



## Lamoine Board of Selectmen Minutes of November 8, 2007

Chair Jo Cooper called the meeting to order at 7:02 PM

Present were: Selectmen Brett Jones, S. Josephine Cooper, Richard Fennelly Jr., Cynthia Donaldson, Chris Tadema-Wielandt; Administrative Assistant Stu Marckoon, Assistant Town Clerk Kathleen DeFusco, Parks Commission Chair Kerry Galeaz, Richard & Christa Brey (Parks Commission), Margaret DeLuca, Code Enforcement Officer Dennis Ford, Sara O'Connell (Parks Commission nominee), Ellsworth American Reporter Oka Hutchins, Conservation Commission member Carol Korty, and School Board Chair Faith Perkins.

**Agenda Review** – Stu noted there were 4 addendum items. Chris said he wished to revisit the Bangor Hydro transmission line issue. Cynthia said she would like to talk about the Family Network.

**Minutes of October 25, 2007** – Jo moved to approve the minutes as presented with minor corrections. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Junkyard Renewals** – Jo noted this item was tabled because Code Enforcement Officer Ford was not present at the last meeting and his inspection reports were not available. Stu said he put the written reports with the materials set out for the Selectmen this evening. Mr. Ford said both yards operated by Pro Auto were doing a good job, and they were neater than last year. Jo asked if she needed to open another public hearing. Stu said the public hearing was held last meeting. Richard asked if a public hearing is required on renewals. Chris said the statute says a public hearing shall be held on new applications, and may be held on renewals. Richard said that means a public hearing is optional. Jo said a public hearing doesn't do any harm. Chris said the statute says that municipal officers shall require proof of mailing by the applicant if a public hearing is held. Richard asked if the board should get clarification. Chris said if the Selectmen are going to issue junkyard permits, they should do it correctly. A short discussion followed.

Chris said recent rule changes require greater scrutiny for a junkyard's proximity to wells. He said the report on the operating standards by the representative of Pro Auto at last meeting indicated that they do abide by the requirements to drain fluids from the vehicles. He asked CEO Ford if that is within the purview of his inspection, and whether he checked vehicle logs and fuel removal records. Mr. Ford said he did not look at the logs, but he does check the vehicles present and whether they are drained, and the fluid containers. He said he questions the

owner about the operation. He said he visited the Marlboro site after a heavy rain and it was in excellent condition.

Jo said the report from CEO Ford said he would recommend a buffer. She asked if this was in writing. Mr. Ford said his preference is a verbal agreement. He said the buffer is not open to the road, but between Mr. Norris' yard and that of his neighbor who cut down their trees. He said Mr. Norris already plans to put in more trees on his lot.

Jo suggested that the Board check with MMA on the proper procedures. Stu said he believed an online manual exists for junkyards. Brett asked if there was any differentiation between automobile graveyards and junkyards. Chris said there was and explained the difference.

Jo moved to renew both automobile graveyard permits for Pro Auto. Richard 2<sup>nd</sup>.  
**Vote in favor was 5-0.**

**Bradford's Auto Land Use Inquiry** – Jo said the issue was a question that was raised about the auto sales operation of Bradford's Auto on Jordan River Road and a large number of vehicles being displayed close to the road. Stu summarized the process that led to the complaint from the Planning Board. Jo said the reason the Selectmen are discussing this is because of the letter from the Planning Board.

Margaret DeLuca, the owner of the property on which Bradford's Auto is located, said they started their used car sales business in 1986. She said the town clerk at the time, Evelyn Farrell, signed a form that said they were in compliance with local ordinances that did not require a permit. She produced the form which was supplied to the State of Maine when they received their dealer license, and a copy was made for the town records.

Ms. DeLuca said they've been selling used cars since 1986. She said they built a garage in 1995 and sized it under 2,000 square feet so that it would only have to be set back 100-feet. She said she reviewed the minutes from 1995 and found discussion about placing the used cars 50-feet back from the center line of the road. She said she understood the 100-foot setback was for the building. She said there was nothing about setbacks other than for the permanent structure. She said they decided to set the vehicles back 50-feet. A short discussion followed about the setback from the right-of-way.

Ms. DeLuca said she never saw the notation made by the Planning Board on the permit application. She said she would presume that was for the building because that's what they applied for. She said the car sales operation was in existence at the time of the application. She said the number of vehicles for sale fluctuates from time to time.

