

**WALDO COUNTY COMMISSIONERS COURT SESSION
APRIL 16, 2014**

PRESENT: Commissioners William D. Shorey – Chairman, Amy R. Fowler and Betty I. Johnson. Also present was County Clerk Barbara L. Arseneau to take minutes.

Call to Order: Commissioner Shorey called the court session to order at 9:00 a.m.

SEARSPORT HARBOR DREDGING PROJECT INFORMATIONAL SESSION:

Present with the County Commissioners were the following: Islesboro Selectman Archibald Gillies, Islesboro citizen Linda Gillies, Christopher Hyk from Belfast, Searsport Selectman Meredith Ares, Ann J. Flack from Searsport, McCormack Economy from Searsport, Jane Sanford from Belfast, Tony Kulik from Belfast, Elaine Tucker from Belfast, David Laing from Stockton Springs, Clorinda (“Cloe”) Chunn from Waldo, Kim Ervin Tucker from Islesboro, David Thanhauser from Waldo, Steven Tanguay from Searsport – Shellfish Comm. Comprehensive Planning Comm., Waldo County Sheriff Scott Story.

W. Shorey introduced the Board of Waldo County Commissioners. He introduced Commissioner Johnson as serving in District 1, noting that she has been talking with and supporting many of those present. He explained that he serves District 2, has lived in Searsport for over 40 years and wished to see the harbor maintained so that it can continue to be a productive port. He introduced Commissioner Fowler as serving in District 3.

Commissioner Shorey explained that the Commissioners were willing to hear from those present and asked for a show of hands for those who would be speaking. Each person would be given 10 minutes to speak.

Speakers in order of appearance:

1. Arch Gillies from Islesboro. A. Gillies mentioned that he is also Chair of the Economic Development Committee, noting that he has both a private and a public role. The Board of Selectmen were engaged in the LPG matter a few years ago in Searsport, which they followed carefully. When the dredging matter came up, the Board entered into that conversation as well. There was a meeting and there were proponents and opponents resulting in a lively discussion and they deliberated hard. It was felt that neither side had enough information to make a judgment. They conferred with lawyers, who said that the Army Corp. of Engineers performs a study that usually takes three to four years. It is a complex issue and would be an important thing to do. The Selectmen endorse maintenance dredging but not the proposed larger dredging. The Board is very concerned about the existing economy around Penobscot Bay and the Coast and believes it is environmentally based. A. Gillies submitted a handout to the County Commissioners and explained that it is from several sources and is based on tourism, hotels, motels, fishing, etc. Fishing and tourism are both up. The Islesboro Board of Selectmen feel that the Army Corp. of Engineers should conduct the fullest study and then come to a conclusion about how that side of the bay would be developed. He has been talking with a number of select boards in the bay area and around the coast, has attended several meetings, and the discussions

were very similar to that meeting held in Islesboro. They came to same conclusion that more scientific information is needed and they agreed to urge the Army Corp. of Engineers to do a thorough study so that all can make an informed decision. He emphasized that they are in favor of the maintenance dredging, but for anything larger, they feel a study is needed. On behalf of Islesboro, he urged the Commissioners to support the course of obtaining the best information possible so that all sides can have everything aired and judiciously reviewed so an informed decision can be made. He said that he and his wife have done a lot of traveling to discuss this matter, including a visit to Vinalhaven.

W. Shorey asked what timeframe it would be for a study to be conducted.

A. Gillies explained that a study of the timeframe revealed that it can take as little as one year and as long as twelve years; it depends on how deep the data is. Generally, it takes three to four years. The scientific and economic impact to Penobscot Bay is huge. It is a major source of income and they don't want to impact economy such as fishing, etc. It is a beautiful place and attracts many people from out of state. It is something to be very careful about.

2. Tony Kulik: T. Kulik stated that this has been a hasty project. He feels that many are afraid of the impact study and the results and want to move forward hastily. He attended Bucksport and one person was going to lose income from lobstering that had been done for 47 years. T. Kulik said that he is concerned about the lobstermen. We sell lobster and people come here to eat it. He feels that this large dredging could impact that industry.

