



*SELECTMEN'S e-Packet*  
*List of Files*  
*October 2, 2007*

---

Page 1	List of Files
Page 2	Agenda
Page 3, 4	Agenda Summary
Page 5	Proposed financial management policies
Page 6	Email from Brandon Milton
Page 7, 8	NIMS information
Page 9 - 18	Commissioner's Meeting Minutes – (10 pgs)



**BOARD OF SELECTMEN  
AGENDA**  
Tuesday, October 2, 2007  
7:00 p.m.  
JSMS Broadcast Studio

- 1) Call to order.
- 2) Minutes of previous meeting dated September 18, 2007
- 3) New business.
  - a) Discussion of proposed financial management policies – Finance Director Nancy Yates
  - b) Resignation from Budget Finance Committee – Brandon Milton
  - c) Proclamation implementing federal National Incident Management Systems (NIMS) – Town Manager Don Willard
  - d) School consolidation information update – Selectman Joe Bruno
- 4) Old (unfinished) business.
  - a) none
- 5) Town Manager Report and Communications.
  - a) Town Manager to attend International City Managers Association Conference (ICMA) Saturday, October 6<sup>th</sup> through Wednesday, October 16<sup>th</sup>.
- 6) Fiscal Warrants – Payroll and Appropriation Warrants – October 2, 2007.
- 7) Adjournment.

---

The Selectmen may take items out of order at their discretion.



**BOARD OF SELECTMEN**  
**AGENDA SUMMARY**  
Tuesday, October 2, 2007  
7:00 p.m.  
JSMS Broadcast Studio

- 1) Call to order.
- 2) Minutes of previous meeting dated September 18, 2007
- 3) New business.

**a) Discussion of proposed financial management policies – Finance Director Nancy Yates**

Finance Director Nancy Yates will present draft financial management policies based upon model policies received in March from Richard Ranaghan, Senior Vice President Public Finance at Gorham Savings Bank. As you will recall at that time, Mr. Ranaghan discussed the merits of codifying several elements of our current financial management function including: Surplus, Borrowing, and the Capital Improvement Program

The resulting draft policies have been emailed to the Selectmen previously for your review and comment and are attached here with the e-packet. It is staff's expectation that once the preliminary policies are adopted that they can be improved, fine tuned and amended at subsequent Board of Selectmen meetings as your interest and conditions warrant. We do believe however that draft policies form a good basis for sound financial management moving forward. The Finance Director and Town Manager are recommending adoption of these policies which will help establish appropriate policy, provide clarity and promote both short and long term financial stability for the town. Detailed information follows in the e-packet.

**b) Resignation from Budget Finance Committee – Brandon Milton**

Mr. Milton was elected on May 18, 2007 and has resigned to accept an employment opportunity with Senator Susan Collins' office in Washington D.C. He has been sworn in and has also now officially resigned his position. See enclosure originally transmitted to the town via email. Staff is recommending the Selectmen accept Mr. Milton's resignation and also give preliminary consideration to the method and form to be used to fill this vacancy at a future meeting.

**c) Proclamation implementing federal National Incident Management Systems (NIMS) – Town Manager Don Willard**

The federal government requires the Town of Raymond to adopt a standardized incident management system (NIMS) as the town's official all-hazard management program. This proclamation authorizes the adoption of the federal model policy for Raymond. It is important that the town adopt this language in order to have standardized procedures for incident management handling and compliant

---

The Selectmen may take items out of order at their discretion.

terminology for communications. Other areas covered within NIMS include standardized organizational structures, uniform personnel qualification standards, uniform standards for planning, training and exercising comprehensive resource management, and designated incident facilities during emergencies or disasters. Staff recommends that the Selectmen adopt the National Incident Management System (NIMS) in order to satisfy the requirements imposed by Homeland Security Directive (HSPDN)-5. By complying with the NIMS system directive put forth by the Homeland Security Department the town will not only have the policies and organizational structure necessary to respond to critical incidents but also preserve and promote local opportunities for inter-governmental transfer of revenues, in the form of grants, related to Homeland Security and public safety.

