

Town of Chebeague Island  
Minutes of Regular Meeting of the Board of Selectmen  
Wednesday, May 13<sup>th</sup>, 2009 @ 7:00PM  
Chebeague Island Hall & Community

Present: Mark Dyer, Donna Damon, Herb Maine, Chris Rich & Scott Seaver.  
Absent: Leon Hamilton.

1. Meeting called to order at 7:05PM.
2. Approval of prior minutes.

**Donna Damon motion to approve all prior minutes with amendments as needed and bring them back to the next meeting.**

**Herb Maine second.**

**Discussion, none.**

**Vote: Unanimous.**

3. Approval of Expense Warrant #14-2009.

**Herb Maine motion to approve Warrant #14-2009 in the amount of \$64,274.81 dated May 11, 2009.**

**Chris Rich seconded.**

**Vote: Unanimous.**

4. Town Administrator Report.

Scott Seaver gave a Treasurers Report.

Scott advised the he has completed a rental agreement with Meredith & Marlene Bowen for the Sheriff for the summer season.

**Donna Damon motion to authorize Scott to enter into a rental agreement with Meredith and Marlene Bowen for the 2009 season for the Cumberland County Sheriff.**

**Herb Maine, second.**

**Vote Unanimous.**

Scott advised that the Cousins Island project has been put out to bid. There will be a mandatory bid meeting on May 26<sup>th</sup> and bids are due in June 2<sup>nd</sup>.

Scott, with your approval I will post the Office Assistance position on Thursday the 14<sup>th</sup>.

Donna, we need to let everyone know this is not a new position. Scott agreed.

Mark Dyer stated that Karen Hamilton had given her notice of resignation for July 28, 2009 as she is relocating.

**Herb Maine motion to approve posting and approve the renaming of the job position and development of the new job description.**

**Donna Damon seconded.**

**Discussion – none.**

**Vote: Unanimous.**

Scott, at the request of the Library, Hall and the Fire Chief will meet to develop an emergency plan of how things are opened and operated during an emergency situation. This will create a way to file for FEMA money if we have a storm and/or disaster.

Scott, Elaine Clark has requested a letter of support for Life Flight.

**Donna Damon motion to authorize Scott to write a letter of support for the Life Flight bond issue.**

**Chris Rich seconded.**

**Vote: Unanimous.**

Scott, we will be ordering more cold patch this week.

Scott advised that He, David, Tom, Claire and Jeff Putnam met with Steve Durrell from Prock. Steve looked at the Stone Pier and Chandlers Cove floats and will send an estimate on repairs, installation of pilings, etc by June 1<sup>st</sup>.

Scott, will be amending the CIP Budget to reflect changes. The CIP budget will also be amended to include a new back hoe.

Scott, upcoming meetings, warrant for town meeting and a workshop with Coastal Waters Commission on May 27<sup>th</sup>.

Scott, I will be on vacation the week of May 18<sup>th</sup> back on May 26<sup>th</sup>.

Donna Damon, will the figures be back from Prock by the time we hold the workshop? Scott, I'm not sure, but will find out if that is possible. Donna, I think it would be great if we had that information by that time.

Jeff Putman asked Scott if we will do the work with the equipment we have here on the island and will Town Crew do work. Scott, if we are lifting the granite blocks no, we will not be able to lift them. Prock would probably ground out the barge and do that with the crane.

5. Public Comment: Mark Dyer asked for any comments, see and hearing none closed public comment section.

6. New Business:

6.1 To have the Selectmen approve new and renewal of Victualers & Special Amusement permits for the following Island businesses:

1. Chebeague Island Inn:

**Herb Maine motion to approve renewal of Victualers & Special Amusement permits for the Chebeague Island Inn as presented.**

**Chris Rich seconded.**

Discussion: Donna Damon motion to amend Herb Maine's motion to include "pending a final inspection and approval on conditions mentioned by the Officers "  
Chris Rich seconded.

Donna Damon we are giving approval based on what the Inspectors have said needed to be done.

**Vote: Two in favor – Two opposed (on amendment to original motion)**

Patty Rich, does that mean that every day activities just go on? Scott Seaver, no it means that the Inspectors will need to go back and make sure everything is done. Mark Dyer, the Fire Chief has checked on the inspection sheet that a revisit will be necessary. One of the items is the Knox box. Anita Anderson had a check of the water temperature. Scott Seaver, they will just call her and advise this has been done. Mark Dyer, the other item is a check of the sprinkler system.