3. David Laing: D. Laing introduced himself as a geologist from Stockton Springs. He stated that he is concerned about the proposed dump site. In that site there are a number of conical pits in the seabed. These are features that are being actively maintained by some kind of discharge beneath – either methane or possibly springs. In his professional judgment, features like this with active sediment cannot be maintained without some sort of active input from beneath – either fluid or gas from below. He brought this point up at a meeting the other day and the response from the presenters was, “These pits are being maintained by currents.” The problem with that is currents cannot produce circular pits. They can produce channels. The upper portions of these are somewhat linear, but the deeper portions of the pits are circular features. The only way for this, to his knowledge, is through the discharge of fluids or gases beneath. The linear aspect on the upper portions of the features could be caused by fluid flow. He stated that he would refrain from going through the mechanics of this. His concern is that this will be used as a dump site. Whatever is creating the pits; it will try to deliver the fluid or gas and will impact the ecology of the region. The plume of the sediment could be distributed to a larger area. In his estimation, this would be a very unwise place to put the dredging materials.

W. Shorey noted that D. Laing had obviously given this a lot of thought and asked D. Laing where he would select the dump site to be.

D. Laing said he would select a location with no signs of these features and also somewhere there is no strong currents. It is directly proportional to the strength and direction of the currents – river flow or tides - or material rising from beneath. He would avoid such sources of strong

currents. He did not have a specific suggestion for the “magic spot” but believed it would be unwise to dump material on the areas with these pit formations.

4. Kim Tucker from Islesboro: K. Tucker said she would like to answer some of the points and questions. She would start with the Environmental Impact Statement (EIS) and what is required. This was enacted by President Nixon in 1969. His vision was to protect the environment from unintended developments and impact on the environment lived in. This study is required. There is not a choice on whether or not to conduct an EIS if it is possible that there will be a large impact. Under the law, if it has a significant impact on the state, bay, etc. and EIS must be done. On three occasions in the 1980’s in Searsport, they were told by three different courts that they had to do an EIS because of the regional and industrial impacts. It is not a surprise that it is being asked for. They have been on notice even as far back as 1999. In 2000 the Dept. of Transportation made a proposal to deepen the port 35 feet. 50 years ago when these sites were designated for disposal, before NEPA – they never studied the impact and 50 years ago, Waldo County had such small lobstering industry that it wasn’t even reported. At some point this has changed and this harbor region has become the heart of our lobster fishery. It has been responsible for 30% each year from 2000 to 2012 for all lobster landings. Maine is responsible for 90% of all lobster landings in part, by devastation of the Western Long Island Sound where contaminated dredging material was dumped. Long Island now only has 12% of the fisherman. Waldo County has gone from 300,000 lbs. of lobsters landed in 2008 to 688,000 by 2013. ME DOT has been on Congressional notice. It is a violation of federal law not to consider the dredging material. They have never done the calculation of what it would cost. Maintaining the channel and putting it back where it should be would not cost taxpayers money. It is a Federal cost. The Army Corp. of Engineers has never checked for mercury contamination. If lobsters cannot smell, they cannot mate; they will not smell bait and cannot be caught. K. Tucker mentioned core sample information and different levels and that it is a highly inappropriate means of measuring according to scientists.

She stated:

1. The law requires an EIS.
2. It cannot be stated that it is suitable to dump off of Islesboro if a study hasn’t been done.

The Pen Bay Pilot recently reported the “pocks” previously mentioned. Pockmark walls are so fragile and weak that if you brush up against them, it causes a landslide. Where to dump the dredged material is the question.

K. Tucker said she has been assisting Maine Lobstering Union. The lobsterman say to dump the material upward. Methods could be de-watering and disposing the material upward. The maintenance dredging should go on as that it is overdue. It is recommended to do that by de-watering.

A. Fowler asked for a summary of the presentation just provided. K. Tucker said she would provide all written documents electronically.

