

**MINUTES OF THE SELECTMEN/EXECUTIVE  
COMMITTEE MEEETING  
TOWN OF FRYE ISLAND  
AUGUST 9, 2008**

The meeting was conducted in the Town community center.

The meeting was called to order by Mark Thomas at 9:00AM.

SELECTMEN: Mark Thomas, Phil Perry; absent John Nun.

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

TOWN MANAGER: Wayne Fournier

TREASURER: Joe Potts

**PETTIONS FROM THE PUBLIC**

None

**OLD BUSINESS**

1. Approve/disapprove placement of markers in Quail Circle approach:  
There was one last proposal from abutters to the Quail Circle/Cove to modify the Marine Committee's proposal from two pairs of red/green markers to one pair plus a black/white hazard marker at the rock in the south side of the channel. David Bond of the Marine Committee reiterated their decision for the two pairs of markers.  
**MOTION** by Phil Perry to accept the Marine Committee proposal for two pairs of markers along with their placement of said markers. Seconded by Joe Potts --  
**UNANIMOUS.**

**Project Updates:**

2. **O'Grady/Yates Fee Complaints:**  
See Attachment A for status of Superior Court filings.  
On August 8, 2008, Selectmen Nun and Perry and Town Manager Fournier met with Mark O'Grady and three members of the Cumberland County Commissioners to hear O'Grady's request for abatement of his taxes. The Commissioners made no decision at that time but wanted to review with their legal counsel Frye Island's right to levy certain fees which O'Grady contends are taxes. The Commissioners were told that this same complaint was being reviewed by the Maine Superior Court but that its decision was still pending.

**3. Lot 273 Consent Agreement:**

See Attachment A for status.

**4. Discretionary Ferry Funding Program:**

See Attachment A for status. Approval still pending in Washington, DC.

**5. Water Distribution System:**

See Attachment A. Work will start on the 4” distribution piping within the next two weeks and will go from the Independence/Highpoint junction north to Sunset.

**6. Ferry Service/Fuel Costs/Revenue Projections:**

The Town Manager reviewed the continuing shortfalls in both fuel costs and revenue for the ferry service. It is noted here that at a special BIT meeting held July 26, 2008, a fuel surcharge was voted upon and approved by a vote of 42 in favor and 28 against. The fuel surcharge of \$3 per unit for the discount tickets and \$6 per unit for regular priced tickets was put into effect August 1, 2008. The Town Manager will continue to monitor the fuel and revenue projections for possible actions vis-à-vis the ferry service which might require a town warrant to transfer reserve funds to balance out the year.

See Attachment B: Special BIT Meeting of July 26, 2008 for details of the fuel surcharge.

**Other Old Business:**

None

**NEW BUSINESS**

1. The Town Manger requested permission to extend the ferry service by one additional day (to Tuesday, November 4, 2008) to accommodate voters for the State and National election. This would eliminate the need to transfer installed telephone lines and special equipment mandated for elections to the ferry trailer on the mainland. In addition, he is investigating whether the hours can be shortened leading up to the mandated closing of 8PM. MOTION by Bruce Nisula to extend the ferry scheduled service by one day through November 4, 2008, seconded by Phil Perry—UNANIMOUS.
2. There was considerable discussion concerning the numerous requests to hold the last ferry for late arrivals or to make special runs late at night. This item was tabled until the next meeting with John Crosby to come back with specific recommendations as to what costs were to ferry crews and even whether the crews were willing to accommodate these requests. Until then, current policy will remain in effect.

3. The Town Manager reviewed his first cut at the budget for 2009. He cautioned that refinements were still ongoing in most of the areas that can be controlled. Complicating the whole picture are the very large increases anticipated in both the school and county tax requirements. Specifics are to be reviewed in open discussions with the public at our upcoming budget reviews.
4. Phil Perry agreed to do a review and analysis of CMP meter locations and relevant charges to those specific meters especially when the island is closed for the winter months. This is not an urgent matter but is to be done to better allocate electricity charges.
5. A brief review was held of both past recreation revenue amounts along with the net of the 10<sup>th</sup> Anniversary Celebration revenue. Discussion centered on controlling any future expenses to be charged against these revenues. **MOTION** by Phil Perry to move these funds from the following three recreation accounts (205-10, 205-11, and 205-30) into the Recreation Reserve Fund Account and further, to approve expenditure of up to \$1000 for the Recreation Director to purchase a 37" LCD TV with DVD capabilities, a heavy rolling cart upon which to mount it (enabling it to be used in multiple locations throughout the Community Center) and related items. Seconded by Mark Thomas—**UNANIMOUS**.
6. Considerable discussion concerning the need to repair and paint/stain the south side of the Community Center as there has been considerable deterioration there. It was suggested that possibly there was a need to consider a systematic replacement of the current clapboard with a more permanent siding such as vinyl. This was tabled until the next meeting pending a quote as to what can be done with the limited funds available from Frye Island, Inc.
7. No action is to be taken at this time on handicapped access and/or service to be provided to the handicapped while alternatives to a very expensive alteration (ie a ramp from Recreation Lane into the office area.) are being investigated.
8. The Town's updated 5 Year Comprehensive Plan is due in September 2008 and needs some financial input. Treasurer Joe Potts has agreed to assist the Town Manager with the Planning Board to provide their required information. Further, the Planning Board is asking for Islander help in this Plan update/project.
9. The Labor Department recently conducted an inspection on the Frye Island infrastructure. While there were no serious infractions, there were many small ones which added up to a fine of \$9800. The Island will be allowed to correct these infractions using an informal reporting system. This may result in no actual outflow of funds. See Attachment A for more details.