**Vote: Three in favor – One opposed (original motion)**

2. Chebeague Island Boat Yard:

Herb Maine, Fire Chief has mentioned an exit sign to be repaired and possibility of a Knox box. Health Inspector need of water test. Code Enforcement Officer keeping exit paths clear at all exit egress.

**Herb Maine motion to approve renewal of Victualers & Special Amusement permits contingent on recommendations from Inspectors are completed.**

**Chris Rich second.**

Discussion: Donna Damon stated that she will vote consistently no on renewals. Ken Hamilton, I do not want to discourage any motion, but seems to me if there are problems with the inspections you're approving it with some problems. You're granting approvals before the final approval of the Inspectors.

Herb Maine, the Inspectors points passed pending on approval of water testing. I say I put it as presented with the final approval contingent on water test.

Ken Hamilton, unless somebody is coming back and check on this how do you know it's been completed. Your Inspectors are not giving you enough information.

Scott Seaver, if the Inspectors do not hear from the establishment in a reasonable amount of time they will call.

Mark Dyer, I would like to have a better and more stream line process for these inspections so we have a complete package to look at.

Patty Rich, do they have a time frame that these things need to be fixed. Scott Seaver, their current permit expires in June.

**Herb Maine, I will amend the motion to include: contingent on follow up from Inspectors to be sure recommendations have been completed.**

**Donna Damon second.**

**Vote – Unanimous.**

3. Calder's Clam Shack:

**Donna Damon motion to approve Victualers Permit contingent on water test being completed.**

**Herb Maine second.**

**Discussion – none.**

**Vote: Unanimous.**

4. Doughty's Island Market:

**Herb Maine - motion to approve Victualers Permit contingent on recommendations from Inspectors are completed.**

**Chris Rich seconded.**

Discussion – Donna Damon, just that there is a need to up date electrical panel, install signs and water test.

**Vote: Unanimous.**

5. Sunset House Bed & Breakfast:

**Donna Damon motion to approve Victualers Permit contingent on recommendations from the Inspectors being completed.**

**Herb Maine seconded.**

**Discussion – none.**

**Vote – Unanimous.**

6. Slow Belle Café:

Mr. Komlosy will be returning the end of June.

Mary Holt volunteered to contact Jon and get inspectors in the building.

Donna Damon, if you get in touch with Jon can and then get in touch with the Town Office. Mary Holt agreed.

No action taken.

7. Orchard Inn Bed & Breakfast:

Mark Dyer, this is a request for new permits as the establishment is now under new management.

Donna Damon, what you are asking for is a Victualers & Special Amusement?

J Holt, we were informed by Anita Anderson that we were not eligible for a Special Amusement Permit at this time. J Holt at this time it will be only the Victualers Permit.

Mark Dyer, the Special Amusement permit is contingent on approval on septic approval from the State of Maine, is that due to the septic system?

J. Holt, I believe that's due to it being considered an expansion. Mark due to stress on the system? J. Holt yes. If we apply for the Special Amusement Permit we would have

to have the system evaluated. Mark, are there any plans for you to do this, J. Holt, not this season. J referred to the letter he submitted to the Town of future use. Donna Damon, is that the same case in the catering too. J, the catering is a separate business and hopefully will be certified this summer. Donna Damon, we are not being asked to rule on that tonight. J not tonight. J advised that it would be done in a different kitchen. Donna Damon, you will come back to us for that? J yes. Mark, when will the system be looked at? J advised that the system was looked at and did not pass the inspection. We have contacted the Taliento's, but have had not response. Donna Damon, there was a design in 1995, but never recorded in the Registry of Deeds. Mark Dyer, anytime you do construction or remodel an exiting property they will require to have a new system design. Donna Damon, they had a design done, but were not required to have it installed? Mark Dyer, yes.

Mark Dyer, did the Pat Jackson crew advise pumping?

Donna Damon, do you know when this system was installed? J, in the 1970's.

J Holt, Pat Jackson has been on site and did not recommend pumping at this time.

Scott Seaver, is anyone in the Pat Jackson crew a site evaluator? In Paul's inspection he noted no open signs of failure, but if it fails of course it will need to be replaced. It's a preexisting condition.

Mark Dyer, what I'm trying to say that it the system was bubbling up out of the ground that would be a totally different situation.