**d) School consolidation information update – Selectman Joe Bruno**

Selectmen Joe Bruno will update the Board of Selectmen and the public on the activities of the regional school consolidation committee.

**4) Old (unfinished) business.**

a) none

**5) Town Manager Report and Communications.**

a) Town Manager to attend International City Managers Association Conference (ICMA) Saturday, October 6<sup>th</sup> through Wednesday, October 10<sup>th</sup>.

**6) Fiscal Warrants – Payroll and Appropriation Warrants – October 2, 2007.**

**7) Adjournment.**

---

The Selectmen may take items out of order at their discretion.

## **Financial Policies**

### **Surplus**

The purpose of maintaining surplus is to ensure adequate undesignated reserves to respond to unforeseen emergencies and provide overall financial stability. In view of the unpredictability of non-tax revenues, the Town of Raymond shall set as a target sufficient fund balance to both protect the creditworthiness of the Town and ensure adequate liquid funds for emergency needs. The level of undesignated surplus shall be capped at 15% of the prior year's tax commitment. The appropriate use of any funds over that level shall be determined upon receipt of audited figures, and used, with Town Meeting approval, for equipment reserves, capital improvements, debt reduction, or tax reduction.

### **Borrowing**

The Town of Raymond may borrow money or issue bonds to fund long-term projects. Any bond authorized at town meeting must be issued within one year, or must be brought before town meeting again. In general, bonds should be issued for no longer than ten years, unless the project has a useful life exceeding ten years. The projects should be those with long useful lives, where costs may be spread over the useful life of the project, and involve capital acquisitions which can be depreciated or amortized for greater than 3 years. In some instances, the Town may wish to use lease purchases as a means of acquiring equipment. The Town shall not exceed a debt service level of 8% of the prior year's tax commitment.

### **Capital Improvement Program**

The Town shall maintain an up-to-date, five-year Capital Improvement Program to provide predictability for future years' budgeting. The program shall be updated annually to reflect completed projects and upcoming needs. A capital improvement project shall be characterized as a major, non-recurring expenditure with a useful life of eight plus years, and can be depreciated or amortized for greater than 3 years, for example equipment, building projects, or road improvements. New projects shall be submitted annually for review and recommendations made during the budget process. Requests will be prioritized based on need, budget availability, and related planning documents.

-----Original Message-----

> From: Brandon Milton [mailto:[Brandon\\_Milton@umit.maine.edu](mailto:Brandon_Milton@umit.maine.edu)]  
> Sent: Friday, September 14, 2007 12:43 PM  
> To: Sue Accardi  
> Cc: Rolf Olsen; Tucker Cole (W); Tucker Cole; Olsen, Rolf; Ralph  
> Bartholomew; Jerilyn Ward; Bob Gosselin  
> Subject: Resignation

>  
>  
>

> Dear Members of the Budget Finance Committee,

>

> I am writing to inform you all that I am resigning my position as a  
> member of the committee. I was recently offered a job in Senator Susan  
> Collins Washington D.C. office, and as much as I would like to stay in  
> Maine I feel that I this is an  
> opportunity that I cannot let pass me by.

>

> I apologize for leaving you all one member short and giving such a short  
> notice before the first meeting, however, this all happened in the past  
> week and this is the best I could do to give you notice. I hope that  
> you will all understand. I plan to  
> write a short article in the Raymond Road Runner to let the town know  
> that I am leaving the committee and of my new position with Senator  
> Collins.

>

> I wish the best of luck to all of you and again I apologize for leaving  
> with such short notice.

>

> Sincerely,  
> Brandon Milton

>  
>  
>

**Subject:** FW: NIMS Proclamation  
**From:** "Bruce Tupper" <bruce.tupper@raymondmaine.org>  
**Date:** Thu, 27 Sep 2007 10:41:56 -0400  
**To:** "Laurie Cook" <laurie.cook@raymondmaine.org>

Bruce D Tupper  
Assistant Chief Operations  
Raymond Fire Department  
1443 Roosevelt Trail  
Raymond, Maine 04071  
207-655-7851

