

**BOARD OF SELECTMEN  
TOWN OF MADISON  
APRIL 16, 2013  
MINUTES**

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

**Others Present:** Town Administrator Melissa Arias; Eidelweiss Commissioner Mark Graffam; Fire Commissioners Alan Gilman & Joyce Elliott; Deputy Fire Chief Richard Clark; Firefighters David Cribbie, Phoebe-Lynn Rand, & Jeffrey Eldridge; Trustee of Trust Fund Lynn Gilman; residents Dee Dudley, Phoebe Rand, & Fred Ham; Conway Daily Sun Reporter Daymond Steer; Police Chief Jamie Mullen & part-time Police Officer Robert King; and Madison TV Videographer Emilie Riss.

**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** – Shackford made a **motion** to approve the Selectmen’s Meeting minutes of April 2, 2013 as prepared, seconded by Arruda, and so voted **3-0**.

**APPROVAL OF MANIFEST** – Shackford made a **motion** to approve the Manifest of April 8-17, 2013 in the amount of \$63,381.91, seconded by Arruda, and so voted **3-0**. The Manifest breakdown is as follows: \$21,361.32 for payroll; \$6,946.52 for payroll liabilities; \$35,074.07 for accounts payable; \$0.00 for the Madison School District.

**PUBLIC COMMENTS** – Fred Ham complained about Lead Mine Road being opened by the Road Agent on April 10<sup>th</sup> regardless of the wet conditions. Ham said the Road Agent has been using the yorke rake on the Summer Cottage portion of Lead Mine Road himself the last couple days trying to dry and smooth it out. Ham disagrees with the road having to be open by April 10<sup>th</sup> in seasons like this one when there is a late winter. Ham presented pictures showing signs saying, “Caution – Mud – Pass at Your Own Risk” and ones showing overly rutted tire marks. Ham said vehicles with four-wheel drive can make it through but could easily get stuck if they met a car coming the other way. Ham said GPS will lead you through this road which is why it shouldn’t be opened until it is properly dried out and safe. Ham asked what it would matter if the opening of the road was delayed another week or two to ensure the safety of the traveling public.

Fred Ham said he’s been to a number of Selectmen’s Meetings where the Veilleux’s have said they’ll keep within their 75’ x 75’ property. Ham said there are currently two wood piles, an electrical meter (that should be on their house), and a satellite dish that are all on Town property. Ham complained about the Veilleux’s dog that isn’t properly leashed or controlled by voice commands. Ham showed pictures of these encroachments. Ham said the dog has come charging out and put him in jeopardy while he’s been walking. Ham said the Veilleux’s have installed a chain for their dog that is anchored in the middle of the logging road near the yellow gate in an attempt to discourage people from going into the Goodwin Forest. Ham asked the Selectmen to ensure these encroachments are taken care of. Ham asked why the Conservation Commission isn’t going after the Veilleux’s like they went after former owner Perkins. Ham said he doesn’t mind the Veilleux’s living out there as long as they live within their property lines.

Ham asked that the encroachments be photographed or placed on video for documentation. **END OF PUBLIC COMMENTS**

**TOWN-OWNED EIDELWEISS PROPERTY** – Eidelweiss Commissioner Mark Graffam was in to present the Selectmen with a letter from the Commissioners regarding town-owned property at 6 Saint Moritz Drive (tax map 109, lot 047). Graffam came to the Selectmen’s Meeting on March 5<sup>th</sup> for a preliminary discussion on this parcel and Eidelweiss’ interest in acquiring the property so water can be diverted there as part of the upcoming Oak Ridge Road project. The Eidelweiss Commissioners are proposing to pay the Town of Madison \$1,590 for the purchase of the property, which is slightly more than the amount of back taxes, interest (to the deeding date), and associated notices and recording fees. Brooks asked about the timing of the sale and found out from Arias that the former owner’s three-year right of redemption will end on September 1, 2013. Brooks asked Graffam if the transfer after that date would work within the Oak Ridge Road project and Graffam said yes because of the way the project has been phased out.

**Motion:** Shackford made a **motion** to authorize the sale of map 109, lot 047 at 6 St. Moritz Drive to the Village District of Eidelweiss for the sum of \$1,590, effective September 1, 2013, as long as the previous owner has not redeemed the property, seconded Brooks, and so voted **3-0**.