Jo asked whether Ms. DeLuca's interpretation is that the setback for the vehicles was 50-feet from the center line or the pavement edge of the road. Chris asked how far back the vehicles are presently located. CEO Ford said when he checked they were 50-feet from the edge of the road. Ms. DeLuca said a competitor has their vehicles displayed only 33-feet from the center of the road.

Brett said there is language in the Building and Land Use Ordinance that allows the Planning Board to set conditions on permits. He said it appears the condition noted on the approved application probably was not outside of the reach of the Planning Board. He said the condition may have been more global in nature. Chris said the document is approval of an application, and is an official order of the town. He said they must have had to comply with it. Ms. DeLuca said they did not receive a copy of the approved application. Chris said this is the official record, and it says 100-foot setback for auto sales. Ms. DeLuca said if they are pertaining to the building, the 100-foot setback would mean that the autos would have to be stored in line with the building.

Jo said she didn't feel qualified on this issue. Ms. DeLuca said the situation has grown out of proportion. Jo said she was not sure what part the Selectmen play in this. Ms. DeLuca reviewed her notes. Jo said she's concerned that Ms. DeLuca believed she had an agreement on a 50-foot setback, but she's not sure from where that setback was supposed to be. She said she's not sure what bearing that had on the permit that was approved. She asked if there was something in writing. Ms. DeLuca said that was from the Planning Board minutes of June 1995. She said the vehicles were always set back 50-feet anyway. Jo asked from where the setback was measured. Richard said it should be 50-feet from the right-of-way. A short discussion followed.

Jo said the board has to know what the setback is supposed to be so that it's fair for everyone and whether it's being adhered to. Ms. DeLuca said it does not make sense to set the cars back to the same limit as the garage. She said that would put them out of business. Jo said there is no desire to put them out of business. Jo said it's unclear what the 50-feet would be. Richard said that if it's from the right of way, it would mean setting the cars back 83-feet from the center line of Jordan River Road.

Jo asked for CEO Ford's thoughts. Mr. Ford said the ordinance in 1995 did not establish a setback. He said the current ordinance sets the center of the road, which makes a big difference. Ms. DeLuca said they should not change something they had in 1986.

Jo said they're trying to determine if the Planning Board was intending something else than what the business was complying with. Brett said the most recent document says 100-foot setback for auto sales. He said he didn't think a decision could be made tonight. Ms. DeLuca said she would like to settle this. Jo said she would like to review it again with all the documents in front of her.

CEO Ford said in 1986 the town signed off which established the sales business. He said the 1995 permit in question was to build a commercial garage. He said the question is whether the 100-foot setback was for the garage or for the cars. He said they're not changing their business because they were already in the sales business. He said a lot hinges on that. He asked if the authority was there to change the way they were doing business.

Jo said her inclination was that if they were 50-feet from the edge of the road, and they were not for a while, she wants to see the facts in front of her. Richard said the board need to get the facts straight. He said logically the setback would be from the edge of the right-of-way and explained his reasoning.

Chris said there is a Board of Appeals with expertise, and there is no point in the Selectmen fumbling around. He said he's not so sure the Selectmen couldn't deal with a decision from the Appeals Board. Jo said that might be more fair to Ms. DeLuca.

Ms. DeLuca said the ordinance doesn't say anything about setbacks except for structures. She said the vehicles have been at that distance for 22-years. Jo said the vehicles were closer to the road recently, and that was where this came from. Stu asked what the mechanism would be to place this before the Board of Appeals. Chris said the Planning Board made a complaint and summarized that complaint/inquiry. He said the Planning Board has asked the Selectmen to take action. He said the Planning Board should go to the Board of Appeals, and if the Board of Appeals has found there was a violation, the next step would be to come to the Board of Selectmen. He said it's apparently unclear exactly what the language in the Planning Board application means.

Jo said she's not clear on the mechanism. Richard said since the Selectmen received a recommendation from the Planning Board, he wondered whether this could be put in front of the Board of Appeals. Brett suggested that the Selectmen review the matter over the next couple of weeks and get the facts. He said the questions to explore would be what the setback is measured from, what the conditions placed on the 1995 permit means. He said the Board should do a little research itself. He suggested seeing what the state was doing in 1995.

Jo said the Selectmen are trying to do things right. Ms. DeLuca said they are too, but they don't want to go out of business. Jo asked what the Selectmen wanted. The board said they would like all the Planning Board minutes that might refer to this, the permit copy, the ordinances in effect, and a state definition of car sales, and possibly to check with Maine Municipal Association.