-----Original Message-----

From: Bruce Tupper [mailto:bruce.tupper@raymondmaine.org]  
Sent: Thursday, September 27, 2007 10:21 AM  
To: 'Don Willard'  
Subject: FW: NIMS Proclamation

Hello Don

Attached please find a copy of the NIMS or National Incident Management System adoption proclamation statement. The NIMS system is required by Presidential Directive HDSP 5, which requires all agencies at all levels of government, and private sector who will be first responders to incidents of any scale, adopt and work within this one standardized system. This is a basic statement, which shall become part of the town's emergency operations plan. The Department of Homeland Security also includes the caveat, which precludes any entity, which does not adopt the NIMS system from attaining Federal Grant Monies in the future. The other item we need to take care of is we need to appoint an official NIMS coordinator for the town. I can perform this function. I have just uploaded the NIMSCAST Tier 1 and 2 compliance documents for the Feds this was an extensive survey to assure we are up to date with compliance.

If you or the Selectmen have any questions, please call me at 655-1187.

Bruce D Tupper  
Assistant Chief Operations  
Raymond Fire Department  
1443 Roosevelt Trail  
Raymond, Maine 04071  
207-655-7851

**PROCLAMATION IMPLEMENTING THE NATIONAL INCIDENT MANAGEMENT**

PROCLAMATION IMPLEMENTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS).

September 25, 2007

WHEREAS, In Homeland Security Directive (HSPD)-5, the President directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary that all federal, state, local, and tribal emergency management agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that federal, state, local, and tribal organizations utilize standardized terminology, standardized organizational structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the state's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the state, including all public safety and emergency response organizations training programs; and

WHEREAS, the National Commission of Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System.

NOW THEREFORE, be it resolved that the Selectman of the Town of Raymond in the State of Maine, hereby adopt and institutionalize the National Incident Management System (NIMS) as the Town's official All Hazard Management System.

I further proclaim this to take effect immediately.

\_\_\_\_\_ Selectman

\_\_\_\_\_ Selectman

\_\_\_\_\_ Selectman

\_\_\_\_\_ Selectman

\_\_\_\_\_ Selectman



The County of Cumberland is committed to providing quality services to all citizens equitably, in a responsive and caring manner.

## COMMISSIONERS' MEETING

MINUTES

September 10, 2007

The Board of Cumberland County Commissioners, Esther B. Clenott, Richard J. Feeney and Malory Shaughnessy convened a meeting at the Cumberland County Courthouse in the Peter J. Feeney Conference room.

Chairman Feeney called the meeting to order at 5:30 PM and the following business was conducted.

Minutes of the Cumberland County Regular Meeting of August 27, 2007 were read and approved unanimously.

### **Comments from the County Manager:**

Peter Crichton, County Manager, reported the budget process has officially started and there will be several meetings over the next couple of weeks which will culminate in the Commissioners voting on the budget in December. This is a difficult budget because of the rising costs of the jail, declining revenue, and the lack of state funding to support the jail expenses, particularly regarding the increased inmate population and inmate medical costs. It will require all of us working together to address this as well as we possibly can to try and ensure that the departments are able to do what they do very well, provide funding at a reasonable level for organizations in the communities, and meet our goal of having a financially sound county government. We are working closely with the municipalities on a number of initiatives resulting from our 2006-10 Strategic Plan, such as assessing and public health.

### **Comments from the Commissioners:**

#### **Commissioner Clenott:**

Commissioner Clenott commented she will hold her comments for the agenda items.

#### **Commissioner Shaughnessy:**

Commissioner Shaughnessy commented she will be brief but will mention the jail consolidation news on the television and newspaper that the Governor is proposing. She noted as Commissioners we need to assure that the data being presented is accurate and the information is based on solid facts. We need to protect the citizen's interest. There are a lot of questions that

have come up. As a public entity, Cumberland County Government Commissioners need to protect the public safety and maintain a safety net for the county citizens as efficiently as we can which is the utmost in our minds.

**Chairman Feeney:**

Chairman Feeney reported that the Cumberland County Civic Center events income for the year finished \$30,739 ahead of budget in 2007-07. Concert traffic was strong during the first half of the year, and both event and ticket rebate revenues from those events help to produce the favorable budget. The concession income finished the year \$94,381 over budget. The total income was \$1,446,415 which is \$146,061 over budget. It was an outstanding year for the Cumberland County Civic Center.

