-015)

Excavation Warrant & Worksheet #12-283-01E – AJ Coleman (110-002)

#12-283-02E – AJ Coleman (202-001)

#12-283-03E – Baron Trust (202-008)

#12-283-04E – Coleman Trust (202-026)

#12-283-05E – Pike Industries (102-003)

#12-283-06E – Purity Spring Resort (249-013)

Oath of Office – Zoning Board of Adjustment – Alternate member Kevin O'Neil (3 yrs)

Zoning Board of Adjustment – Member Henry Anderson (3 yrs)

7:09 PM – Shackford made a **motion** to adjourn, seconded by Arruda, and so voted **3-0**.

NEXT SELECTMEN'S MEETING – The next regular Selectmen's meeting will be April 16, 2013 at 5:30 p.m. in the Town Hall Meeting Room. However, the Selectmen have posted a Public Notice saying that a quorum of the Board may be in attendance at the Fire Commissioners monthly meeting on Thursday, April 4, 2013 at 6:00 p.m. in the Fire Station at 1917 Village Road.

Respectfully submitted,

Melissa S. Arias, Town Administrator
Recording Secretary