Richard asked if this was putting Bradford's in double jeopardy. Ms. DeLuca asked if any decision would affect their competitors. Jo said if there is a written complaint made to the Code Enforcement Officer it would be investigated. Brett

said he's uncomfortable with the latitude the Planning Board has, and whether there could be arbitrary decisions. Chris said it's an equal protection issue. Richard said the decisions need to be consistent. Jo said the town's record keeping is better now.

CEO Ford asked that future correspondence be better clarified as to what information is requested. He said the memo to him did not clarify whether it was an information request or a complaint.

**Appointments** – Stu reported there were two vacancies on the Parks Commission created by the resignations of Steve Valleau and Mary Henry, and an alternate vacancy created by the resignation of Bonnie Moretto. He said he recommended and Parks Commission chair Kerry Galeaz concurred that Nathan Mason and Sara O'Connell be appointed to the full positions and that Richard Brey be appointed an alternate.

Jo said the Parks Commission has a lot of work, and it's great to have people interested. Chris moved to appoint the new members as recommended. Richard 2<sup>nd</sup>. **Vote in favor was 5-0. Selectmen signed the appointment papers.**

Stu reported Bob Pulver, a current alternate on the Conservation Commission, has offered to move up to full membership. Jo moved to make that appointment, Chris 2<sup>nd</sup>. **Vote in favor was 5-0.**

Jo moved to accept the resignation of Donna Thorburn as an associate member of the Conservation Commission, with regret. Cynthia 2<sup>nd</sup>. **Vote in favor was 5-0.**

Jo moved to appoint Laurence (Lolly) Lovett as an associate member of the Conservation Commission. Chris 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Bloomfield Park Easements** – Stu reported that he met with Stuart Branch and Mr. Branch said if the town would draw up the easement he would sign it and see that the Madrells sign it as well. He said he hated to impose upon Chris to draw it up. Chris said he could do that.

Parks Commission Chair Kerry Galeaz said he just got an estimate on building the road. He asked where the Parks Commission goes from here, and whether this would be in their budget. Stu said he would envision this being in the capital improvements budget and he has placed a line in that budget. Mr. Galeaz asked what the next step is once the easements are drawn up. Richard asked if the work is town or shared costs. Jo said it would be town cost. Stu said there has been no money appropriated for this project. He said if the town meeting in April approves the money for either the current or the next year's budget, then the Parks Commission could proceed with the project. A short discussion

followed on what figure to put into the budget. Stu explained the process of town approval, bids, and proceeding with the project.

**Request to use Portable Classroom Maintenance Fund** – Stu reported that the school department now officially owns the portable classrooms, but the fund set up to maintain those classrooms did not transfer to school department control. He said there is about \$6,800 in that fund, and Principal Val Perkins requested \$500 to fix up the skirting on the buildings.

Richard said the estimate seems expensive. He said the town could do the work itself for a lot less. A short discussion followed. Brett said the fund should be used to pay the bill. Jo said she's not sure why the money could not come out of the portable classroom maintenance fund. Richard said he wouldn't mind volunteering his time to do it. Cynthia said the question is where the money comes from and the request on the table is whether it can come from this fund. She said we need to vote on that.

Jo moved to let the school access up to \$500 from the Portable Classroom Maintenance Fund to repair the skirting and fascia board on the portable classrooms. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**School Bond Update** – School Committee chair Faith Perkins said the town meeting referendum in January voted to approve a bond of \$652,000 from the state with 30% forgiven and the remaining 70% paid back over a 10-year period, interest free. She said a lot of things happened, and the specifications came in way over the estimated costs. She said the state approved software was faulty, and the new estimates for the work required were all higher. She said the roof could not carry the estimated snow load, and the various issues have been dealt with all summer. She said one plan was to re-submit 3 of the 4 projects to the state. She said the school needed a roof plan within two years. She said the roof is currently safe, but some parts require work. She said the Bureau of General Services encouraged a new application submission. She said they found additional money and would approve of all four projects at the new cost of \$926,000.

Richard asked if the financing setup was the same. Ms. Perkins said it was. Brett asked if the debt service line would affect the LD-1 limitations. Stu said debt does not count in LD-1.

Ms. Perkins said the request is for a town referendum for a new project. She said they'd like to have the vote in January so that it could be put out to bid next summer. She said if the town says "no", they still have the money approved in January 2007. She said the building committee had been on hold for a while, and they are now in the process of contacting the building committee to let them know there is a project.

Cynthia asked if there is enough time for publicity for a January referendum. Ms. Perkins said that was a good question. She said a consolidation forum is planned for January. She said they want to be constantly giving information to the town. She said there are no deadline issues for January at this point.