**Informational Item**

Chairman Feeney asked if there were any comments from the public. Hearing none, he asked Assistant County Manager Bill Whitten to introduce the new Emergency Management Director James Budway.

Mr. Whitten introduced James Budway a retired Lieutenant Colonel who has 27 years in the US Marine Corp and is a graduate of the US Naval Academy in Annapolis, Maryland. He served tours of duty around the world in such places as Iraq, Japan, the Philippines, and the Pentagon. He has a lot of experience in crisis situations and has the caliber of leadership that led Cumberland County officials to name him the County's new Emergency Management Director.

Mr. Budway indicated he is very excited to be here and he feels his military experience will help round out a very dedicated and exceptional team at EMA. He has already received a wealth of knowledge from the people he is working with and wants to thank the County Manager and the committee for their confidence in him and will do his best to ensure that their selection of him is right for the County. The Commissioners indicated they are very pleased he has joined the County.

**Action Items:**

**07 - 097 Approval, Fire Alarm - Emergency Management Agency - Windham**

Chairman Feeney asked Bruce Tarbox, Facilities Manager, to present the agenda item. The County Manager concurs with the recommendation.

Mr. Tarbox indicated currently they are doing renovations at the EMA and need to bring the fire alarm system up to date with the existing Norris System in the Communications Center on the second floor of the building. He is recommending a "sole source" from Norris, Inc., who originally installed the system on the second floor. The installation of the Norris equipment is estimated at \$4,500. The total cost for the items necessary to bring it up to date is \$5,365. He has checked with the state fire marshal and sent him all the prints necessary to do this project. He is

recommending a total project cost of \$9,865 to be funded through CIP Account #71-701-7010. A discussion followed.

**Commissioner Shaughnessy made a Motion to allow the installation of the Norris equipment out of the CIP Account #71-701-7010 in the amount of \$5,365 with \$4,500 set aside to do the actual installation. Commissioner Clenott seconded the Motion. All voted unanimously.**

**07 – 098 Approval, Secure Engineering and Design Services for Inmate Medical Referendum Request**

Chairman Feeney asked the County Manager for comments. The County Manager concurs with this recommendation.

The County Manager indicated this is a very important staff report. The inmate medical expansion is necessary to address the myriad of problems we are dealing with at the jail having to do with overcrowding at the inmate medical facility. The jail was built to handle up to 580 inmates and we are finding that when we have more than 500 inmates on a continuous basis we have serious problems due to mental illnesses, substance abuse, and other health issues. We need to address this problem as soon as possible. The Strategic Planning/Space Needs Committee ranked this as their number one space need and highest priority. The Commissioners have authorized a question to be on the ballot in November. The engineering and architect analysis will ensure that the expansion estimates are accurate. This is a two stage process. There will need to be more work done if the voters approve doing this expansion.

Mr. Tarbox reported it is necessary to provide engineering and design data for both cost analysis and City permits for a 3,000 sq. ft. addition to the medical unit. The necessary expansion will need to go to referendum for the expansion of the medical unit at the jail. The total cost in addition for Project Engineering is 4%-6% of the total building cost with an estimation of \$30,000. Additional charges are as follows: Total Projected Fee \$27,000, Permitting (Hourly; Budget) \$5,000, Geotechnical Consultant (Budget) \$6,000 and Reimbursable Expenses (\$2,500) for a total of \$50,500. Mr. Tarbox recommended SMRT, Inc. to provide these services. They were the firm that did the original design of the jail and time would not have to be used to provide this history and experience to another company. The money will come from CIP Account #71-705-7545. Mr. Tarbox introduced Arthur Thompson the architect from SMRT. A discussion followed.