**Decision:** The topic will be put on the August 20, 2013 Selectmen’s agenda for discussion so the deed can be ready for signature on September 3, 2013.

**FIRE COMMISSIONERS** – Brooks said there are a lot of issues and things going on currently with the Fire Department. Brooks said the Selectmen would like to cover as much as possible in public session as long as the discussion steers clear of personnel or legal issues at which point the Selectmen will motion to go into non-public session.

Arruda said the Selectmen are looking for some Fire Commissioner meeting minutes that can’t seem to be produced. Arruda mentioned the letter from Attorney Meier at Cooper Cargill Chant stating he had been retained by the Fire Commissioners. Arruda asked the Commissioners whether they could produce the meeting minutes where they voted to retain Attorney Meier. Gilman and Elliott said there were no minutes because the Commissioners didn’t have a meeting in this regard. Arruda said a decision like retaining or hiring an attorney needs to be made during a properly posted meeting, even a non-public one. Arruda said minutes of meetings need to be taken and turned into the Town Clerk’s Office in paper form, not on a disk. Elliott said the Commissioners are trying to rectify the situation around the minutes. Brooks offered to have Arias provide the Commissioners with a copy of the Town’s Standardization of Minutes Policy. Shackford suggested the Fire Commissioners look to obtain a copy of the Knowing the Territory book for future reference. Arruda said future legal advice needed by the Commissioners can be obtained through the Local Government Center’s Legal Department which is accessible to them as elected officials. Arruda said he was trying to do research prior to Town Meeting about the bid process for the new truck through the Deputy Chief. Arruda said the bid package for a \$450,000 purchase should be easily accessible by the general public instead of locked in a filing cabinet that only the Fire Chief in Florida has keys to. Arruda said the Fire Department spent \$10,000 at the end of December 2012 to purchase equipment for the new fire truck that wasn’t slated to be voted on until March 2013 Town Meeting. Arruda believes much of the new equipment purchased is sitting in the attic at the Fire Department and may not be able to be used on other vehicles. Arruda said the bid package, once drilled out of the Chief cabinet, was found to have another \$10,000 built into it as a buffer for outfitting the truck

with equipment. Arruda said these two \$10,000 amounts would have easily covered the money cut from the 2013 budget and would have been better spent reimbursing the volunteers of the department instead of buying duplicate equipment. Arruda said the Town Hall administrative staff has spent days researching past and present records looking for an official Town Meeting vote that formally organized the Fire Department. Arruda said on top of that there have been internal changes to the management style of the Fire Department that weren't supposed to be made outside of a Town Meeting vote. Arruda said there is nothing personal about the matters that are being brought up. Arruda has never had an issue with the Fire Department but does closely watch the way monies are spent. Arruda said there are other matters hanging out there that are legal in nature such as the letter from the Department of Labor about the Whistleblower Protection Act complaint. Arruda said the Selectmen pursued the past complaint about whether the firefighters are considered employees or volunteers by contacting a Labor Law attorney who sought a ruling from the Social Security Administration that came back stating that Madison was handling things properly with respect to the volunteer firefighters. Shackford said the 2013 Town Meeting article to abolish the Fire Commissioners wasn't intended to be a power grab. The Selectmen are not looking to control the Fire Department; they have enough other things to spend their time and attention on. Shackford wants to ensure there is an open line of communication between the Fire Commissioners and the Board of Selectmen so things run smoothly. Arruda said the Selectmen have been advised to present a warrant article at the 2014 Town Meeting to officially clarify and document in the annual minutes the organization of the Fire Department under a specific sub-section of RSA 154:10 because we can't locate the official minutes of the organizational vote in previous Town Meeting warrants or minutes. Shackford said the Fire Commissioners and Officers of the department cannot arbitrarily change the sub-section for which the Fire Department is organized under without another vote of Town Meeting. Shackford said the Local Government Center suggested forming a group to discuss the best way to propose the 2014 warrant article on the Fire Department organization. Elliott said between 2000 and 2002 the State of NH required all Town's to address their Fire Department's organization and how monies were to be controlled and expended. Brooks said Commissioner Elliott may be referencing the former Firefighters' Fund that went by the wayside when the Fire Department filed for 501(C)3 non-profit status. Elliott said she believes her reference was a separate matter. Arruda said the Selectmen are in charge of the bottom line of the operating budget and all the warrant articles, except for ones pertaining to the Library. Arruda said the Town has purchasing policies that outline what can be purchased at the discretion of the department head without a Purchase Requisition, what requires a Purchase Requisition, what requires the need for 3 proposals, and what requires going out to sealed bid. Arruda said all Departments are expected to follow the Purchasing Policy. Brooks said he had a couple follow up questions from the last Fire Commissioner's Meeting that he and many others attended. Brooks said the Chief said \$11,950 worth of repairs was needed on Engine 1 so Brooks asked whether proposals would be obtained from three separate vendors. Gilman said the Commissioners didn't intend to spend that amount of money in one shot but over a period of time when the truck will be taken out of service to have 2-3 items of work done while another town provides coverage to Madison. Brooks asked for the result of Engine 1's pump testing and Elliott said it passed. Arruda suggested a group be formed when the Fire Department looks to spec out another new fire truck consisting of 1-2 Selectmen, 1-2 Commissioners, 1-2 Budget Committee members, the Fire Chief, and 2-3 residents. Arruda said a large purchase like that requires the understanding and support of a wide range of individuals who will speak in favor of the purchase at Town Meeting. Arruda said he called the Local Government Center the Monday after Town Meeting to inquire whether they've ever had to cover a catastrophic fire truck failure in any NH town they provide insurance coverage to and the answer was no. Arruda said he also called Lakes Region Fire Apparatus in response to an advertisement for new Class A compliant fire trucks starting at \$269,000 in the March/April 2013 Town and City magazine. Arruda brought up the issue with the concept of a used truck and said options

like these need to be kept on the table when considering the replacement of an existing fire truck. Arruda said Conway purchased their ladder truck used from Las Vegas, Nevada and it seems to be serving them well. Shackford asked the Commissioners point blank what the situation is with Chris Meier of Cooper Cargill Chant. Shackford said there is contradictory information between the letter from Meier and a statement made by the Commissioners at their last meeting. Elliott said the Commissioners never signed a letter of retention with Cooper Cargill Chant but they did look to get some legal advice. Brooks asked the Commissioners to hang around for a non-public session at the end of the regular meeting to address the pending litigation matter through the Department of Labor and the personnel changes within the organization.

**SCRUB OAK SCRAMBLER SNOWMOBILE ROW TRAIL PERMISSION FORMS** – Arias explained that this topic was not time sensitive and could be placed on a future agenda. The Selectmen agreed to have this done.

**PLANET AID RECEPTICLE AGREEMENT** – The Selectmen have received a Host Collection Bin Agreement from Planet Aid for the yellow receptacle(s) at the Transfer Station. This agreement will result in the Town of Madison receiving quarterly checks from Planet Aid amounting to \$0.01 per pound of clothing placed in the bin. Previously Transfer Stations were ineligible for the payback program but the rules were recently modified to include municipal waste facilities. The Selectmen were in favor of moving forward with the Agreement which will be signed under Signature Items.

**CLASS VI MODOC HILL ROAD** – A property owner living on the Conway end of Class VI Modoc Hill Road contacted the Selectmen’s Office and Planning Board looking for help in resolving an issue with four-wheel drive vehicles tearing up the Class VI Road during mud season. Brooks said legally there is nothing the Town can do to prohibit registered motor vehicles from driving on town roads, both Class V and Class VI. Brooks would like to look into options for posting Class VI Roads to no travel during mud season to avoid damages that make access over them during the other months of the year difficult. Brooks mentioned the designation of “emergency lane” or the ability of the Selectmen to close a road for a specific period of time due to an emergency situation. Brooks said these Class VI Roads are primarily used for emergency back-woods access and fire suppression purposes. Shackford suggested the landowner call the police when they see vehicles going into the Class VI Road knowing they have no means of traveling all the way through. Brooks would like to consider a Town Policy that would somehow preserve the driving surface of Class VI Roads during mud season. Brooks likened this scenario to the one Ham brought up during Public Comments. Brooks would like to find out what the Town is expected to do on a Summer Cottage Road after April 10<sup>th</sup> when the road surface is wet because mud season has dragged on causing ruts when driven over.

**EMERGENCY MANAGEMENT RADIO GRANT** – The Chairman announced that the Emergency Management Director has been awarded a grant for a new portable radio. As part of the award the Selectmen need to sign an acknowledgement form for the grant prior to delivery of the radio.

**Motion:** Brooks made a **motion** to accept the grant from the State of NH Department of Safety under the Radio Recipient Program for a Motorola portable radio for the Emergency Management Department, seconded by Shackford, and so voted **3-0**.

**Decision:** The Chairman signed the grant acknowledgement document for return to the State of NH.

**STATE POLICE LETTER OF RECOGNITION** – Arruda read the April 9, 2013 letter from Lt. Kevin Duffy, Commander of State Police Troop E thanking the Madison Police Department for their assistance in apprehending a violent criminal on March 13, 2013 in conjunction with the SWAT team and other local law enforcement officers.

**PART-TIME SEASONAL CLEANUP WORK** – Arruda said Bill Chick Sr. asked him whether the Selectmen would be willing to consider hiring a part-time seasonal helper for Wayne Jones. This person would help get the fields, parks, cemeteries and beaches in shape this spring and would be trained by Jones to eventually take the position over for him. Arruda needs clarification on whether Jones intends to shorten his hours this year or not because there isn't enough money in the budget to have both employees working together all season.

**PURCHASING POLICY** - Arruda would like to have the Selectmen review the 2008 Purchasing Policy at a future meeting to see whether it needs to be updated based upon the allowable dollar amounts. Shackford suggested Arruda work up a revised draft for the other Selectmen to review in order to expedite the process.

**PROPERTY ENCROACHMENT** – Arruda recommended the Selectmen address the matter of encroachment by the Veilleux's onto Town property before leaving the meeting tonight. Arruda remembers clearly asking the Veilleux's whether they could keep to their own property in the future and the answer was yes. Shackford said if the issue is trespass it would probably be best for the Police Department to investigate and notify the Veilleux's that they are in violation of the law since the issue has been documented through meeting minutes.

**TOWN HALL ROOF COLOR** – The Selectmen were shown the Astec Roofing color guide and asked to pick a color for the re-ply roofing project. The Selectmen opted to go with Fairway Green for the roof color. Arias will convey this decision to the company with the down payment.

**SIGNATURE ITEMS –**

Manifest

Payroll & Accounts Payable Checks

Excavation Warrant – 12-283-07E – Drew (232-038)

Notice of Intent to Excavate – 13-283-01E – Purity Spring Resort (249-013)

13-283-02E – Pike Industries (102-003)

13-283-03E – Coleman & Son (110-002)

13-283-04E – Coleman & Son (202-001)

13-283-05E – Baron Trust (202-008)

13-283-06E – Coleman Trust (202-026)

13-283-07E – Drew (232-038)

Timber Tax Warrant & Worksheet – 12-283-02T – Forrest Properties (241-002)

12-283-03T – Forrest Rev Trust (241-003)

Supplemental Notice of Intent to Cut – 12-283-03T – Forrest Revoc. Trust (241-003)

Appointment/Oath of Office – Library Trustee Member – Mary O'Neil

Library Trustee Alternate – Sandra Carr

Budget Committee Member – Jim Lyons Jr.

Budget Committee Alternate – William Lord

Planet Aid Agreement to Host Collection Bin(s) – Type B (4/1/13 – 4/1/15) w/W-9 Form

Emergency Management Director's portable radio grant receipt acknowledgement

**NON-PUBLIC SESSION – 6:53 PM** – Brooks made a **motion** to go into non-public session under RSA 91-A:3II(e) to discuss pending litigation with the Fire Commissioners, seconded by Shackford, and so voted. Roll Call Vote: Shackford – aye, Arruda – aye, Brooks – aye. **8:20 PM** – Brooks made a **motion** to recess the non-public session until Tuesday, April 23, 2013 at 5:30 p.m. when the third Fire Commissioner will be asked to participate via phone and Town Counsel will be asked to attend, seconded by Shackford, and so voted **3-0**. Brooks asked Arias to ensure the continuation of the meeting is properly posted.

**8:21 PM** – Shackford made a **motion** to adjourn the regular Selectmen's Meeting, seconded by Arruda, and so voted **3-0**.

**NEXT SELECTMEN'S MEETING** – The next regular Selectmen's meeting will be April 30, 2013 at 5:30 p.m. in the Town Hall Meeting Room. The Selectmen will reconvene tonight's non-public session at 5:30 p.m. on Tuesday, April 23, 2013 with the Fire Commissioners and Town Counsel in the Selectmen's Office.

Respectfully submitted,

Melissa S. Arias, Town Administrator  
Recording Secretary