



Lamoine Board of Selectmen

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Draft

Minutes – April 9, 2015

Chair Gary McFarland called the meeting to order at 7:00 PM.

Present were: Selectmen Gary McFarland, Bernie Johnson, Nathan Mason, Heather Fowler, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Eric Stumpf, Code Enforcement Officer Michael Jordan, Carol Kory, Planning Board Chair John Holt, Bruce Gillett, Kathleen Rybarz, Fire Chief George “Skip” Smith, Catherine deTuede, Planning Board member Donald Bamman, and Recreation Committee member Tim Jordan.

Agenda Review – No changes were proposed to the printed agenda or addendum.

Minutes, March 26, 2015 – Heather moved to approve the minutes of March 26, 2015 as written. Nathan 2nd. **Vote in favor was 4-0 (Cooper abstained).**

Expenditure Warrant 20 – Selectmen signed the warrant in the amount of \$62,216.81.

Cash & Budget Report – Stu reported the town had received a check from RSU 24 for \$352,000 and change earlier in the day. He said it is the largest treasurer’s receipt he’s ever written.

Checking Account Reconciliation – Selectmen signed a statement expressing satisfaction with the review of the checking account reconciliation which had been sent via e-mail prior to the meeting.

Excise Tax Report – Stu said the first quarter of the calendar year was down from previous years. He speculated this probably had a lot to do with the poor weather. He said he expects the 2nd quarter to pick up and it is typically the busiest quarter of the year.

Rescue Boat Bid – Gary said the Selectmen have been presented with a set of specifications. Fire Chief George “Skip” Smith said they are proposing to put the specs out to bid. He said they would like the timing to be able to award the bid in May, even though the money for the project would not be available until July 1st. He said the fire department could supply the down payment prior to July 1st.

Jo asked where the bid would be advertised. Chief Smith said they would be sent to local boat vendors, companies identified as potentially interested via the Internet, and advertised in the Ellsworth American. Nate asked if only certain places would be able to construct such a specialty boat. Chief Smith said most rescue boats appear to be built to order. He said it would take 10-to-12 weeks to do everything.

Jo asked about moving the bid timeframe up. Chief Smith said he was proposing to do that because the fire department would like to do some extensive training and they would prefer to do it in warmer weather. Jo said that made sense. Chief Smith said he

would like to put out the bid ad as soon as possible and have an April 30th submission deadline, which would give Selectmen time to give him the bids for evaluation and submit a recommendation for the 1st meeting in May.

Bernie asked if where the motor is service would influence the brand of the outboard motor. Chief Smith said he's pretty open minded about the engine make, and the hope is to service it locally. Heather asked about sealed bids vs. e-mail bids and a brief discussion followed, concluding that an e-mailed bid would be adequate.

Heather moved to approve the specifications with a bid submission date of April 30, 2015. Nathan 2nd. **Vote in favor was 5-0.**

Proposed Building and Land Use Ordinance Amendment – Gary said Eric Stumpf of Rudman and Winchell was present to explain the proposed ordinance and answer questions.

Mr. Stumpf said the amendment to the Building and Land Use Ordinance (BLUO) in 2014 impacted their client, the Ames Family Trust. He said the purpose of this is to try to benefit their client by having a limited exception to the prohibition on new gravel operations in the Rural and Agricultural Zone. He read the proposed exception which would appear as a footnote in the land uses chart.

Mr. Stumpf said if this were enacted it would enable their client to market their land for sand and gravel extraction. He said he didn't think the number of excepted parcels under the proposed amendment would be very large. He said the Ames family acquired a 20-acre parcel in 1967 and the property was left in the Ames Family Trust, which is the major asset of the trust. He said the trust would like to be able to sell the property. He said the trust voluntarily dismissed a suit against the town because they did not want to run up a lot of legal expense. He said the amendment to the BLUO has reduced the value of the property to zero. He said that is considered a constitutional taking if an ordinance change reduces the value. He said there has been some state and federal law this regard and cited some case law examples.