W. Shorey asked what response was when K. Tucker informed people at the meeting that they were in violation of the law.

K. Tucker said that they were mute and didn't respond. All the data of the most recent study was cut off in 2008 and was presented in 2012-13. In 2006, 60% of all oil we use was imported. It is significant for Searsport that 75 to 80% of oil used in this area is through imports. People are ignoring the fact that the use of the port is steadily declining. From the study of Army Corp. of Engineers, the discussion is of deepening it to 40 feet. There were fewer than eight vessels that needed it that deep. There are only six to eight vessels a year that need to wait for a tide in order to come in. It's not worth risking lobster industry for the savings of \$840,000.00 year for Sprague. There have been some claims that part of the cargo is left behind because they can't get in the channel. This is because it has shoaled over the years. All vessels can get in, if they wait for tide, but most of the vessels that come to Searsport with less than a full load are because they are delivering to other places on the way. This is called "split discharging". A foreign flag vessel can be used. It is not a legitimate expenditure for taxpayers. It hasn't been presented to dredge the maintenance depth. The net benefit was based on the year 2006, when the port was used the most and this was a poor choice of year for projections. No year will ever be like 2006, going past 2040. There are charts with the issues regarding 2006 and all the explanations and flaws of the analysis.

W. Shorey asked how long K. Tucker has been involved with lobster industry.

K. Tucker responded that she started back in February and with the union a month or so later.

5. Chloe Chunn, resident of Waldo: C. Chunn stated that the Commissioners now have a letter from her to which she will add some background, too. Her message is that of extreme caution. A lot is at stake with a decision like this and a lot can be irreversible. The recommendation is for an impact study and then have a true public hearing to hear about the study. At the Hutchinson Center last week, the sense of the group in general is that nobody was opposed to the maintenance dredging and those who were most opposed to the larger dredging were concerned about the dumping site for the material. This topic was given short-shrift. It seemed that it was an either/or choice – put it in the water or truck it upland. With Atlantic shorelines eroding, people are crying out for material. Sea level rise is quarrying away the shoreline. Some say they want sand, not mud. Lobsters are threatened by siltation. It is gray or black and absorbs sunlight and heats up the water. The worst pollutant in Maine is silt in the fresh water. When water heats, it loses its oxygen. This would definitely affect the lobster industry. The lobsters are part of an eco system that is already stressed. The economic system depends on oxygen. The whole system could be caused to collapse due to raising water temperature. If after the EIS study the community feels they still need the deeper dredging project, they really need to look at what to do with the material. The material could possibly be used on other shorelines. It would also make money for someone.

6. David Thanhauser of Waldo: D. Thanhauser introduced himself as a semi-retired family physician and amateur scientist. The reason given for greater productivity of lobster fishing has been the turbulinity of the water from the Penobscot River. Also, the causeway to Sears Island was built by the Army Corp. of Engineers and the D.O.T. They settled on doing a culvert, which was not put in. It continues to silt in because of this. It may be way beyond the Commissioners' reach, and he believes that this should be addressed.

W. Shorey said he appreciated all coming in and that the Commissioners will be writing a letter in the near future. He thanked everyone for coming in and noted that the Commissioners take their thoughts seriously.

SHERIFF'S REPORT – NEW HIRE:

Present with the Commissioners was Sheriff Scott Story, who reported the following:

1. S. Story has ordered another truck for the Patrol division and will pick that up today.
2. S. Story recommend hiring Jonathan Shaw as part-time Patrol Officer at \$15.25 per hour.
****B. Johnson moved, A. Fowler seconded to hire Jonathan Shaw as part-time Patrol Officer at \$15.25 per hour effective April 16, 2014. Unanimous.**
3. Wiley McVety will not be attending Ranger School right away, so S. Story would like to move him from part-time to full-time effective April 16, 2014.
****A. Fowler moved, B. Johnson seconded to accept hiring Wiley McVety full time effective April 16, 2014 at \$18.97 per hour.**
4. S. Story asked the Commissioners to approve of the transfer of \$894.50 in asset forfeiture in the matter of State of Maine v. Jessica L. Walker, Defendant.
****B. Johnson moved, A. Fowler seconded to approve the transfer of asset forfeiture in the amount of \$894.50 from Jessica L. Walker on the grounds that the Waldo County Sheriff's Office made a substantial contribution to the investigation of this or a related criminal case. Unanimous.**

TREASURER'S REPORT:

Present with the Commissioners was Treasurer David A. Parkman and Deputy Treasurer Karen Trussell.