Brett asked about the bond bank process. Ms. Perkins explained how it works. Jo said she has no problem with having a referendum, but she wants to think about the timing. Ms. Perkins said she would check with the Superintendent's Office. Chris asked how much the Budget Committee knows. Stu said nothing at this point, but the information will be in their packet for their meeting next Monday. He suggested that the Superintendent give the dates for the hearings and votes.

**Consolidation Repeal Resolve** – Ms. Perkins said the school committee did not look at the repeal of school consolidation petition a month ago. She said several bills have been submitted to change the rules, and on Monday the School Committee signed a resolve supporting the citizen petition to repeal state mandated consolidation. Stu asked if this would be sent to legislators. Ms. Perkins said yes. Richard said he was fine with the resolve as presented. Chris moved to support the resolution. Richard 2<sup>nd</sup>. **Vote in favor was 5-0. Selectmen signed the resolve.**

**School Property Division** – Richard said he didn't know if anyone had picked up on the restrictions on the property purchased from Carlton Johnson on the school lot. He noted that it was conveyed with a restriction that it be used only for educational or recreational purposes. Stu said that should be listed on the deed. Brett said he thought the property should be officially split up. He said people wanted to review the deeds. He said the ballfield and fire house should be split from the school lot. A short discussion followed on the restrictions. Brett said he's not sure if the documents define the land divisions. Chris asked if a site visit would be beneficial. Richard said it probably would help. He said it appears from the deeds that there are references to pins.

The board agreed a site visit will be scheduled.

**Consolidation Planning Update** – Cynthia reported the Regional Planning Committee (RPC) met at Sumner High School, and the committees reported back on their work. She said some concerns surfaced about how the towns would be represented in the Regional School Unit (RSU). She said there were concerns about how RSU representatives would be elected. She said a lot of notes were taken and response to various ideas was gauged. She said the RPC meets again on Monday and the recommendations would be refined. She said the process is becoming cumbersome. She said the Union 92 RPC members met this week and talked over common needs. She said a letter from the Union 92 group is going to RSU 7. She said there is a draft of that letter, but she was

not in a position to share it at this time. Ms. Perkins said RSU 7 has become a large group, but Union 96 has delayed a vote on whether to join.

Ms. Perkins said they are still looking at the options based on what is good for Lamoine and for Union 92. She said the negotiations are still proceeding in good faith. She said there is a deadline of December 1, 2007 to file a plan, but she doubts that it will be together. Richard said he understands there are two scheduling tracks. Ms. Perkins said the December 1 deadline is in effect for either track. She said the early track would have a vote on January 15, 2008, and no one in the state is likely to be doing that. She said the later track is a vote by June with implementation in the fall of 2009.

Cynthia said the next RPC meeting is November 12 in Hancock, followed by November 28, December 12, January 10, and January 23.

Chris asked how the people working on the RPC would feel if the law were repealed. Ms. Perkins said they would probably do a "happy dance". Richard said none of the work would be wasted. Ms. Perkins said the upside of the process is that the schools are looking at several cooperative things that could be done. Brett asked about the timing for the repeal petitions and vote. Richard said he thinks there is some deadline in January. Brett asked how far towns will get into the town meeting cycle before the consolidation issues are decided on a statewide basis. A short discussion followed regarding the repeal initiative.

**Communications from Neil Salisbury** – Stu reported that he spoke with town attorney Tony Beardsley in regard to a recent demand from Mr. Salisbury and that no action was suggested. Stu also reported that the District Attorney's office told him that Mr. Salisbury appeared in court on November 6, 2007 in regard to the trespass complaint filed by the town, and that a trial date is set for January 11, 2008.

**Freedom of Access Request** – Stu reported that the chair, Jo Cooper, had written to Robert Sharkey following his clarification letter to let him know the cost for staff time and copying and that the information would be available after payment receipt. He said there has been no communication since from Mr. Sharkey.

**Cell Tower Plan** – Stu reported there was a new sketch received which moved a utility pole. Chris asked if there has been any further response to the suggested changes. Stu said he's only heard that the attorneys for Verizon Wireless would get to it in due course.

**Salt/Sand Shed** – Stu reported the first load of sand and salt was delivered earlier in the day. A few items remain to be finished, and there was a brief discussion about them. Stu asked if the Selectmen wanted to have some sort of

grand opening. Chris said it would be nice to have a ribbon cutting. Selectmen said they would pick a date later. (no date was set).

