

**MINUTES OF THE SELECTMEN/EXECUTIVE  
COMMITTEE MEETING  
TOWN OF FRYE ISLAND  
APRIL 5, 2008**

The meeting was conducted by teleconference.

The meeting was called to order at 9:03 AM by John Nun.

SELECTMEN: John Nun, Mark Thomas, Phil Perry.

BIT EXECUTIVE COMMITTEE: Bruce Nisula, Joe Potts, Bob Miner, Debbie Anthony, John Nun, Mark Thomas, Phil Perry.

TOWN MANAGER: Wayne Fournier

TREASURER: Joe Potts

PUBLIC: Wayne had provided dial-in information to Dave O'Grady. No Public dialed in.

**PETITIONS FROM THE PUBLIC**

None

**OLD BUSINESS**

**Project Updates:** See Attachment A, Manager's Report, for details.

- **Toomey Appeal:** No Change.
- **Frye Island vs State of Maine:** No Change.
- **Water System Upgrade:** No Change.
- **Marina Dredging:** Amendment of the Dredging Permit to extend the jetty is in progress.
- **East Pump House:** No Change.
- **David O'Grady Fee Complaint:** No change.
- **Derek Yates Fee Complaint:** No change.
- **Island Ferry Gantry Beam:** No change.

**Consent Agreement for 273 Leisure Lane:**  
See Attachment A, Managers Report.

**Ferry Invoices:**

See Attachment A, Managers Report.

**Police and Safety:**

See Attachment A, Managers Report. Wayne said that, with four officers potentially available, we should have 24 hour on-call service if needed.

**Code Enforcement Officer:**

See Attachment A, Managers Report.

**Island Opening:**

See Attachment A, Managers Report. John Crosby is there, working on the mainland. There is still about three feet of snow and ice in the channel. Wayne said it would take about a week to bring the water system up; road system an unknown until snow goes out and DPW can get to the island to inspect winter damage. Still a potential of late opening; Wayne will provide notices via email and to Joe for the web page as appropriate.

**Road Fee Schedule:**

Wayne had discussions with our attorney about the issue. The attorney recommended we table further actions pending a court decision on the fee suits.

**Leisure Lounge Liquor License:**

Wayne has submitted the application for renewal of the Leisure Lounge Liquor License under the rule of continued operation for over five years without prejudice (no public hearing or Selectmen approval required).

**Other Old Business:**

- The request for the Bingo license will be submitted in May. FII and FI are in good graces with the state authorities and Wayne does not see any problems.
- Wayne will check with the town attorney on potential for the town to recover legal fees associated with suits that are found in favor of the town. It appears that we should be able to recover most, if not all fees.

**NEW BUSINESS****Appointment of Paul White as Assessor (term: 5 Apr – 30 Jun 08):**

No appointment is needed if Paul continues as Agent of the Board of Assessors (BOS) until 30 Jun 08. At that time the BOS will have to either appoint an Assessor or Agent of the Board of Assessors. The BOS decided to continue with Paul as the Agent until 30 Jun and re-address the position at the meeting (14 Jun 08) when all appointments for the next year are executed. Wayne has resumes from certified CEOs and Assessors based on MMA publication of our current vacancy

### **Discretionary Ferry Funding Program:**

Wayne provided the EXCOM with copies of the Ferry Boat Discretionary (FBD) Program FY 2009 Project Application and the cover letter that was sent to our State Representative, Tom Allen. This was the next step to actually request funding support to carry out the recommendations of the Transportation Committee (EXCOM meeting 16 Jun 2007). The estimated total cost \$2M to be spread over three phases of \$750K, \$750K, and \$500K each. The FBD program, if approved, would provide 80% or \$600K, \$600K, and \$400K and the Town would need to appropriate 20% or \$150K, \$150K, and \$100K. Phase 1 funds are requested for FY 2009. The other phases are not requested in this application; Phase 2 and 3 applications would have to be separately submitted for later funding, possibly as early as FY 2010 and 2111. Wayne expects to have cost estimates for ferry modification and initial land use plans from two separate contracts by May 08.

### **Foreclosures:**

The Town has sent foreclosure notices for non-payment of taxes to three lot owners (1816, 1786, and 366).

### **Carry Forward – Frye Island vs State of Maine \$8,389.87:**

Wayne requested the BOS approve carrying forward \$8,389.87 in legal fees for the Frye Island vs State of Maine Supreme Court appeal incurred in FY2007 but not yet expended; if not approved funds would revert to the Fund Balance.