**Commissioner Clenott made a Motion that the Commissioners approve of the necessary engineering and design of both cost analysis and city permits for a 3,000 square foot addition to the medical unit with the thought that we need approximately \$50,500 in order to do the work that needs to be done right now and if the referendum passes, we will need another \$30,000 immediately making a total of \$80,500 from CIP Account #71-705-7545. Seconded by Commissioner Shaughnessy. All voted unanimously.**

**07 – 099 Approval, Cumberland County Executive Office Copy Machine  
(Replacement)**

Chairman Feeney asked Barbara Buckley, County Deputy Clerk, to present the agenda item. The County Manager concurs with the recommendation.

Ms. Buckley reported the current copy machine in the Executive Office, because of age and use, it not currently able to perform a heavy workload on a continual and reliable basis. Ikon Office Solutions, the current State of Maine contract holder for copy machines, has proposed a new machine which will offer greater capabilities and reliability. Due to rapid advances in technology and the heavy workload of the Executive Office it is suggested that a new copy machine lease be implemented for a period of 36 months. Although this will increase the monthly payment from \$250.51 to \$301.00, the per copy cost will be cut almost in half. The per copy cost will be reduced from \$.009 per copy to \$.005. The average monthly copy charge is currently averaging \$110.00. Under the terms of the new lease the copy cost would now be approximately \$59.00. This savings will allow the Executive Office to obtain a new copy machine that will not increase the current total monthly payments for the lease and copy charges combined. A discussion followed.

**Commissioner Shaughnessy made a Motion to authorize the lease of the Ricoh MP5500 copy machine from Ikon Business Solutions under current State of Maine contract pricing for a 36 month lease at \$301.00 per month and a per copy cost of \$.005. Commissioner Clenott seconded the Motion. All voted unanimously.**

**07 – 100 Approval, Cumberland County Sheriff's Office Replacement Copier  
for 2<sup>nd</sup> floor LEC**

Chairman Feeney asked Genie Beaulieu, Fiscal Officer for the Sheriff's Office, to present the agenda item. The County Manager concurs with the recommendation.

Ms. Beaulieu reported the lease on the Minolta DI550 copier located on the 2<sup>nd</sup> floor of the LEC building expires on September 17, 2007, and they need to rent a replacement copier. They do not need to go out for bid because they are using the State of Maine copier bid and renting the replacement copier through Ikon Office Solutions, LLC. The replacement copier will be a Ricoh 5500 print/scan copier with a finisher and fax board. This is a comparable unit to the current copier. The rental cost of this unit is \$265 per month for 60 months, the cost is included within account 11-106-05-6511 (equipment rental for the Sheriff's Admin budget). The maintenance contract, which includes toner and staples, is priced at the State's bid of \$.005 per copy/print and the cost is included within account 11-106-05-6511. A discussion followed.

**Commissioner Shaughnessy made a Motion to approve and sign the 60 month rental agreement with Ikon Business Solutions, LLC for the Ricoh 5500 print/scan copier with finisher and fax board at a monthly rental of \$265.00 and a maintenance contract at \$.005 per copy/print. Commissioner Clenott seconded the Motion. All voted unanimously.**

**07 – 101 Approval, Cumberland County Sheriff's Office Chaplain Hours**

Chairman Feeney was informed that this item is being tabled because Captain Wayne Pike was unable to present the agenda item.

**Commissioner Shaughnessy made a Motion to table this item until Captain Pike is able to present the item. Seconded by Commissioner Clenott. All voted unanimously.**

**07 – 102 Approval, Cumberland County Sheriff's Office – Narcotic Detective – Assignment to MDEA (Amended)**

Chairman Feeney asked the County Manager for comments. He concurs with this recommendation based on the workshop and the clarification from the MDEA office.

Captain Donald Goulet reported on the arrangement with the MDEA to have a detective assigned from the County. The job duties would be the same basic functions currently followed by the criminal detectives, except the primary function would be the enforcement of drug violations. The assignment of the detective would be to Maine Drug Enforcement Agency (MDEA) as monies to support the position currently exists to fund this position, to include: salary, all contractual benefits, overtime, assigned vehicle, fuel, required training, etc.