**Road Work** – Road Commissioner Dennis Ford reported the road work was pretty well finished, only a little pavement patching is left. He said Jay Fowler’s crew ran into a snag because the asphalt plant broke down. He said the projects came out good. He said he checked the roads after a heavy rain, and they held up well. Richard said someone called him about a pot hole on Birchlawn Drive. Mr. Ford said that was one of the areas that needed patching when the asphalt plant went down. He said Fowler will be working on it.

Chris asked about an area on Needles Eye Road where there was a serious accident a couple of weekends ago. He asked if a new drive was trying to be established in that area. Mr. Ford said the home owner and his friends were “mudding”. Chris said that appeared to be in a wetland area. Mr. Ford said that activity has ceased.

**Dangerous Building** – Stu reported he had a receipt for the notice of the public hearing on the dangerous building ordered last meeting. He said the owner has not contacted the town office.

**Flat Closure** – Richard said Robert Goodwin reported getting clean samples off Seal Point Road. He asked if CEO Ford had any luck on the other area off Partridge Cove Road. A short discussion followed on where that was located.

**Warrant 10** – Selectmen signed expenditure warrant 10 for \$713,145.82. Stu noted that \$425,000 was a transfer to investments, \$151,000 was for school warrants, about \$39,000 for Jay Fowler, \$69,000 for the salt/sand shed, and \$6,500 for heating fuel was included.

**Cash & Budget Report** – Selectmen had no questions in regard to the written report. Stu noted the Animal Control budget has been hit hard.

**Checking Account Reconciliation** – Selectmen signed the statement expressing satisfaction with the reconciliation of the checking account.

**Prepaid Oil** – Chris said being able to lock in a price at \$2.689 was a coup. There was a brief discussion about the wording of the contract in regard to alternatives when the company was unable to deliver. Jo moved to sign the contract as presented. Cynthia 2<sup>nd</sup>. **Vote in favor was 3-2, (Tadema-Wielandt & Jones opposed)**

**Town Report** – Selectmen said they liked the cover. No change in the format was suggested.

**Town Hall Reconfiguration** – Richard said he received a call earlier in the evening asking about whether a meeting with the staff tomorrow was planned. Stu said Tyra Hanson was coming in tomorrow. Richard asked if the meeting was open to the public and if the Selectmen can do the project without town meeting approval. He said people didn't want to spend a lot of money on this. Stu said the purpose of the planning process was to formulate a budget that would go before the town meeting. A short discussion followed on public concerns.

**Rabies** – Chris said he got a call of concern regarding whether the public was efficiently notified of the rabies danger. He said the caller did not find out until weeks afterwards. Brett said an e-mail list could be developed. Richard said the newspaper is a good source. Stu said he immediately posted the situation on the town's website, the TV channel, and sent a flyer to the school which they sent home with the students. A short discussion followed about timing of notification. Richard said it doesn't make sense to send personal notification to everyone in town. He said notification in this case was no different than other notifications. Jo said she talked to Cece Ohmart (the health officer) the next day after the town found out about the public education aspect of this. She said that afternoon flyers came home from school with her sons.

A short discussion followed on other means of communication. It was suggested a message on the town hall outdoor sign and a press release could be added to the arsenal.

**Request of Forest Hill Cemetery for town meeting approval to surrender cemetery funds.** Stu said he was not sure about the process to turn over funds for cemetery care held by the town to a private cemetery corporation. He asked if the Selectmen wished to authorize him to find out legally how to do this. There was no objection.

**Bangor Hydro Transmission Line Project** – Chris said the last communication from Bangor Hydro showed a sketch of wire crossing Douglas Hwy shows both steel and wood poles. He said there is concern about the materials used to treat the wooden posts. He asked if the town requested steel towers. Stu said that was not part of the Planning Board's deliberations. Richard said the steel tower is located in Hancock. He said it's too late the change the request because the construction phase has started. Stu said he thinks Fred Stocking made the request, but it may have been too late. Brett asked how long the wooden posts last. Richard said the utility has just started replacing wooden poles put in 50-years ago. A short discussion followed in regard to replacing poles.

**Family Network** – Cynthia said the Town of Hancock has a connection to Maine Family Networks according to their town newsletter. She said she would like to find out more about it. Stu asked what it was. Cynthia explained it was a parent support network. She said she would like to find out how it happens.

**Budget Workshop** – Selectmen began a brief budget workshop at 9:30 PM. Discussed was the road budget, having our own public works crew vs. contractors, and public vs. private roads.

**Next Meeting**- The next regular meeting will be November 29, 2007.

There being no further business, the meeting adjourned at 9:45 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.

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