MOTION by John Nun to approve carrying forward \$8,389.87 from FY2007 to FY2008 to pay for legal fees incurred in FY2007 in the Frye Island vs State of Maine Supreme Court appeal; second by Phil Perry – UNANIMOUS.

Joe Potts, Treasurer, said he would inform the auditors of this decision.

### **Discussion – Emergency Alert – FIEXT@fryeisland.com:**

Joe Potts described a potential systems approach to provide emergency notifications to island owners/residents using cell phone texting. Basically run from one or more PCs, the system has a listing of participating owners cell phone numbers and sends group mail notifications. The system is effectively no cost and we would do it in-house, e.g., from Town Office, ferry trailer and/or Fire Department. Joe recommended a trial run – Board members provide their Lot # and Last Name in a text message to **fryetext@comcast.net**; the sender's address will be captured on Joe's end.

**Establish Summer Meeting Schedule:**

MOTION by John Nun to set the following Summer meeting schedule (all at 0900 AM unless otherwise noted):

- EXCOM Meetings:
  - 17 May
  - 14 June
  - 5 July
  - 9 August (combined with Budget Committee meeting)
  - 27 September
  - 18 October
- Budget Committee Meetings:
  - 9 August (combined with EXCOM meeting)
  - 23 August
  - 13 September (Public Hearing)
  - 27 September (Finalize Warrant)
- Town Meeting: 11 October

Second by Phil Perry; UNANIMOUS

**Other New Business:**

• **Quitclaim Deed:**

Wayne will send a Quitclaim deed for release of a lien dating back to 2001/2002 that was paid but not properly documented at the time to John Nun and Phil Perry for signatures (only two required).

• **Recreation Director:**

Phil Perry pointed out that Candace Coville might not be returning this summer and we should be looking to replace her. Wayne will check with Candace and, if required, will start a search, to include St. Joseph's College. Mark Thomas indicated he might know somebody who would like the job.

- **Proposal to Trade Lot 1159:**

John Nun had received in information copy of a proposal by Bill Speed to consider trading his Lot 1159 for another buildable lot on the island. While the lot is buildable and is in a desirable location, there are potentially serious problems with building and maintaining an extension to South Beach Road to provide owner and safety access to the lot. He had sent the proposal to Wayne, who had not received it, and to John Crosby for information. Wayne said that the town might be in possession of a tradable lot. The current FII policy is not to trade any more lots. John Nun said he would forward the proposal to Wayne. Wayne will look into the proposal and come back with a recommendation.

- **SAD-6 13 May Referendum**

Wayne said that he has been advised that there will be a referendum for SAD-6 voters on 13 May; he will distribute absentee ballots as required and open the polls for voters on the island.

## **REVIEWS and REPORTS**

### **Meeting Minutes:**

MOTION by John Nun to approve minutes of 16 Feb 08 BOS/EXCOM meeting, previously provided; second by Mark Thomas – UNANIMOUS.

### **2000 YTD Financials:**

Financials had been previously provided to the Board members. New formats are a big help in reading and understanding the reports. There was still an open question on how the Town is being billed for winter electricity by CMP. An answer is expected shortly. Joe Potts pointed out that the last payment on the Kubota tractor should have been allocated to Golf Equipment Reserves. John Nun recommended that, in the future, we include the reports on Financials as part of the Treasurer's report. The Treasurer has been doing the reports, relieving Wayne of a large monthly burden and it makes more sense that they be part of the Treasurers Report; all agreed.

### **Treasurers Report:**

On the Reserve Funds report, Mark noted that all entrees go back to 2006. He would really like to see three numbers – where we start (typically the end of last year), what has been done, and where we are now; generally simple and straightforward. Joe said that should not be a problem.

The Merrill Lynch CDs are on a four year cycle so we roll approximately \$250K per year on average.

Joe reported that account reconciliation is still a problem –

There is a problem with the Merrill Lynch CD accounts – They treat CDs as investments and report market value instead of real value. This has caused Calvin to treat the difference as interest which is not correct. It has been corrected thru Mar 08 but is pending for 07 which is in hands of auditors.

Calvin is still working bank account reconciliations; TRIO is not friendly but does support this. Again, the auditor will set up 07, we have to catch up in 08 and keep it up monthly.

**Golf Report:**

Nothing to report since last meeting.

**Marina Report:**

Wayne reported that the Marina Committee will be coming to the Board with a request to place channel markers in the entrance to Quail Circle. There are apparently two lot owners who are opposed to this based on aesthetics.

**Executive Session: None**

MOTION by John Nun to adjourn at 1101 AM, seconded by Phil Perry – UNANIMOUS.