Mr. Stumpf said it has been the intent of the Ames family since 1967 to hold the land as an asset for nursing home care for Mrs. Ames. He said the intent was to sell the property for sand and gravel extraction. He said that was a perfectly legal use until last year. He said there are no other practical uses for the land, and it's not fair for the town to deprive the family of that.

Mr. Stumpf said there is another issue. He said the ordinance change last year means the BLUO is no longer consistent with the Comprehensive Plan. He said the current Comprehensive Plan would allow sand and gravel extraction. He said the proposed change would move the ordinance back toward compliance with the Comprehensive Plan.

Jo said this is not how she pictured an ordinance change. She said she questioned whether the land has no other use and asked where exactly it was located. Gary

answered that it is across Route 184 from Chief Smith's home, and is kind of a blueberry field. Jo asked if the land could not be used for house lots. Planning Board chair John Holt answered that of course it could. Jo noted the town is in the process of updating its comprehensive plan.

Stu asked if the ordinance would prevent the Ames Trust from selling the land as the proposed ordinance requires that to obtain a permit it must have been owned by the same entity for the past 20-years. Rev. Holt said he believed that as long as the same owner had owned the land for 20-years prior to March 2013 it would qualify.

Rev. Holt said he found the threat of a lawsuit distasteful. He asked if he owned 50-acres for 20-years prior to March 2013 and used 5-acres for a residence and the 45-acres for nothing else, would he be able to seek a gravel permit. Mr. Stumpfel said under the proposed amendment, given a fair reading, if the proposed parcel was more than 30-acres it would not be permitted. Rev. Holt said he took that to mean that he could propose using up to 30-acres as a gravel pit. A brief discussion ensued.

Rev. Holt asked whether land purchased from an eligible owner would be eligible for a permit. Mr. Stumpfel said under the proposed amendment, it would. Rev. Holt asked whether 10-acres could be eligible. Mr. Stumpfel answered yes. Rev. Holt said what constitutes a principle use is not clear at all, and this potentially could free up all kinds of land for gravel development. Mr. Stumpfel said the town might want to narrow down the language. He said he was only representing the Ames parcel.

Jo asked about a possible tax abatement as a way to resolve the issue with the Ames Trust. Carol Korty said she is looking forward to the Comprehensive Planning committee's work. She said an ordinance change would disrupt that process. She said many who voted a year ago wanted to rein in gravel operations. She said the Ames family property was in her family for years. She said they wanted to maintain ecologically responsible use for the land and that the property was willed to Robert Ames. She said Mr. Ames' widow would be furious to see the land clear cut and mined. She said there are plenty of other uses and to say differently is patently absurd.

Planning Board member Donald Bamman said he has a difficult time believing there are no other uses for the land. He gave a brief analogy using the Shoreland Zoning ordinance with a new setback. He said this doesn't make sense.

Rev. Holt said Mr. Stumpfel's assertion that there is a total prohibition on mining gravel in the Rural and Agricultural Zone is not correct. He said the ordinance change exempted existing operations which continue to be mined. Mr. Stumpfel said it was only for new operations.

Jo asked Mr. Stumpfel what his request was. Mr. Stumpfel answered that he would like for the proposed ordinance to be advanced to a town meeting. He said the alternative is to gather petition signatures. He said they are requesting the same chance to vote on the amendment as was presented last year.

Mr. Stumpfel characterized the 2014 ordinance change as the same as disallowing lobster boats in town. He said existing gravel pits are grandfathered. He said his clients have held onto their property as an investment, and now that expectation is gone. He said this is a tremendous loss of value to the trust.

Jo asked if there was anything in writing that this was the intended purpose of the land. Mr. Stumpfel said they have a written inquiry to the town. Mr. Bamman said a lot of investments go south. Mr. Stumpfel asked Jo if she was comfortable telling Mrs. Ames if she was going to have to change her care. Jo said a lot of families have that decision to make. Gary said the board could take the request into consideration.

Bernie said he was surprised at the strategy by Mr. Stumpfel and asked what he thought the chances would be that the proposed amendment would pass. Mr. Stumpfel said he did not know. He said they didn't want to eat up the trust's value with legal fees, and this is a lower cost approach.