COUNTY REVENUE

D. Parkman reported that revenue is "right on track." He noted that it could be 29% and is 30%. He felt it should be higher but will keep an eye on it, as it is too early to be concerned.

COUNTY APPROPRIATIONS

D. Parkman reported that the usual expenditures have occurred and everything looks like it is within reason. The Communications Center Overtime is 40% expended, but that is a known situation.

CORRECTIONS:

A. Fowler asked why the Workers Comp line was in the red and was told that it was because it came in higher than what was budgeted.

The Corrections Revenue was briefly reviewed.

TAX ANTICIPATION NOTE:

D. Parkman reported that there is \$2,700,000.00 left on the T.A.N. The County has borrowed on the General Fund \$450,000.00. Borrowing on the TAN started the first week of March for the County, and for Corrections, it was in February. D. Parkman stated that all knew this would happen after the new Public Safety Building was constructed. In 2010, the T.A.N. wasn't borrowed on until May, which was remarkable.

****B. Johnson moved, A. Fowler seconded to file the Treasurer's Report. Unanimous.**

WARRANTS:

****B. Johnson moved, A. Fowler seconded to authorize payment of the March 28, 2014 General Fund Accounts Payable Warrant and March 13 and 27, 2014 Payrolls warrant in the amount of \$322,174.43. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the March 28, 2014 Capital and Restricted Reserve warrant in the amount of \$87,555.01. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the March 28, 2014 Reentry Accounts Payable and March 13 and 27, 2014 Payrolls warrant in the amount of \$141,823.16. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the March 28, 2014 MCRRC Restricted Reserve warrant in the amount of \$9,737.00. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the April 8, 2014 General Fund Accounts Warrant and April 10, 2014 Payroll in the amount of \$190,589.86. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the April 8, 2014 Capital and Restricted Reserve warrant in the amount of \$9,769.17. Unanimous.**

****B. Johnson moved, A. Fowler seconded to authorize payment of the April 8, 2014 Reentry Accounts Payable and April 10, 2014 Payroll warrant in the amount of \$54,533.07. Unanimous.**

EXECUTIVE SESSION:

****A. Fowler moved, B. Johnson seconded to go into Executive Session at 10:22 a.m. for discussion of employment and evaluation as permitted by M.R.S.A. Title 1§405(6)(A).**

****B. Johnson moved, A. Fowler seconded to come out of Executive Session at 10:43 a.m. Unanimous.**

****A. Fowler moved, B. Johnson seconded to approve sending a letter to AFSCME Union Representative Sylvie Perry regarding hiring practices. Unanimous.**

****A. Fowler moved, B. Johnson seconded to change the status of the Prosecutorial Assistant/Supervisor position from FLSA Exempt to FLSA Non-exempt effective**

immediately and to sign the pay scale reflecting the wage hired at now listed by hourly rate. Unanimous.

NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK PROCLAMATION:

Present with the Commissioners was Communications Director Owen Smith who asked for the Commissioners to sign a proclamation recognizing the second week of April as National Public Safety Telecommunications Week. O. Smith noted that the Governor sent a letter of recognizing Telecommunicators. Representative Mike Michaud also sent a letter on behalf of the House of Representatives and Marie Jakes, Executive Director ESCB (State 9-1-1 Director).