Respectfully submitted,  
John B. Nun  
First Selectman

Encl: Attachment A – Managers Report 5 Apr 08

Attachment – A. Town Manager Report 5 April 2008

**Toomey Appeal:** Mr. Toomey had filed an application with the Frye Island Board of Appeals requesting a variance of 25 feet from the 100 feet setback from the lake that the Shore Land Zoning Ordinance requires. (This would reduce the setback from 100' to 75') The Board of Appeals originally granted a variance to 80 feet then later reconsidered and denied the variance. Mr. Toomey appealed that final decision to the Superior Court which ruled in Mr. Toomey's favor based on the timing of the reconsideration. The Town appealed that decision to the Supreme Court. On March 11<sup>th</sup> the Supreme Court over turned the Superior Court decision ruling that the FI Board of Appeals had 45 days to reconsider a previous decision and had, in fact, reconsidered within the required time frame. In addition, the Court also supported the Board of Appeals final decision to deny the application for variance stating that the use of Mr. Toomey's property for recreational purposes benefits as a reasonable return on his investment.

On March 25<sup>th</sup>, Mr. Toomey, against the recommendation of his attorney, filed an appeal to the Supreme Court requesting the Court reconsider its decision denying his appeal. The Supreme Court has not yet responded to Mr. Toomey's request.

**Frye Island vs. the State of Maine:** *(No Change)* Oral arguments were held before the Supreme Court Justices on January 17<sup>th</sup>. We received word on 2/07/08 that the Supreme Court had denied our appeal. The document has been distributed to the Board.

**Water System Upgrade:** *(No Change)* Camp Dresser and McKee has completed its initial review of our system and made their recommendations for improvements. Their report was presented at the October '07 Town Meeting. We have received component proposals on labor and materials to replace and upgrade the distribution system based on CDM's recommendations. We will need to make decisions on the following:

- Does the Town want a full engineering plan at a cost of \$65k to \$75k or will the Town purchase all materials and install the new system using subcontractors under Town oversight?
- How will we phase the project?
- How will the project / phases be financed?
- When is the best time to do the phases?
- What size replacement lines should we use?

*I would suggest that we plan to commence replacing the section of piping down High Point Drive beginning at the intersection of Independence and going to the intersection at Birch and Ridge Roads. I realize that CDM suggested starting with Ridge Road because of the breaks we have had in the system and if we were going to contract the complete job I would*

*agree but I think the consensus is to do the work ourselves and I think a less inhabited road would be a better start for us to “practice” on. This would allow us to identify the logistic and installation issues and determine the time requirements to perform this work so that we can prepare a plan for the rest of the Island. I would plan to start the work right after Labor Day and work until the weather or the completion of the job shuts it down. Estimates are that we could finish this in about 30 days but we don’t know this for sure. This schedule would allow us to purchase and stage the materials that are needed and plan our labor through the summer. I think if we try to do anything before the fall we would have to rush and would be more likely to overlook something which could result in more costs and much more congestion for the Islanders.*

2. **East Pump House:** *(No Change)* The new pump house is essentially complete. The structure is done, all the equipment has been relocated and installed, and the electrical work is 99% complete. The new generator has been installed, the inlet piping from the lake has been re-routed and the discharge piping has been connected. There is still work to be done on the control system, which will be completed in the spring, but this will not prevent operation of the equipment.
3. **Marina Dredging:** *(No Change)* The dredging project was suspended for the winter because of the weather. It is essentially complete but does need a little more clean-up around the edges. We have been assured that this will be done as soon as the weather permits. While reviewing the dredging project during the DEP application process, we asked Bill Bullard, the DEP project manager about reworking the stone jetty that extends into the lake on the north side of the Marina entrance. His comment at the time was that it would delay the dredging permit application and the chances of being allowed to do anything with the jetty were remote. We still feel that it would be a good idea, and once completed, it would reduce the amount of sand that washes into the channel and thereby reduce the frequency that we would have to dredge. Recent correspondence with Main Land Development, the DEP and Frye Island indicates that there may be a chance of getting the jetty rework approved. We have asked Main-Land Development to pursue amending the dredging permit to allow the re-work of this jetty. We have an estimate of \$4,000 to \$6,000 from to prepare this permit application. It will require a tier 3 permit.
4. **David O’Grady Fee Complaint:** *(No Change)* David O’Grady filed a complaint in Superior Court claiming that our municipal building fees were excessive and illegal. Written briefs have been submitted to the court. We are awaiting further instructions from the Court. There is no change since the last meeting.