Scott Seaver, remember just because a new plan has been drawn up does not mean it needs to be installed.

Jenny Goff, what happens if the system fails? Mark Dyer, if the system starts to fail you will probably see signs of this happening and you have to call in a plumber to help.

Donna Damon, I would with it being contingent if the system fails it will be replaced.

Scott Seaver, I would not put it as being contingent on the system failing. If it fails they know it will need to be replaced. Donna agreed.

**Donna Damon motion to grant approval of Victualers Permit contingent that the Taliento's file and/or record with the Registry of Deeds the design of the new septic system that was done in 1995.**

**Herb Maine seconded.**

**Discussion – none.**

**Vote: Unanimous.**

6.2 To have the Selectmen approve Cumberland County Sheriff Contract for 2009-2010.

Donna Damon discussed her concerns about winter coverage and unregistered vehicles.

Scott Seaver advised the Sheriff has been putting orange tickets on parked unregistered vehicles and he can give a summons to anyone driving an unregistered vehicle. Donna Damon asked what we get for our money. Scott advised what we have in the contract. She asked if a day's coverage is eight hours or six with travel. Scott advised it is six with travel.

Mark Dyer advised he will back contract, but has reservations. He would like a meeting set up with Jeff Davis and Kevin Joyce and voice our expectations.

**Herb Maine motion to authorize Scott Seaver to sign contract with the Cumberland County Sheriff Department for the 2009 – 2010 seasons.**

**Chris Rich seconded.**

**Discussion – none.**

**Vote: Unanimous.**

6.3 To have the Selectmen consider proposed changes in the Coastal Water Ordinance.

Mark Dyer recommends holding a Workshop May 27<sup>th</sup>.

**Donna Damon motion to hold Workshop with Coastal Waters Commission on May 27<sup>th</sup>  
@ 6:00PM at the Island Hall. This work shop will be to discuss ordinance changes.**

Please invite the Shellfish Committee.

Herb Maine seconded.

Discussion –

Herb Maine asked what the objectives were. I would just like a little background why the changes are being made. Scott, I think that's important. The document that was emailed out is a good starting point. It encompasses a lot of ideas. The document has some side notes from Coastal Waters in Jeff's letter from last summer. We should be able to pull it all together into one ordinance.

Mark Dyer, maybe a sheet to pull all the ideas together. Who will do that? Scott, Claire and I will. Jeff Putnam advised he will be working on too.

**Vote: Unanimous.**

**PAGE FOUR**

7.1 To have Selectmen to discuss request from Robert & Stella Patten.

Mark Dyer, the Patten's came to the Board a while back and asked the Board to consider action down on the corner of Capps Road where it turns toward their property based on a right of way situation that was discovered when someone tried to purchase their house.

Robert Patten, yes Mark that pretty well states the situation. We presented a proposal for the Town to consider. The proposal for the Town to consider was a Town Public Easement for the piece of land that goes across the Chamberlain property. The second proposal was for a Proscriptive Deed. We did contact the Chamberlain family, but all were not in agreement. The Board asked that we try to approaching this individual again about a consideration that could be made to solve this none deeded right of way. We have tried to contact the individual, but have had no response. Here we are looking for a way to solve this problem with three different way of doing it. They all have there pluses and minus's. What we would like to do is move in some direction of how the Town feels this problem should be solve and if the solving of this problem at Artist Point Road will make it easier to solve other similar right of way situations. At the last meeting Mark, I remember that you suggested setting up a subcommittee review the situation and report back to the Board.

Mark Dyer, I think it's safe to say that we took a little bit different direction when we met with the Town Attorney. The Board met at least once with our legal counsel about this issue. I believe we have come to some kind of a conclusion or consensus out of those meetings. We have been that it will not be in the best interest of the Town of Chebeague not to take action in this area at this time.