**Other new business:**

None

## REVIEWS AND REPORTS

### **Meeting Minutes:**

The BOS/EC minutes for the July 9, 2008 was postponed until the next meeting.

**MOTION** by Bruce Nisula to approve the minutes of the Special BIT Meeting of July 26, 2008. Seconded by Phil Perry. --**UNANIMOUS**

### **2008 YTD Financials:**

Financials previously provided to the board by the Treasurer. As previously noted, all fuel costs are up and both ferry and Town revenues are down. The situation is being closely monitored for possible revisions in, specifically, ferry policy and or fund transfers.

### **Treasurer's Report:**

Treasurer Joe Potts indicated that after further review, only \$375K of the up to \$500K previously approved would be moved into short term CDs. This is to prevent the Town's checking account from being short of operating funds. Further, in addition to the **Monthly Financial Summary (See Attachment C)**, the **Reserve Funds Summary** will now be included with the BOS/EC meeting minutes (See Attachment D).

### **Golf Report:**

Mark Thomas reported on the Club's fund drive for additions to the Club House from not only the Club members but as well from all of those others who use or benefit from use of the Club House (bridge, monthly dinners, bar, TV, etc). There is hope that all Islanders would see the usefulness of this addition as well as an upstairs TV room that would attract late night young people to gather and to watch TV ball games. This, conceivably, could lessen problems on Saturday night with teens and other young people with nothing else to do. He reported that the fund drive is going well and it is about half way to its \$30-35K goal for the kitchen and restroom renovation.

### **Marina Report:**

The ongoing controversy about markers in the Quail Circle/Cove approach has taken up very much time by the Marina Committee. Their proposal to the BOS/EC is for the two pair of red/green markers which the BOS/EC has adopted.

**MOTION** by Mark Thomas to enter into Executive Session at 11:30AM. Seconded by Bruce Nisula---**UNANIMOUS**.

**MOTION** by Mark Thomas to close Executive Session at 11:05PM. Seconded by Bruce Nisula---**UNANIMOUS**.

**MOTION** by Bruce Nisula to adjourn at 12:10PM. Seconded by Phil Perry—**UNANIMOUS**.

Next meeting is at the Community Center on August 23, 2008 at 9AM.

**Enclosures:**

Attachment A – Manager’s Report for August 9, 2008.

(See next page for details)

Attachment B – Special BIT Meeting Minutes of July 26, 2008.

<http://www.fryeisland.com/tdoc/twnmtg/BIT080726.pdf>

Attachment C – Monthly Financial Summary – July 2008.

<http://www.fryeisland.com/tdoc/finsum080731.pdf>

Attachment D – Reserve Funds Report July 31, 2008.

<http://www.fryeisland.com/tdoc/resfund080731.pdf>

## Attachment A – Manager’s Report for August 9, 2008

1. **Water System Upgrade:** The Board appropriated the money in the Water Reserve for the installation of a 4” water distribution line along Highpoint Drive from the intersection at Sunset Road to the intersection at Birch / Ridge Roads. John Crosby is updating the material list now and will be ordering materials as soon as this is finalized. We anticipate starting work by the end of June. Fire Chief Persson raised the question of running a larger (6” – 8”) line from the intersection of Independence down Highpoint to the Community Center so that a fire hydrant can be installed. This would provide a water supply in the event of a fire at the Community Center. The water distribution pumps will not support a typical fire hydrant; however, we will be installing a 4” hydrant in the Community Center area that can be used to fill the trucks in an emergency. The pipe and fittings have been ordered.

*The 4” pipe and most of the fittings are on site. We also have the fusion machine and have had a brief lesson in its operation. More extensive training has been planned with hopes of beginning the installation of the new section between Independence and Sunset next week.*

2. **East Pump House:** The new pump house is complete. The system is in operation. There is still some minor programming of the controls needed but this is not affecting the operation. The programmer is working off site then will return to install the changes. The old pump house has been removed.