Since 2001, the County of Cumberland has seen a steady increase of "hard" drug use that has lead to a steady increase in overdose deaths. In 2005 and 2006, the County of Cumberland began to see a rise in robberies, burglaries and thefts related to suspects supporting their drug habits; that trend continues in 2007. Drug investigations would normally be carried out by the detective division, but with the increased criminal behavior these types of investigations go mostly unanswered. Drug investigations require specialized training as well as a funding mechanism (for undercover narcotic purchases/informant payments). Given the increase of other crimes that need to be investigated, drug investigations are not done on a proactive basis. Most informational cases are referred to either the MDEA or DEA Offices; cases that are a result from patrol activities and/or from the jail are investigated. Based on information given through proffers and/or debriefings, as well as, drug activity statistics within Cumberland County, it is evident that there is a significant drug problem that affects the citizens living and working within the County. The UCR statistics support the increase in drug overdoses within the State and County as well as other Part 1 and Part II crimes on the increase due to the relation of people supporting their drug additions by committing these crimes. A discussion followed.

**Commissioner Clenott made a Motion that the Commissioners authorize the Sheriff to enter into an agreement to create a new detective position who's primary job responsibility would be to investigate narcotic violations and the assignment would be to the Maine Drug Enforcement Agency and the Sheriff will backfill the position vacated by the assignment. Commissioner Shaughnessy seconded the Motion. All voted unanimously.**

07 – 103 Approval, Town of Harpswell Tax Abatement Appeal Decision for James R. Burnett, Jr., Mr. & Mrs. Edward Bush, Mr. & Mrs. David L. Fey, Mr. & Mrs. Dudley Follansbee, Mr. & Mrs. Leonard Freeman, Mr. & Mrs. Michael A. Nathanson, Mr. & Mrs. Charles Orem and Ellen Shaver

Chairman Feeney asked Commissioner Shaughnessy to present the Findings of Fact and the Decision.

Commissioner Shaughnessy read into the record the following:

**Findings of fact:** It is the contention of the appellants that they are being assessed “Manifestly wrong” in that their presentation there are distinct values between deep water and tidal properties.

The accompanying supportive material to their appeal is complete with charts and photos that, in their opinion, “meet the burden of proof” necessary in filing their appeal.

The basis is that the Town assesses them at Code A (5.4 open water/gd. tidal) to calculate assessed value rather than Code B (3.55 tidal). Their appeal states that they have demonstrated certain properties receive a Code B rating, yet have accessibility to and from docks, wharves, etc. at time of low tide -(Loomis Hole -vs- Mill Cove.)

The Town assessor claims that the appellants are focused on only one component of the assessed value and not the total assessed value. The documentation as provided by the assessor shows that the Town of Harpswell indicated that the cove and sound sales are within the established assessment ratio as guided by Bureau of Revenue Services and within reasonable limits of practicality (10%). It was stated “water views have overtaken water utility as the primary driver of land marketability. Codes now geared toward view rather than frontage or deep water. Assessors are valuing the Mill Cove properties at the same as sound properties and that sales in the area indicate no difference in price between the two sides other than that of structure.”

The appellants presented no appraisals or testimony of comparable sales showing that the overall assessed value of their property was manifestly wrong.

Three of the appellants (Burnett, Bush and Nathanson) paid more for their properties (including stated improvements) than the assessed values they are requesting in this appeal.

**Decision of the Commissioners:** After reviewing all the documentation, testimony, photos and legal precedence the Commissioners find that the appellees did not meet the initial burden of proof (Yusem v. Raymond, 2001) that the assessor’s valuation was “manifestly wrong” in that the actual full assessment value of the properties in question falls within the 10% of market value guidelines as set by the Maine Revenue Service. Further, in reviewing legal precedence in Maine, we find that a discrimination claim based on a single component of a total assessment without showing that the total assessment is discriminatory has been struck down by the Maine Supreme Court (Roberts v. Southwest Harbor, 2004). We conclude that although the two codes, as described, are clearly open to misinterpretation, it is the final total assessment value that must be shown to be “manifestly wrong” and that the appellants have failed to meet that standard. A discussion followed.