****B. Johnson moved, A. Fowler seconded to sign a proclamation recognizing the second week of April as National Public Safety Telecommunicators Week 2014. Unanimous.**

Communications Director Owen Smith also reported the following to the County Commissioners:

1. Matthew Varney reached his one year anniversary as full-time Dispatcher on April 7, 2014 with a pay increase from \$17.56 to \$18.17 per hour. The Commissioners noted this.
2. During the National Emergency Number Association (NENA) Conference on April 2, 2014, Waldo County Dispatcher Linda Wry-Remillard was recognized as Waldo County Regional Communications Center's "Silent Hero" for 2014. The Commissioners commended L. Wry-Remillard for the fine work that was recognized with the "Silent Hero 2014" award.
3. During the NENA conference, Dispatchers Linda Wry-Remillard, Dispatcher Jennifer Lavway and Supervisor Melissa Bisson were nominated and recognized for the Critical Call of the Year for the team's response to a home invasion in Lincolnville in the spring of 2013. While the call was not awarded "Critical Call of the Year", those three were recognized and received a Certificate of Merit. The Commissioners commended L. Wry-Remillard, J. White and M. Bisson for their excellent work and for receiving the Certificate of Merit.

FACILITIES REPORT:

Present with the Commissioners was Facilities Manager Keith Nealley.

1. K. Nealley submitted a spreadsheet detailing the County fuel usage YTD 2014. He estimated that it should be about 60% expended the first half of the year and 40% for the last half of the year. W. Shorey confirmed that. The Commissioners commended K. Nealley for keeping excellent track of fuel usage and for presenting them with this chart.
2. Bids for fuel oil: K. Nealley has spoken to a contact in Rockland. Last week and the week prior, oil costs had taken a slight dip, but are rising again. In May 2013, the County locked in at \$3.24 per gallon. K. Nealley will solicit bids for the May 13, 2014 Commissioners Court Session. W. Shorey agreed that historically, May is the month to purchase fuel oil.
3. K. Nealley will need to expend about \$500.00 for a dumpster to take care of the wet carpet and other damaged material in the Old Jailer's House from the frozen pipe damage that occurred this winter. He also reported that during general cleanup of the buildings after the

Sheriff's Office moved to its new location, K. Nealley has removed 30 yards of refuse out of that building and the Old Jail. He was able to sell some of the scrap metal and in the end the entire rubble removal only cost the County about \$300.00.

4. K. Nealley spoke of the need to revisit the Old Jail and potential uses but it was acknowledged that the County is still waiting to hear the results of the Brownfields EPA Cleanup Grant that the County has applied for related to that building.

5. K. Nealley notified the Commissioners that the humidifier in the Archive blows humid air straight up and is peeling paint off the wall. K. Nealley will need to build a diffuser and put it on that unit. The Commissioners agreed.

6. Shingles have been blowing off the District Courthouse roof. K. Nealley will need to have someone check on this to see what needs to be addressed.

7. A lot of tree damage occurred during the Christmas Eve Ice Storm of 2013. A local arborist had to be called to examine the trees to see what can be salvaged and what cannot.

8. Some work and painting has been done by residents in the Maine Coastal Regional Reentry Center so it will be spruced up before the luncheon being held there April 23, 2014.

9. K. Nealley's six-year anniversary of employment with the County is coming up the end of April.

The Commissioners thanked K. Nealley for his report.

CORRESPONDENCE:

Present with the Commissioners was County Clerk Barbara Arseneau, who reported the following:

1. Communications Director Owen Smith recently submitted updated Supervisor and Dispatcher job descriptions. The Commissioners reviewed both descriptions and voted as follows:

****B. Johnson moved, A. Fowler seconded to sign the updated Dispatch Supervisor and Dispatcher job descriptions as presented. Unanimous.**

2. Deputy Kyle Wasiela reached the one-year step effective April 15, 2014 with a pay increase from \$19.58 to \$19.87. The Commissioners noted this.

3. B. Arseneau reminded the Commissioners that the postponed property tax abatement appeal hearing for Joseph and Joan Zinkevich vs. the Town of Prospect was rescheduled for May 13, 2014 at 9:30 a.m.

4. Mr. Edward Strout has sent an application for appeal of property taxes for 2003 through 2013. The Commissioners instructed B. Arseneau to send another letter to Mr. Strout explaining that this process needs to start anew by appealing first to the Town of Palermo Assessors because Mr. Strout had cancelled the original appeal.

