

**BOARD OF SELECTMEN
TOWN OF MADISON
SEPTEMBER 3, 2013
MINUTES**

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

Others Present: Town Administrator Melissa Arias; Planning Board Chairman Marc Ohlson; Shawn Bergeron of Bergeron Technical Services; Madison TV Videographer Tim Hughes.

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 August 20, 2013 and August 28, 2013 as prepared, seconded by Arruda, and so voted **3-0**.

APPROVAL OF MANIFEST – Shackford made a **motion** to approve the Manifest of August 26 – September 4, 2013 in the amount of \$176,543.13, seconded by Arruda, and so voted **3-0**. The Manifest breakdown is as follows: \$22,482.16 for payroll; \$7,413.06 for payroll liabilities; \$46,647.91 for accounts payable; \$100,000.00 for the Madison School District (release date 9/12/13).

THERE WERE NO PUBLIC COMMENTS

POMEROY BUILDING PERMIT – Since the August 6, 2013 Selectmen’s Meeting the Board has received correspondence from Ben and Debbie Pomeroy, Attorney Peter Malia of Hastings Law Office, and resident Robert D. King regarding the Pomeroy’s building permit application to replace a structure on Map 125, Lot 003-001. The building permit application was denied by the Code Enforcement Officer on July 30, 2013 because of the access and road frontage requirements of RSA 674:41. In one of Malia’s letters he notifies the Selectmen that there is still ongoing litigation in the Supreme Court (Thomas Ettinger v. Pomeroy Limited Partnership) and therefore the consideration on the applicability of RSA 674:41 by the Selectmen and Planning Board is premature at this time. Arruda said this particular matter has a number of strange and unique characteristics and predicts the Town will get dragged into Court by one party or the other no matter what decision is made. Arruda said he spent about an hour on the Pomeroy property with the Code Enforcement Officer and can’t see how the properties down Winter Road Extension could ever be used year-round given the narrowness and layout of the access road. Arruda said the houses out there have been in existence for over 50 or 60 years and he can’t see how this proposal will generate more traffic. Brooks said case law is still developing in matters such as these but the Town has in place the standardized Agreement used to hold the town harmless from liability when a building permit is sought off a Class VI or private road. Shackford said he isn’t gun shy about moving forward with a decision on the building permit and feels the Supreme Court case is completely separate from the building permit matter. Shackford asked Ohlson if he is reluctant to have the Planning Board review and comment at this point. Ohlson said he’d be inclined to try and get the opinion of an attorney before tomorrow night’s Planning Board meeting should the Selectmen want them to act on the review and comment request this month. Arruda said he’d feel more comfortable having a legal opinion before any Board proceeds but Brooks and Shackford were both in favor of having the Planning Board move forward this month rather than delay until October. Arruda

would like Town Counsel briefed in this matter since she'll be defending the Town if a lawsuit is filed. Ohlson said it doesn't make sense for the Selectmen to pay Town Counsel and the Planning Board to pay their attorney for separate advice on the same matter. The group discussed whether Ohlson should contact Planning Board counsel tomorrow for advice either before or during the Planning Board meeting tomorrow night and decided that Ohlson should do what he's comfortable with as Chairman. The Selectmen will also move forward with bringing Town Counsel up to speed on where the Town stands with this matter and get advice on the best way to proceed. Brooks said the topic should be covered under the Town's legal retainer until such time as a challenge or suit is filed.

BUDGET COMMITTEE MEETING – The 2013/14 Budget season will begin on Tuesday, September 17, 2013 at 7 p.m. with a Budget Committee meeting following the Selectmen's Meeting at 5:30 p.m.

NEFAB PROPOSAL REVIEW & COMMENT – At the last meeting the Board discussed the request of White Mountain Survey and Engineering, on behalf of NEFAB, for the Selectmen's review and comment on a two-lot subdivision proposal before the Planning Board for tax map 118, lot 004. The Selectmen determined previously that they were fine with the proposal so a letter was drafted for signature later in this meeting. A copy of the signed letter will be placed in the Planning Board wall bin at Town Hall prior to their meeting tomorrow night.

BURKE FIELD PAVILLION – Shackford asked Arias to locate the expired septic design plan for the Burke Field Pavilion project and see about having it updated and resubmitted to the Department of Environmental Services. Shackford also wondered if the drawings of the pavilion building could be located at the same time so the project can be resurrected in the future.

SIGNATURE ITEMS –

Manifest

Payroll & Accounts Payable Checks

Letter to White Mountain Survey re: NEFAB subdivision proposal before the Planning Board

Veterans Credit Application – (112-010-016)

Quitclaim Deed – Town of Madison to VDOE (109-047) for 6 Saint Moritz Drive

NON-PUBLIC SESSION – 6:05 PM – Brooks made a **motion** to go into three separate non-public sessions under RSA 91-A:3II(c) to discuss property tax matter with two property owners and the Tax Collector, seconded by Shackford, and so voted. Roll Call Vote: Shackford – aye, Brooks – aye, Arruda - aye. **7:10 PM** – Brooks made a **motion** to return to public session and seal the minutes of the non-public meeting, seconded by Shackford, and so voted **3-0**.

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

NEXT SELECTMEN'S MEETING – The next Selectmen's meeting will be on September 17, 2013 at 5:30 p.m. in the Town Hall Meeting Room.

Respectfully submitted,

Melissa S. Arias, Town Administrator
Recording Secretary