Commissioner Shaughnessy made a Motion to deny these appeals for James Burnett, Jr., Mr. & Mrs. Edward Bush, Mr. & Mrs. David Fey, Mr. & Mrs. Dudley Follansbee, Mr. & Mrs. Leonard Freeman, Mr. & Mrs. Michael Nathanson, Mr. & Mrs. Charles Orem and Ellen Shaver. Commissioner Clenott seconded the Motion. 2 voted Yes to deny by Commissioner Shaughnessy and Commissioner Clenott and 1 voted Not to deny by Commissioner Feeney.

07 – 104 Approval, Town of Harpswell Tax Abatement Appeal Decision for Mr. & Mrs. Arthur Dodge, Mr. & Mrs. Barry Shanler and Patricia D’Antuono Revocable Trust

Chairman Feeney asked Commissioner Clenott to present the Findings of Fact and the Decision.

Commissioner Clenott read into the record the following:

**Findings of fact:** It is the contention of the appellants that they are being assessed “Manifestly Wrong” with discrimination, in that there are distinct values between deep water and tidal properties. Their accompanying supportive material to their appeal is complete with charts and photos that, in their opinion, “meet the burden of proof” necessary in filing their appeal.

The basis is that the Town assesses them at Code A (5.4 open water/gd. tidal) to calculate assessed value rather than Code B (3.55 tidal). Their appeal states that they have demonstrated certain properties receive a Code B rating, yet have accessibility to and from docks, wharves, etc. at time of low tide -(Loomis Hole -vs- Mill Cove.) Their major premise is that non-tidal water lands have an intrinsically greater value than properties with tidal frontage resulting in mud flats twice daily.

The Town of Harpswell claims that the appellants are focused on only one component of the assessed value and not the total assessed value which statute dictates. They also contend that the appellants have provided insufficient evidence to meet the legal standard to prove that the assessment is “manifestly wrong”, and show discrimination. The documentation as provided by the assessor shows that the Town of Harpswell indicated that the cove and sound sales are within the established assessment ratio as guided by Bureau of Revenue Services and within reasonable limits of practicality (10%). It was stated “water views have overtaken water utility as the primary driver of land marketability. Codes now geared toward view rather than frontage or deep water. Assessors are valuing the Mill Cove properties at the same as sound properties and that sales in the area indicate no difference in price between the two sides other than that of structure.”

The appellants failed to present sufficient evidence of fair market value of their properties, through appraisals or testimony of comparable sales, showing that the fair market value of their properties was manifestly wrong compared with the assessed values.

**Decision of the Commissioners:** After reviewing all the documentation, testimony, photos and legal precedence the Commissioners find that the appellees did not meet the initial burden of proof (Yusem v. Raymond, 2001) that the assessor’s valuation was “manifestly wrong” in that the actual full assessment value of the properties in question falls within the 10% of market value guidelines as set by the Maine Revenue Service. Further, in reviewing legal precedence in Maine, we find that a discrimination claim based on a single component of a total assessment without showing that the total assessment is discriminatory has been struck down by the Maine

Supreme Court (Roberts v. Southwest Harbor, 2004). We conclude that although the two codes, as described, are clearly open to misinterpretation, it is the final total assessment value that must be shown to be "manifestly wrong" and that the appellants have failed to meet that standard. We recognize that last year we came to a different conclusion with respect to these applicants, but do not find that we are bound to the same decision on this appeal. While we strive to be consistent in our decisions, based on this record, the appellants failed to meet their burden of proof.

A discussion followed whereby Commissioner Clenott noted for the record the reason why she voted last year granting the appeal and this year denying the appeal. She felt last year that the marketing sales proved that it doesn't matter whether it is tidal or deep water, people are paying the price to buy their property. She checked with the assessor what works with the State and he told her that the State makes absolutely no difference between tidal and deep water homes. She checked with a couple of other place and there was no one that said no there is no difference. Because she was finding new information that she hoped would influence the other two commissioners to change their vote, she voted in favor of the appeal because that was the only way she could bring up again for discussion. If you vote against a motion you cannot bring it back up, if you vote for it you can bring it back up. She regretted voting in that way because she failed in changing the other commissioner's minds.