Catherine deTuede said she was part of Mrs. Ames' team. She said her home is an asset, and desperate need is not a valid claim. There was a brief discussion about family matters.

Jo said the Selectmen need to make a decision based on the merits of the case, not on the impact of Mrs. Ames' situation. Gary said the board could make a decision tonight. Jo said she has concerns about the wording of the proposed amendment, and has a lot of questions about the merits. Heather said she didn't understand the impact beyond tonight, and feared that making a stand would make an impact. Jo said the board could decide not to put this before the voters. Gary said he was concerned about the wording. Bernie asked how many other parcels the proposed amendment would affect. Nathan said he would like to take the emotions out of the matter, and he was not comfortable for an exemption for one parcel. He said he didn't like the wording. He said he was not in favor of having town government take away property value.

Rev. Holt said unless the Selectmen are compelled by petition to present this to the voters, anything offered should be the right thing to do for the community, not because someone brings it before the board. Jo said if the Selectmen put forth only matters that were "good for the town", that would be a little scary. She said she favors having the town make decisions.

Gary said he was hearing that people are uncomfortable with the wording. Jo said she was uncomfortable with singling out a parcel for exemption as well as the discussion of a person's private business.

Heather said she was not ready to act on the proposed amendment. Nathan said he could not support it the way it is written. Gary said he also was uncomfortable with the proposal as written. Mr. Stumpfel asked whether that was the primary concern, or the concern with the impact on other parcels. Gary said the proposal is not clear enough and it's not known how much other land this would affect. A brief discussion followed on the potential politics of the question.

Bernie said if the board were presented a citizens' petition, it might better reflect the mood of the community. Mr. Stumpfel said there was no real discussion about how last year's vote affected individuals. A brief discussion on the June 2014 vote followed. Heather said the public hearings seemed to be against gravel companies.

Rev. Holt said he was curious about how much other land is impacted. He said the principal use term is shaky. He said he would look to see how much land is potentially affected. Ms. deTuede said she didn't think last year's referendum was against the gravel companies. She said it was for protecting land for the future. She related a story about having to move a family cabin to comply with Shoreland Zoning rules. A brief discussion between Ms. deTuede and Heather followed.

Chief Smith suggested that the board decide based strictly on the proposed language. Gary said as has been discussed, the board seems uncomfortable with the wording and there was no sentiment to send the matter to a town meeting as written. Mr. Stumpfel asked if they could come back with something different. Gary said that would be OK.

Gary said given that this is not going to town meeting, there is no need to discuss the public hearing process.

Photocopier RFP – Selectmen opened numerous requests for proposal from photo copier dealers. The results were as follow:

Bidder	Make/Model	Cost	Year	5 yr maint	Extra copy cost
Bangor Computer Copy, Inc	Toshiba 355*	\$2,195.00	2012	\$3,268.59	.0079-.0095
Bangor Computer Copy, Inc	Toshiba 3055C	\$5,414.00	New	\$2,880.00	.069-.085
A-Copi Imaging	Toshiba 357	\$4,200.00	New	\$2,487.38	.006-.0073
A-Copi Imaging	Toshiba 3055	\$5,400.00	New	\$2,487.38	.06-.073
Canon Solutions	Imagerunner 5235	\$6,932.00	New	BW 2,962.50 Color 29,625.00	.0079-.079
Ricoh USA	MPC3001SP	\$4,884.46	2010	\$3,450	\$.0092-.0598
Ricoh USA	MPC3003SP	\$7,938.88	New	\$3,000	\$.008-\$052
Levesque Business Solutions	Savin MP3054	\$4,122.00	New	\$2,913	\$.008
Levesque Business Solutions	Savin MPC3003	\$5,761.00	New	\$25,500	\$.065-.07
Transco	Konica 423*	\$2,895.00	2012	\$3,144.59	.0079

Based on the results of the bids, the selectmen opted to authorize the town office staff to test the two copiers marked with an asterisk on the above list, and to make a recommendation to the board at the next meeting.