Donna Damon, Mark is repeating what the Town Attorney said. What legal counsel said that if this was a road to the water she would give different advice. I disagree with her. The reason I disagree with her is the whole situation is very unfortunate and the reason that I do is that I was hired by Kitty Freeman to research the road after a conflict that you people had when she was trying to move into her house. I researched all the land in that area. What I found was a road that people had signed affidavits that people had always used that road. We found two parcels the Sharp and the Coon property who had deeded rights of way dated back to 1890's but what we also found was that those deeded right of way's to the Sharp and Coon properties, but they where not specific they did not delineate where the right of way come out, Capps Road was not laid out at the time those right of way's were delineated. There are two issues; one if the freedom of movement which has been the culture of this community and the price of island homes that has escalated in price. We are talking about a piece

of land that's less than 4,000 square feet and if you take if you take one hundred ninety seven (197) feet length of the road and multiply it by fifteen (15) feet of the width of the road at it's largest point. I understand that one set of the Chamberlain family will not sign off and now we have a letter from the Gaston family on how that it might affect them. I think they are worried that their property will be devalued if this becomes a road. I think this Board and this community should send a message that people in the community that people have always had access on should always have access. I think we should find out an estimate of what we would be talking about it the Town did take the first part of the road by eminent domain. What would be the value of the property and how much would it cost? We have no idea at this time. It's the last thing people would want to do. As land changes hands and people come and do not have the same ethic as we do were going to find our selves in this same situation again.

PAGE FIVE

Robert Patten, I understand Donna the position and assume that your representing the Town's position. Donna, no I'm representing my own opinion and position not everyone else's. I'm giving my opinion on what is the right thing to do. It's different from what the Town Attorney told us what to do, this is my opinion. Robert, if I might make a comment as I do not know the Town Attorney and this right of way does go to the shore on the Freeman property into a highly delineated path which is used by fisherman there is a prescriptive path. Donna, what she said was, she agreed because I showed her that the road went straight through to Springettes. She said when you talk about prescriptive that there is nothing there to keep the land owners from getting together and suing the Chamberlains. That you could as land owners or users you could have a class actions suit with any of the people who are or have been user of that road.

Mark Dyer, I have worked with Donna a lot on this situation and she understands a lot more about this than I do. I do not disagree with what she has said and how she looks at this the problem from my point of view after meeting with the Town Attorney for myself that I have quite enough reason for the Town to take action on your request at this time, but I have to take advise from the Town Attorney and act prudently on that advice. My opinion at this time is to not take any action at this time.

Robert Patten, does the rest of the Board feel that way?

Robert Patten, Herb you talk about practical access to the water. Robert to Kitty Freeman, there is a designated path to the water.

Kitty Freeman, the original path came down the road and went into the Coons property, right now there is a septic system right there anybody would go onto the Coons property and walk around the septic system to get to the path.

Robert Patton, Kitty how do you get to your property on Artist Point Road?

Kitty Freeman, the path does not go down to the water from there. It goes past our house, past Rice's and goes to Springettes and goes up to the Coons property.

Mark Dyer, if something can be shown to the Town different than what we have seen so far that would benefit the Town or the public otherwise I don't think I can look at it any other way.

Herb Maine, what I would like to see is that the owners of these properties get together again and discuss the situation and come back to us. It would be really clear to me if it where a public concern and not just of the land owners. If these land owners had done all they could I guess I would look at this differently.

Robert Patten, I am disappointed of course and I can understand, but I do believe if you take those properties down there and develop even a private prescriptive right of way let alone a public right of way or even a Town Public Easement we might be able to solve this without Town participation.

Donna Damon, I would like to see the Town involved because it would give us a chance to talk to all the land owners and preserve a walking path that would be preserved for ever. I see that as an opportunity to the Town.

Robert Patten, if I could make a concluding statement. I would like to see the Town pursue the element of looking into taking the first one hundred ninety seven feet (197) of the road and see what it would cost. We need to work in concert with the other residents on Artists Point road and see if what we can do. Stella, the other owners are not interested in selling their property they will be passing in down.

Mark Dyer, are you saying that you are willing to get the neighbors talking about this more about this situation? Stella Patten, sure we will.

Donna Damon, in order to make this work what will have to be done is to open this up to the people. What it entail to justify us taking that part of the Chamberlain property would be an easement for a walking path that would go over the property of the Patten's, Tonk's, Sharp's, Coon's and into the Freeman's to get to Springettes Point road by Perkins. All those people along the way would have to be willing to go along with that. This would resolve this problem once and for all because it's the same problem we had five (5) years ago. It's the same issue you had with Kitty. If the Freeman's couldn't get over your property then you couldn't get over the Chamberlain's. The Chamberlain deed does not say anything about the right of way even though the Sharp's and Coon's deed says there is a right of way over Louisa Webb's property and her house sat where the Chamberlain's is.

Mark Dyer, I think what I would do at this time where we are going with this at least tonight.