**Commissioner Clenott made a Motion to deny these appeals for Mr. & Mrs. Dodge, Mr. & Mrs. Barry Shanler, and Patricia D'Antuono Revocable Trust. Commissioner Shaughnessy seconded the Motion. 2 voted Yes to deny by Commissioner Clenott and Commissioner Shaughnessy and 1 voted Not to deny by Commissioner Feeny**

**07 – 105 Approval, Town of Frye Island Tax Abatement Appeal Decision for David & Doreen O'Grady**

Chairman Feeny asked Commissioner Shaughnessy to read the Findings of the Fact and the Decision. Commissioner Clenott noted she was not able to participate in this agenda item because she was not able to attend this hearing.

Commissioner Shaughnessy read into the record the following:

**Findings of Facts:** On February 2, 2006, Mr. & Mrs. O'Grady applied for tax abatement for property at location, Map 61, Lot 1112, Frye Island, Maine. This claim was that the newly raised building fees for construction on Frye Island were adversely impacting the market value of their lot. They requested an assessment reduction of 20% or \$1,920. The Town of Frye Island denied this request on 4-1-07 stating that the building fees were not a relevant factor in considering assessment value, and that the "just value" of the property was established in a fair and consistent manner. They also contended that the market value exceeded the assessed valuation consistent with other similar properties and that building fees are not a factor in assessing valuation.

**Decision:** After reviewing all the documentation and testimonies by Appellants & Appellee it was determined that the Fair Market Value of this lot was established through an equitable methodology treating all property of similar circumstances and condition in the same manner. We find no unfair discrimination in this assessment.



**Commissioner Shaughnessy made a Motion to deny the appeal to David & Doreen O'Grady. Chairman Feeney seconded the Motion. 2 voted NO by Commissioner Shaughnessy and Chairman Feeney and 1 abstained by Commissioner Clenott because she was not able to attend the hearing.**

**07 – 106 Approval, Town of Harrison Tax Abatement Appeal Decision for John & Cynthia Micavich**

Chairman Feeney asked Commissioner Shaughnessy to read the Findings of the Fact and the Decision. Commissioner Clenott noted she was not able to participate in this agenda item because she was not able to attend this hearing.

Commissioner Shaughnessy read into the record the following:

**Findings of Facts:**

On September 18, 2006, Mr. & Mrs. Micavich applied for an abatement for property at location, Map 22, Lot 21F. This claim was that the town over assessed the property as it was being expanded and remodeled. The interior of the home was without plumbing or electricity and exposed studs without insulation. They further claimed it was uninhabitable and occupancy took effect the first week of July 2007. The abatement was granted by the Town, after a review, in the amount of \$70,300.00 from the original assessment of \$312,100. Estimated FMV of property by Mr. & Mrs. Micavich as of April 1, 2006 is \$132,700 for the building.

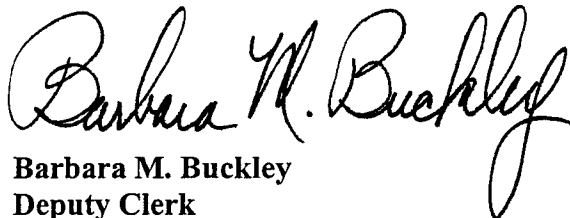
**Decision:**

After reviewing all the documentation and testimonies by Appellants & Appellee it was determined that the Fair Market Value as of April 1, 2006 was established and that the Town assessed the property with the same methodology as other assessed property in similar circumstances and condition. We find no unfair discrimination in this assessment.

**Commissioner Shaughnessy made a Motion to deny the appeal to John & Cynthia Micavich. Chairman Feeney seconded the Motion. 2 voted No by Commissioner Shaughnessy and Chairman Feeney and 1 abstained by Commissioner Clenott because she was not able to attend the hearing.**

**There being no further business Commissioner Clenott made a Motion to adjourn the meeting at 7:10 PM. Commissioner Shaughnessy seconded the Motion. All voted unanimously.**

ATTEST:

  
Barbara M. Buckley  
Deputy Clerk

**The next regular Commissioners meeting will be held at 5:30 PM on Monday, September 24, 2007, in the Peter J. Feeney Conference Room, 1<sup>st</sup> floor Annex, at the Cumberland County Courthouse.**