*We were struck by lightning again last Sunday. This is the third or fourth time this year. We installed a grounding system on the storage tank to eliminate that source but we are still getting hit. It is the instrument engineers’ belief that we will have to install an overhead line from the East Pump House to the new treatment building in order to minimize the probability of that being the source of the problem. I have asked the consultant working with the insurance company if he knows of a “lightning expert” that could help us.*

3. **Marina Dredging:** The dredging project is complete. We have also begun the work on the amendment to the dredging permit to allow us to increase the height and length of the stone jetty at the entrance to the Marina. Surveyors from Main-Land Development Consultants have completed the site work needed for the application. The project engineer feels that the application should be ready to submit to the DEP by the end of June. He also said that he felt the DEP would take 3 months to complete its review so we probably won’t hear much before the end of the summer. *No Change.*
4. **David O’Grady Fee Complaint:** Our attorney has sent a letter to Mr. O’Grady stating that the BoS/EC would consider a formal request for a refund of some portion of his building permit fees. This was with the understanding that this in no way meant a refund would be granted. Mr. O’Grady has until May 30 to submit a formal request. The request has been received and will be considered at the 06/14/08 meeting. The fee complaint to the Superior Court is on hold until the request to the BoS / EC for a refund is decided. At the last BoS/EC meeting, the ExCom denied Mr. O’Grady’s request for a refund. We have not heard anything further.

*Mr. O'Grady has filed with the Superior Court for a "Motion for Entry of Judgment" against the Town. The Town has in turn filed in opposition to this motion.*

5. **Derek Yates Fee Complaint:** Our attorney has sent a letter to Mr. Yates stating that the BoS/EC would consider a formal request for a refund of some portion of his building permit fees. This was with the understanding that this in no way meant a refund would be granted. Mr. Yates has until May 30 to submit a formal request. The request has been received and will be considered at the 06/14/08 meeting. The fee complaint to the Superior Court is on hold until the request to the BoS / EC for a refund is decided. At the last BoS/EC meeting, the ExCom denied Mr. O'Grady's request for a refund. We have not heard anything further.

*Mr. Yates has filed with the Superior Court for a "Motion for Entry of Judgment" against the Town. The Town has in turn filed in opposition to this motion.*

6. **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.

Mr. Zea has requested a meeting to discuss the notice of violation and the consent agreement. This meeting was held on June 13, 2008.

I have received a signed copy of the consent agreement with the \$10,000 contribution. Paul White and Mike Morse (DEP) met with O'Donal's Nurseries Monday, 30 June, to finalize the replanting plan. The revised plan will not be available for approval until the week of 7 July. I guess this plan has gone by the wayside.

*The signed Consent Agreement has been recorded at the Registry of Deeds and we have a recorded copy in the file. Based on the recent emails from the DEP, there appears to be some difficulty getting an approved plan. .*

7. **Ferry Invoices:** Mr. Zea has been invoiced \$24,000 in ferry fees accumulated at the end of the 2007 season. He has paid \$4,000 toward the total bill and informed me that I would have the remainder by the end of May. This will be discussed at the 06/13/08 meeting. Mr. Zea has written a check for \$9428.00 and has claimed the remainder was overcharge. I have not deposited the check because it was marked "payment in full" and I have to review all of the invoices for the overcharge claim.

*I have been through the invoices in dispute and have only accrued about half of the deductions Mr. Zea claimed and I disagree with all of them. Our attorney has said that I should be very specific before addressing this with Mr. Zea so I have to do more work. I spoke with Mr. Zea today and he will be coming to the Island this week and staying for a couple of weeks so I will get this resolved while he is here.*

8. **Discretionary Ferry Funding Program:** The application for phase 1 has been submitted through the Maine DOT to the Federal Highway Administration. The application is making the rounds in DC. We have applied for 2009 money and are in hopes of hearing something by the October Town Meeting.
9. **2007 Audit:** The audit is essentially complete and a meeting has been scheduled with the auditors for Thursday 9:00 AM to review the details. The draft of the Managers Discussion and Analysis (MD&A) is complete waiting for the audited numbers.

*The draft copy of the MD&A has been forwarded to the auditor.*

10. **Quail Circle Markers:** At last falls annual Yacht Club Meeting a concerned Islander suggested the Marina Committee address the potential hazards located in the approach to Quail Circle. This spring this concern was addressed and following a review of the area with Tim Thurston, Navigational Aids Supervisor, from the Maine Department of Conservation and conversations with the property owners that abut Quail Circle the Committee is recommending the installation of 4 markers delineating the canal entrance. The markers have been supplied by the State Dept. of Conservation.

*This was tabled until the 08-09-08 meeting*

11. **Labor Department Inspection:** The Maine Department of Labor conducted an unannounced Public Sector Enforcement Inspection on Tuesday, 1 July. They have not completed the inspection yet but have indicated that there are a number of infractions but nothing extremely serious.

*The inspection is complete but we have not yet received the report. I did call the supervisor yesterday to check on the issuance of the report. There are very specific time elements involved and I don't want to miss any. His comment was that the report was finished, was sent on to the director for review and we should have it this week. He also said that when I receive it "don't panic" just call him to work out the methods to comply.*

12. **Ferry Service:** I convened a meeting last week to discuss ferry financial issues, long term suggestions and questions raised at the recent public hearing / special meeting regarding these issues. Those present were Bob Giggey, Jim Kuiken, Bob Miner, Dave Bond, Betsy Gleysteen, John Crosby and Ronnie Ilich. There were three or four suggestions that I have to attempt to put some numbers to for their review. The plan is to have a suggestion for the ExCom before the Town meeting so that any change can be voted on at that meeting.