Herb Maine, the questions remains if the Town staff be involved with the research. I would like to have Scott's in put on the possible cost of and the effort involved in taking the one hundred ninety seven feet.

Donna Damon, all the research has been done when Kitty Freeman needed information. What we need is the cost to take the property.

Scott Seaver, you are talking two projects. The costs would be in the appraisals what you would pay out. The taking of land by eminent domain is not expensive, but before you enter into that you have to be certain it meets standards of public benefit. The other cost would be town meetings, lawyer fees and payments to land owners. You could have \$4,000 to \$5,000 tied up in this.

Stella Patten, we would be glad to help, but I feel the best conclusion is to get the land owner(s) to sign off.

Kitty Freeman, if the Town took over the road would they be obligated to maintain it.

Scott Seaver yes.

Mark Dyer, what if our conclusion for tonight?

Herb Maine, the question is do we ask the Town staff to do the research?

Donna Damon, I think we would do better if a couple of us spoke with the land owners.

Mark Dyer, I'm not willing at this time to direct Town staff to do any research.

Donna Damon, I am willing to speak to land owners. Mark Dyer agreed to help Donna in the situation.

Donna Damon, to the Patten's, please remember that it could be a month or two before anything happens. Bob & Stella acknowledge this.

Chris Rich, I agree with Donna. I believe that all existing paths and access to the shore should be preserved. I do not at this point believe that the Town should take any action on your request at this time.

Mark Dyer, I believe we are in consensus that Donna & I will contact or try to contact as many land owners as possible and come back to the Board.

Mark Dyer, thanked everyone for their input and time.

7.2 To have the Selectmen consider changes to the Parking Ordinance to allow All Terrain Vehicles on Town roads.

Mark Dyer, we have had requests from residents of the community to propose to the people at the Annual Town Meeting to amend and/or make additions to the Parking Ordinance to allow these vehicles on the Town roads.

Herb Maine, Leon has been handling this and as he is not here tonight I will try to bring everyone up to speed tonight. At this time it's pretty unformed at this point. They believe it will alleviate the parking issues at the wharf and be more convenient and cheaper. Long Island has an ordinance that has safety requests and only about two paragraphs allowing these vehicles on the roads. There was a State Statute that was put forward that didn't go very far. Leon's goal is to get something put together and have it ready for Town Meeting. I do not know if we have enough time to hold public meetings, but this puts it out on the table.

Doug Ross, do we gain any revenue by registering these vehicles. Susan, we get a dollar per vehicle the excise tax goes to Inland Fisheries & Wildlife.

Doug Ross, is there any positive or negative feedback from Long Island on this?

Donna Damon, I've had and it started out fine and then had problems.

Herb Maine, Leon phrased it to me that they have not had any problems and Joe Schnaupp advised they hadn't, but that's all I know.

Doug Ross, did Long Island do this because of parking issues.

Susan, no they do not have the parking issues we have.

Mark Dyer, for me it's going to be how the ordinance is written and how it can be enforced.

Aaron Rugh, I think it would be very convenient.

Mark Dyer, I think we should take a shot at some language for an ordinance.

We need someone to try to come up with some language.

Herb Maine, I think we should ask Aaron if he would work with Scott on this.

Aaron Rugh agreed to speak with Scott and see what they can come up with.

Mark Dyer, Susan when does the wording need to be finalized for this to go on the Town Meeting Warrant end of May first week of June?

Susan, it would be nice to have it ready early.

Donna Damon, but we do have a way to add emergency articles.

Herb Maine, the warrant doesn't have to be posted at all, just the notice. The warrant and the articles are one and the same. The notice of the meeting is different.

Susan, we usually post the warrant & articles the same day.

Mark Dyer, when would we schedule a meeting to discuss this? Is there enough time?

Herb Maine, I guess it will be the wording and how complicated it is.

Mark Dyer, thank you Aaron for offering to help.

8. New non-agenda items to be presented by Selectmen.

Herb Maine, we need to discuss how we are going to form the warrant.

Mark Dyer, Scott is on vacation for the next week and the budget is not finalized.

Donna Damon, maybe a meeting the first week of June to finalize the budget.

Mark Dyer, I will stop into the Town Office tomorrow and chat with Scott.

9. Adjourn meeting.

Herb Maine motion to adjourn @ 10:00PM

Chris Rich second.

Vote; Unanimous

Respectfully submitted by Susan Campbell, Town Clerk