Returnables – Nathan moved to award the proceeds from the returnable bottles in December 2015 to Brownie Troop 796. Heather 2nd. **Vote in favor was 5-0.**

Possible land purchase – Stu reported that the realtor for the seller has authorized the town to conduct a soils test on the property. He said several people have recommended Albert Frick to conduct the test. CEO Jordan said another site evaluator has suggested it would be difficult to get a soils test, but Frick does engineered systems and he's very good. Gary asked if the board wished to authorize Stu to contact Mr. Frick and get an estimate, or to go ahead with a capped price. Mr. Jordan said we should also ask if Mr. Frick wants the town to supply an excavator. The board requested that Stu contact Mr. Frick and get a price.

Commercial Fishing Pier – Stu noted that State Representative Brian Hubble has made inquiry with state officials regarding the proposal discussed last meeting.

Appointments – Jo moved to appoint Chris Tadema-Wielandt and Perry Fowler to the Hancock County Planning Commission and Heidi Garrison as an alternate to the Recreation Committee. Nathan 2nd. **Vote in favor was 4-0, Fowler abstained.**

Recreation Committee – program offerings – Gary read a list of potential programs the Recreation Committee has proposed to offer, including:

- Soccer (indoor/outdoor)
- Rec Basketball
- Peewee Cheering
- Karate (fall/spring)
- Baseball/Softball
- Gym Activities & Outdoor Activities
- Volleyball
- Kickball
- Field Hockey
- Ultimate Frisbee

Stu said he wasn't sure how much information the Selectmen desired before approving programs. Jo asked if the programming was just for school aged children. Recreation Committee co-chair Tim Jordan said for now, but there have been ideas for older folks too. He said the next big offering will be outdoor soccer. He said the committee has discussed adult programming.

Mr. Jordan asked if the committee needed approval for a questionnaire to be sent home with the school students. Gary said it probably should go before the principal. Nathan asked if folks who have program ideas should come to the Rec Committee. Heather asked if there was a needs and interest survey planned. A brief discussion followed on

liability for program offerings as well as coordinating programs with the PATRONS group and the school.

Heather moved to approve the suggested program offerings. Bernie 2nd. **Vote in favor was 4-0 (Mason abstained as he's running the karate program).**

MDOT Speed Trailer – Stu reported the town will get use of the speed trailer during the first two weeks of August. He suggested having a little fun by asking folks where they would like to have the trailer placed via the town's Facebook page. There was no objection.

Paving Estimate – School – A brief discussion was held about the possible cost to pave the school parking lot and the basketball court. Stu reported that Roger Picard planned to include the project with the bulk bid, and if the town can afford it, it could accept the bid, and if not, it could reject.

Heating Fuel Bid – Stu said there have been inquiries about when to put fuel to bid. After a brief discussion, Bernie moved to put heating fuel for 2015/16 out to bid and to see if Hancock and Sullivan would like to join in again. Gary 2nd. **Vote in favor was 5-0.**

Building & Land Use Ordinance – RV Amendment – John Holt said the Planning Board is not making any recommendation to change the ordinance in regard to Recreational Vehicle rules because they could not come up with a consensus on what changes ought to be made. He said this will be a hot potato no matter what is offered. He said the Planning Board did talk about it a lot, and there was a lot of community input. A brief discussion followed on how the town deals with RVs and the occupation thereof.

CEO Jordan said he would prefer to see the town handle the matter the same way it was dealt with over past years, though the Appeals Board has ruled differently. Gary said perhaps it is best to let sleeping dogs lie at this point. CEO Jordan said it requires more enforcement than before and a brief discussion followed.

Administrative Assistant Vacation – Stu said he would like to take May 7-12 off so that he could attend his daughter's college graduation. There was no objection.

Next Meetings – The next meeting will be April 30, 2015. Selectmen asked Stu to schedule job evaluations for the next few meetings for those reviews that the board conducts.

Stu said the Planning Board chair has requested input on the CEO's job performance. After some discussion, the Selectmen agreed that written comments from individual planning board members could be submitted, but the Planning Board is not an appropriate board to discuss job performance.

Selectmen asked Stu to send the paving estimates to Lamoine School Principal Dawn McPhail.

There being no further business, the meeting adjourned at 9:12 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen