

**BOARD OF SELECTMEN
TOWN OF MADISON
FEBRUARY 19, 2013
MINUTES**

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

Others Present: Town Administrator Melissa Arias; Jeff Caron of Precision Applications; Tax Collector Marcia Shackford; Solid Waste Advisory Committee Chairman David Downs and member Ray O'Brien; residents Henry Forrest, Mike Benoit, Mike & Donna Veilleux, Bob King, Sepp Meier; Library Trustee Chairman Peter Stevens; Madison TV Videographers Noreen Downs and Amy Boyd (in training).

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

Meeting Called to Order: By the Chairman at 5:30 p.m.

APPROVAL OF MINUTES – Shackford made a **motion** to approve the Selectmen's Meeting minutes of February 5, 2013; February 7, 2013; February 12, 2013 for the Layout Public Hearing; and February 12, 2013 for the regular meeting as prepared, seconded by Arruda, and so voted **3-0**.

APPROVAL OF MANIFEST – Shackford made a **motion** to approve the Manifest of February 11-20, 2013 in the amount of \$647,588.68, seconded by Arruda, and so voted **3-0**. The Manifest breakdown is as follows: \$23,364.81 for payroll; \$7,244.88 for payroll liabilities; \$31,978.99 for accounts payable; \$585,000.00 for the Madison School District (release date 2/28/13).

PUBLIC COMMENTS – Mike Veilleux submitted an e-mail today via the Town Administrator asking that a copy of the Madison TV Public Hearing recording be added as a supplement to the minutes. Veilleux said he realizes the Public Hearing is closed but would like the video to be part of the official record. Ray O'Brien said his letter read during last week's hearing used a poor word choice and wasn't intended as a criticism of the Selectmen. Peter Stevens said he would be present to answer questions about the Library budget later in the meeting and asked whether he could make a comment about the Layout Petition. Brooks said the Public Comment portion of the hearing was closed last week so the Selectmen can't use any testimony received after the closure to impact their decision. Brooks indicated that this is the Public Comment portion of the Selectmen's Meeting and anyone in the audience has a right to speak if they choose to. Donna Veilleux called for a point of order and said the Selectmen shouldn't entertain any further comments or public discussion on the Layout Petition since the public comment portion of the hearing is closed. **END OF PUBLIC COMMENTS**

TOWN HALL ROOF – Jeff Caron of Precision Applications was in to talk with the Selectmen about an updated proposal to install an ICC-Astec Re-ply Roofing System on the Town Hall. In 2011 the proposal was for \$19,975; the updated proposal is for \$23,040. Arruda asked Caron what the cost factor would be should lead paint or asbestos be discovered during the project. Caron didn't have a dollar amount available but said precautions are taken during the bidding process and the application process should hazardous materials be discovered. Caron gave a description of Precision Applications staff requirements and the re-ply roofing process for the benefit of the Selectmen and listening audience. Caron said after 10 years the company recommends reapplying the product to prevent environmental breakdown of the initial

application. Caron said the snow-guard would be removed and reinstalled after the roof was sealed. Arruda knows of three commercial buildings in the area that have been re-plied to the owners' satisfaction. Caron said the height of the building is not a concern and the company will schedule the work for times that are most convenient for the Town. The Selectmen thanked Caron for coming and said the task now will be to obtain funding.

PROPERTY TAX INTEREST WAIVER REQUEST – Tax Collector Marcia Shackford was in to explain how a bank check lost in the mail resulted in interest penalties on four different properties. Marcia said four taxpayers had their bank issue property tax checks to the Town on their behalf in December 2012 via an internet request. The individuals' bank accounts were debited the amount of the tax payment but the checks were never received at Town Hall. Marcia said the property owners called after receiving the required notice of arrearage in January to find out why they received delinquent notices. Marcia said she received a US Postal Service bag that contained an opened envelope and the four bank checks on February 4th. Between the delinquent notice and receipt of the checks Marcia said the four taxpayers paid their property tax balance and accumulated interest. Marcia said the total amount of interest charged and paid between the four properties is \$43.72. Marcia also said the Town has been receiving more and more mail in our PO Box that doesn't belong to us which makes her wonder how many people are receiving mail that belongs to the Town. The Town returns mail that isn't ours but clearly others don't always return mail that isn't theirs. In this instance, a postal patron received the envelope from the bank in error that contained the four tax payments, took it home and forgot about it only to realize five weeks later that the envelope didn't belong to them and needed to be returned to the post office for proper delivery. Marcia said the taxpayers have all been notified that she was meeting with the Selectmen to ask for approval for interest refunds. The Selectmen decided to refund the four interest amounts in the March 5, 2013 Manifest given the unique circumstances of this scenario.

VETERANS MONUMENT COMMITTEE – The Selectmen discussed the request of the ad-hoc Veterans Monument Committee to become an official committee of the Town by vote of the Board of Selectmen so the Town's tax identification number can continue to be used by the group. Arruda said the ad-hoc group has done a fantastic job getting the monument relocated so he'd like to see the committee continue under the Town's umbrella. Brooks asked Henry Forrest whether he had names of individuals willing to serve on the official committee. Forrest said there have been 11 individuals involved in the decision making to date. Forrest asked about the statutory requirements for posting meetings and how the group would determine Chairmanship and other offices. Brooks said the Selectmen would look to establish a board with appointed members having staggered terms along with alternate members with annual appointments. Forrest wanted to make sure Town Meeting doesn't have to authorize the formation of the committee. Brooks said the Selectmen have the authority to establish the Veterans Monument Committee as a sub-committee of the Board of Selectmen. Shackford said the Selectmen need to specify initially how many regular members and alternates will be appointed. Arruda said the meetings will need to be in a public location like they have been with basic minutes taken and provided to the Town Clerk for archiving.

Motion: Brooks made a **motion** to establish the Veterans Monument Committee with a total of 5 members (with staggered terms) and six alternates (annual reappointments) with appointments made by the Board of Selectmen at a future date, seconded by Arruda, and so voted **3-0**.

Motion: Brooks made a **motion** to name the Board of Selectmen as “Agents to Expend” on the Veterans Monument Committee fund held by the Trustees of the Trust Fund, seconded by Arruda, and so voted **3-0**.

Decision: The Town Clerk will be notified of the Board’s decision and will draw up the Oaths of Office once the members and alternates are determined. The Trustees of the Trust Fund will be provided a copy of the approved meeting minutes for their records regarding the expending authority of the Veterans Monument account.

VETERANS MONUMENT FUND PAYMENT AUTHORIZATION – The Selectmen have received a bill from Arthur’s Memorials for \$2,249.50 or 50% of the balance for the two granite monument additions.

Motion: Shackford made a **motion** to approve the payment of \$2,249.50 to Arthur’s Memorial from the Veterans Monument Fund by the Trustees of the Trust Fund, seconded by Arruda, and so voted **3-0**.

Decision: A copy of these minutes will be forwarded to the Trustees of the Trust Fund once approved so the payment can be released.

TRANSFER STATION STORM CLOSURE PROTOCOL – Brooks said there was an issue with whether or not to close the Transfer Station in anticipation of the most recent weekend blizzard. Brooks asked the Board whether they want to consider a policy on storm closures or not. Shackford said the matter got a little out of hand when the storm began on Friday and escalated from there. Arruda would like to steer away from a policy but said a phone chain should be established whereby the Transfer Station attendant calls the Town Administrator or one of the Selectmen to discuss storm closure rather than trying to track down the Road Agent while he’s working to keep the roads safe. The Selectman would contact the Town Administrator who would canvas the remainder of the Board for a determination. Shackford said it’s a common sense type of call that shouldn’t require a written policy. The Selectmen asked Arias how the closure was handled during the “Nemo” blizzard to ensure the adequacy of what was done. The Board was fine with future closure notification being handled the same way and asked Arias to send Memos to that effect to the Road Agent and Attendants.

2013 OPERATING BUDGET – Brooks suggested moving this discussion to the March 5th agenda and the other two Selectmen agreed.

TRANSFER STATION POLICY ON ELECTIONEERING & SOLICITATION – Arruda gave a brief explanation on how and why the draft policy came about prior to Brooks reading the policy out loud. Shackford ensured that Arias ran the policy by the Police Chief from an enforcement standpoint and by Town Counsel from a legal standpoint. The answer was yes to both.

Motion: Brooks made a **motion** to enact the Transfer Station Policy effective this 19th day of February 2013, seconded by Shackford, and so voted **3-0**.

Decision: The Selectmen signed the Policy which will be filed with the Town Clerk’s Office.

MEDIATION HEARING – Brooks announced that the mediation hearing he attended on behalf of the Board of Selectmen last Friday in Concord in the case of Benardo v. Town of Madison was not successful so a trial will be scheduled. Brooks said no other information can be divulged at this time.

SIGNATURE ITEMS –

Manifest

Payroll & Accounts Payable Checks

Veterans Credit Application – Paine (262-010)

Jesse Lyman Heating System Maintenance & Protection Plan 2013 – for Town Hall

LAYOUT PETITION DELIBERATION – The Chairman opened the deliberation portion of the Public Hearing continued from February 12, 2013 on the Lead Mine Road Layout Petition. Arruda said he spent a fair amount of time on this matter over the last week. Arruda said he reviewed information today from both Town Counsel and the Veilleux's attorney that said absolutely no information shared after the public comments closed on 2/12/13 was to be taken into consideration by the Board of Selectmen. Arruda didn't realize he was to be considered sequestered during this process noting how difficult this is in a small town. Arruda said he spent most of today working on the matter but was unable to come up with a solution that would satisfy the majority of the people. Arruda said he couldn't come up with an occasion to layout the road that balanced the concerns of both sides or supported the public benefit argument. Arruda said maybe Town Meeting 2013 will find an occasion. Brooks said he also spent time trying to come up with an outline on his findings. Brooks said he was clear that the sharing of information was to have stopped when the Public Comment portion of the hearing was closed. Brooks said that didn't stop the barrage of e-mails and other correspondences from varying sources who wanted to share their opinion or proposed solution. Brooks said he takes credit for the amendment at the 2012 Town Meeting. Brooks said he reviewed an e-mail from the petitioners counsel today that pointed out a couple of procedural or administrative issues that the Board of Selectmen must consider. Brooks said the need to turn around a truck and plow at some terminus would definitely require the need for land to be taken and damages paid. Brooks said the need to weigh public benefit versus personal gain is another consideration. Brooks said there is no designated parking for the public along this section of Lead Mine Road and quoted from the Goodwin Forest deed language that prohibits vehicular traffic, "...no motor vehicles shall be allowed except for safety, inspection or regulatory purposes..." Brooks said this deed restriction pertains to the entire southerly side of Lead Mine Road. Brooks said the land on the north side of Lead Mine Road is privately owned so the Town has no authority to grant permission for vehicles to park there. Brooks said Attorney Hampe warned strongly that the Selectmen cannot hand down a decision with conditions attached to it. Arruda said the Goodwin Forest can be easily accessed via Class VI Black Brook Road instead of along the highway to summer cottages section of Lead Mine Road. Shackford wanted to go on record saying that contrary to some of the testimony last week this matter is by no means personal to him. Shackford said he also found no occasion to layout the road to remove the designation. Shackford said the lack of public need versus the request for personal gain is what it's boiling down to for him. Shackford said Town Meeting 2013 will still hear the petitioned article and if the voters decide to support the article the Town will have to do it. Brooks said he has been through a road layout previously as a Selectman. Brooks said there are similarities between the two layout petitions but are also obvious differences. Brooks said the previous layout hearing was run similarly to the one last week only with much less audience turnout. Brooks said the Board of Selectmen in the previous case found occasion to layout the road which connected an easement and Class VI Road with Conservation land on the other side of private property. Brooks said the court's analysis on the lawsuit that followed and challenging the layout was the judge chastising the Board of Selectmen and reversing their decision to layout the road

because there was no legitimate public benefit or occasion to do so. Brooks said the Board's analysis and findings might have been different had the petitioners requested that the entire length of Lead Mine Road from Black Brook Road to East Shore Drive be re-designated, opened year-round to vehicular traffic and plowed/maintained by the Town Highway Department. Brooks said he isn't advocating for the opening of the road year-round but the consideration would have been very different. Arruda said he has been a Selectman for 13 years and has never had anyone question him about the use of or access to the Goodwin Forest or Cooks Pond area. Brooks referred the Board to an outline from Attorney Gorrow to ensure the Selectmen were following the proper decision making steps for the layout hearing. Brooks worked up a Return of Decision on the Layout Hearing document as provided by Gorrow and read the following into the record, "*Return of Highway Petition; Town of Madison, NH. On the 29th day of October, 2012, the Board of Selectmen of the Town of Madison received a Petition for Laying Out/Altering 0.7 miles of Lead Mine Road, a highway to summer cottages, from the intersection of Black Brook Road to the approximate property line of tax map 257, lot 001, signed by Michael P. Veilleux and Donna M. Veilleux.*

Notice was given to all affected landowners and the public, and a public hearing was held concerning the Petition for Laying Out/Altering a Class V Highway by removing "highway to summer cottages" designation and otherwise keeping open, maintaining and repairing Lead Mine Road throughout the year by the Selectmen on the 12th day of February, 2013. At the time of the public hearing, evidence was received from the following parties who reside in Madison unless otherwise listed: Michael Veilleux, William Chick Sr., Robbin Rancourt, Marcia McKenna, Noreen Downs (absent, letter read by Celeste Benoit), Raymond O'Brien (absent, letter read by M Veilleux), Ellen "Jay" Rancourt, Debra Noyes, Robert King, Fred Ham, Richard Eldridge, Joyce Elliott, Russell Jones, George Epstein, Mike Benoit, Edward Bickford, Gary/Terry Whiting (Kittery Point, ME), Sepp Meier, Carrie Sherman Whiting (Kittery Point, ME), Marc Ohlson, and Jamie Calderwood (Durham, NH).

The Selectmen personally examined the proposed route of the highway alteration and layout and after inspection and after hearing the evidence and deliberating on the same, the Selectmen hereby find that no occasion exists to lay out a highway without conditions or to remove the designation of "highway to summer cottages" as requested by the petitioners.

Given under our hands this 19th day of February, 2013. Madison Board of Selectmen.

Motion: Shackford made a **motion** to accept the above language and sign the Return of Highway Petition decision out of session once prepared by the Town Administrator, seconded by Arruda, and so voted **3-0**.

Decision: Return of Highway Petition will be typed up for the Selectmen to sign.

7:10 PM – Shackford made a **motion** to adjourn, seconded by Arruda, and so voted **3-0**.

NEXT SELECTMEN'S MEETING – The next Selectmen's meeting will be March 5, 2013 at 5:30 p.m. in the Town Hall Meeting Room.

Respectfully submitted,

Melissa S. Arias, Town Administrator
Recording Secretary