5. **Derek Yates Fee Complaint:** *(No Change)* Mr. Yates filed a complaint in the Cumberland County Superior Court last year that was dismissed by the Court for failure to serve the Town in the required time. Mr. Yates was able to convince the Court that he had filed the complaint properly and the Court has essentially reset the clock allowing Mr. Yates to begin the process anew. We have asked the Court to consider the complaints concurrently as they are basically the same. We have no further information at this time.
  
6. **Island Gantry Cross Beam:** *(No Change)* When the ferry gantry on the Island was being painted it was discovered that the horizontal cross beam that goes between the vertical uprights of the gantry was twisted. This beam is underwater so we had the divers that were working on the haul-out facility inspect and video this beam and its connections. I am told that when the gantry was being installed the large vertical legs of the gantry could not be driven into the ground as far as was intended so this beam was attached as an after thought to keep the bottom of these legs from walking. There are two pockets that are attached to the vertical legs and the beam fits into these pockets and is attached to the pockets. The video revealed that the pockets had been damaged. The beam itself appears to be fine but the pocket on the south leg is almost torn off. The one on the north leg isn't bad but does show some damage. Again, we don't know exactly what caused this but a good guess is that when the ramp fell into the water it hit the beam and caused the damage. The beam has fallen into the water a number of times so it is hard to say if it is the result of one event or if it is cumulative. If I had to guess I would guess that it happen this past season when the horn on the ramp slipped off the ferry with a dump truck on it. By some miracle the truck didn't go into the lake but the south side of the ramp seemed to go in pretty hard. We have made adjustments to make sure that the Ramp horns are positioned better on the ferries to prevent a similar occurrence. I have received a plan from the engineer to make the repair. Because this is under water we will need the divers again. We have spoken with Divers Down again to get a price on the repair. I think this will probably be a spring project. It shouldn't have any impact on starting the ferries or opening the Island.
  
7. **Consent Agreement-Lot 273:** The consent agreement for alleged violations of the Shore Land Zoning Ordinance on lot 273 was sent to Mr. & Mrs. Zea requesting remittance of the signed agreement with the \$10,000.00 contribution to the Town by Friday March 21. We did not receive either the signed agreement or the contribution the 21st so I contacted our attorney. He suggested that we wait until Monday before taking any action. On Monday we still had not received anything so I contacted our attorney again and he indicated that he would be contacting Mr. Zea's attorney and determine what he would recommend as the next step. He had not been able to reach Mr. Zea's attorney by Thursday

March 27<sup>th</sup>. Legal costs may be available if we have to pursue this case through the court system.

8. **Ferry Invoices:** Mr. Zea has been invoiced \$24,000 in ferry fees accumulated at the end of the 2007 season. A couple of weeks ago, Mr. Zea told Calvin Nutting that he would be sending a check to cover this invoice minus \$3,000 that he is disputing and wants a hearing with the Executive Committee. When Mr. Zea began his construction on the Island he was transporting material in a tri-axle dump truck. The fee schedule is based on the number of rear axles. A three axle dump truck is charged \$240.00 per trip. Mr. Zea contends that because we have a 7 yard load limit which can be carried with a single axle dump truck at a cost of \$96.00 and because we limited him to 7 yards per trip even though his truck was capable of carrying more, he shouldn't have to pay the tri-axle rate. I have informed our attorney of this also. He will be addressing this with Mr. Zea's attorney as well.
9. **Police and Safety:** Dana Wessling has resigned as the police officer for Frye Island to pursue other interests. In his place, I have hired Rod Beaulieu to serve as our Chief of Police. Rod retired from the Sanford Maine Police Dept. after 20 years. During that time he served as a patrol officer, a detective, detective supervisor and 14 years as a patrol supervisor. He brings a lot of experience to the position. In addition, he has three other certified police officers that will be assisting him on an as needed basis.
10. **Code Enforcement Officer:** Paul White has resigned as our CEO to take a full time position in Eliot Maine. He has agreed to answer questions relating to building permits through the winter until we can find a replacement. We are in search of a certified Code Enforcement Officer, and Local Plumbing Inspector to fill this position on a part-time, seasonal basis. We plan to have this position filled by the time the Island opens. I have a potential candidate. We are trying to workout the details now.
11. **Island Opening:** This year, as usual, it is very difficult to predict if the Island will open on schedule. The ice shouldn't be the problem this year but the snow cover may. Last report was that there was still 4 feet of very hard packed snow covering the Island. John plans to be in Maine the first week of April, I will be there the 2<sup>nd</sup> week. We will do our best to get the Island opened as soon as the weather permits. We will also get reports to Joe for the website and we will update the answering machine daily to keep Islanders informed.