5. Catherine Pease of the Maine Department of Health & Human Services has sent information and a request to the Commissioners regarding possible participation in the ASPIRE program. Non-profits host people who are looking to learn new skills, etc. but the wages are paid by the DHHS. The Commissioners believe it is an excellent program but did not feel that the type and nature of the work performed in the County offices would be appropriate for this.

6. A letter dated March 31, 2014 was received from WCAP thanking the Commissioners for sending a letter of support for WCAP to provide improved transportation services to the MaineCare members in region V.

7. Deputy County Clerk Linda Kinney submitted news article to the Commissioners that reported that the recent reapportionment has left the current Maine legislative districts largely intact, including those related to Waldo County.

8. Former Deputy District Attorney Eric Walker has announced that he is no longer working for the District Attorney's Office and any emails or calls should be directed to Assistant District Attorney Katie Hollstrom.

9. The next deadline for the Waldo County Commissioners to submit an item for the M.C.C.A. monthly newsletter will be May 20th. The Commissioners suggested featuring the MCRRC luncheon and possibly the planning of the County Government video, depending on how much has been done on the project.

10. Wayne Coleman of FTZ Networks, Inc. sent an email to the Commissioners stating that they are representing the City of Waterville and Central Maine Growth Council with an application to reorganize FTZ #186 for it to become a regional economic development tool for the central Maine region and asked if the Waldo County Commissioners would send a letter of support. The Commissioners discussed this briefly and felt it was best to decline because they are not in the habit of endorsing or using the County's letterhead to support something which they are familiar with or utilize.

OLD BUSINESS:

As a safety suggestion, Facilities Manager Keith Nealley had presented in late 2013 the suggestion to have the District Court lower level parking restricted to employees only due to many near misses from the public trying to get in or out of spaces in this lot. The Commissioners had postponed making a decision on this and had instructed the County Clerk to bring it up at a later date, which she was doing now.

The Commissioners decided to postpone a decision to a later date and to discuss it at a future court session.

COUNTY COMMISSIONERS MISCELLANEOUS BUSINESS:

1. B. Johnson said she would be attending the Coastal Counties Annual Meeting May 15, 2014. On May 23, 2014 they will be meeting again and will know more then.

2. The Commissioners briefly discussed the information they heard from the Searsport Dredging public comments earlier in this morning's session.

****B. Johnson moved, A. Fowler seconded to send a letter asking that the EIS study be done, that the maintenance dredging be done without delay, and that there be consideration of the dumping of the dredged material.** Discussion: A. Fowler thought the motion might be confusing because it is recommending the maintenance dredging while saying there needs to be consideration of the dumping of the dredged material. B. Johnson said there is so much information there and she realizes that there would be a delay while waiting for the environmental impact study, but she believed it was required and needed to be done.

Commissioner Johnson in favor, Commissioners Shorey and Fowler opposed. Motion failed.

****W. Shorey moved, A. Fowler seconded that the County Commissioners send a letter to the U.S. Army Corporation of Engineers supporting their proposed dredging project, assuming that existing studies would not cancel or delay the project unnecessarily.**

Commissioners Shorey and Fowler in favor, Commissioner Johnson opposed. Motion passed.

3. B. Johnson will have some meetings in the Town of Union related to economic development

4. A. Fowler reported that she attended one day of the recent National Emergency Number Association (NENA) Conference and the risk management speaker was excellent and recommended speaking with MCCA Risk Pool Manager Malcolm Ulmer about considering hiring this gentleman to hold a seminar in a central location and inviting all Maine Counties to send employees to this training.

MINUTES APPROVED:

****B. Johnson moved, A. Fowler Shorey seconded to approve the minutes from the March 24, 2014 Waldo County Commissioners Court Session. Unanimous.**

****B. Johnson moved, A. Fowler seconded to adjourn the court session at 12:45 p.m. Unanimous.**

Respectfully submitted by *Barbara L. Arseneau*
Waldo County Clerk