



# Lamoine Board of Selectmen

606 Douglas Hwy  
Lamoine, ME 04605  
(207) 667-2242  
town@lamoine-me.gov

## Minutes – June 22, 2017

Chair Jo Cooper called the meeting to order at 7:00 PM.

Present were: Selectmen S. Josephine Cooper, Gary McFarland, Robert Christie, Kathleen Rybarz, Nathan Mason; Administrative Assistant Stuart Marckoon, Planning Board chair John Holt, Catherine deTuede, Richard & Sheryl Davis, Board of Assessors chair Jane Fowler, Timothy Gott, Edmond Bearor, Richard Fennelly, Jr., Stephen Salsbury, Planning Board member Donald Bamman, Town Attorney Daniel Pileggi, Town Clerk Jennifer Kovacs, Katie Foster and Planning Board Alternate Member David Legere

**Agenda Review/Addendum** – No changes were proposed to the printed agenda and addendum.

**Minutes – June 8, 2017** – Nathan moved to approve the minutes of June 8, 2017 as distributed. Bob 2<sup>nd</sup>. **Vote in favor was 4-0 (McFarland abstained)**

**Expenditure Warrant 26** – Selectmen signed the warrant in the amount of \$126,995.34. Stu reported the bulk of the expenditures was for education. He said he moved \$80,000 from the investment management fund to cover the checks.

**Budget Report** – Stu reported it looks like the town will end the fiscal year with a very healthy surplus. Jo asked about dead shrubs around the Veterans' Memorial. Stu reported that he'd had McMullen Landscape remove them and do some significant work on the lawn which was impacted by grubs.

**Encumbrance Order** – Stu read the following encumbered accounts order:

We, the undersigned Selectmen of Lamoine, hereby approve this order to encumber fund for projects approved and funded during the fiscal year ending June 30, 2015 but not yet completed. The following accounts shall record the expense and add to the encumbered accounts liability (GL #2-01-03)

Account Name	GL #	Amount	Purpose
Roads-Salt/Sand Shed Maint	5-09-09-54	\$10,000.00	Repairs to shed
Fire – Station Maintenance	5-01-05-114	\$500.00	Drop cords, door magnets
Fire – Turnout gear	5-01-05-154	\$950.00	Traffic Control Vests
Roads – Shore Road	5-09-09-10.22	\$5,000.00	Gravel – shoulders
Roads – Mill Road	5-09-09-10.23	\$2,500.00	Gravel – shoulders
Comprehensive Planning	2-01-03	\$13,946.17	Carry Forward – not complete yet
Parks-Bloomfield Park	5-14-04-02	\$200.00	Security/Trail Camera
<b>Previously Encumbered and Expiring – close into appropriate fund</b>			
Item	Close To	Amount	Reason
Transfer Stn. Camera	General Fund	\$1,100.92	Completed
Roads-Birchlawn Dr.	Road Fund	\$70.00	Completed
Roads-Seal Point	Road Fund	\$1,500.00	Expired
Roads-Walker	Road Fund	\$2,000.00	Expired

Roads-Mill Road	Road Fund	\$1,550.00	Completed
Roads-Berry Cove	Road Fund	\$1,000.00	Completed
Roads-Gully Brook	Road Fund	\$1,500.00	Expired

Jo asked about the Salt/Sand shed. Stu said the engineer expected to be here next week, and the encumbrance is from the road budget. Jo moved to sign the order, Bob 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Gott Pit Setback** – Attorney Ed Bearor said that Doug Gott & Sons is in the process of relicensing a gravel pit which adjoins town owned land. He said in 1996 there was an agreement to excavate up to a common boundary line between the town and the Mary Smith pit over a 3-year period which was extended until 2001. He said since that contract, the ordinance has changed, and Gott is unable to excavate to the common boundary line. He said Gott went to the Planning Board with concerns about the common elevation and they are not able to exercise their contracted rights. He said they are now left with a pile of gravel because of the ordinance change.

Mr. Bearor said the contract and ordinance were approved by the town meeting. He said the ordinance raises a lot of problems, and the Planning Board is balking. He said they are looking for confirmation of the previous contract, and said that the town can't sign a contract then change the ordinance. He said they are looking to see what the common understanding might be.

Jo said she was on the Board of Selectmen when the last contract agreement was signed. She said she is not sure what Mr. Bearor was trying to accomplish, and asked what action they wanted. Mr. Bearor said they seek an airing of the issue to see if there is a common understanding of the scope of the agreement. He said that would inform them of the path to follow with the Planning Board.

Kathleen asked for a clarification of the years involved. Mr. Bearor said the first contract was in 1996, and that was amended in 1998 to increase the amount of gravel involved. Kathleen said the current gravel ordinance was approved in 2014, and Gott renewed a permit that year. She said it appears Gott has already operated under the latest ordinance for one cycle.

Mr. Bearor said the town wrote a letter to Steve Salsbury in January 2001 confirming the town meeting vote and that the last agreement was in 2001. Kathleen said Mr. Gott had 10-years with the ordinance in effect at the time of the last contract. Bob asked if the town attorney could speak to the issue. Mr. Bearor noted that Mr. Pileggi had shared an e-mail with him earlier in the day.

Town Attorney Daniel Pileggi said he has a lot of thoughts regarding the contracts if there are any specific questions about them. He said he would be glad to talk about the authority of the Board of Selectmen to get a better understanding. He said it appears Mr. Bearor is asking the board to interpret a contract. He said he would not ask the board to interpret words by other than what they say. He said there is nothing pending

for which the Board is being asked to make any agreements, and he advised the board to be careful about interpreting anything.

Jo said she feels this is not a matter for the Board of Selectmen to decide. Mr. Bearor said he does not disagree with taking a cautious approach, but said it would possibly be beneficial to have some sort of understanding while attorneys for both parties are in the same room. He said that might prevent the need for a 3<sup>rd</sup> party to resolve an issue. Jo said she didn't think the Board of Selectmen was able to act, and said she's not sure under what authority the Board could act.

Gary said this appears to be a permitting question between Mr. Gott and the Planning Board. Mr. Bearor said the Planning Board does not acknowledge the prior agreements between Mr. Gott and the town. Nathan said the Planning Board apparently acknowledged some sort of agreement 3-years ago. Planning Board Chair John Holt said He got Mr. Bearor's memo. He said it referred to Map 3 Lot 2-1, and that deals with a contract involving the town land, Gott and the Smith pit. He said the permit before the Planning Board is the Alexander Pit, which is an entirely different pit. He said there is no existing boundary waiver with the Alexander pit. He said there has been nothing regarding the town's former pit for several years. He said the setback issue was overlooked in 2014, noting that the minutes in 2014 make no mention of the setback.

Jo said that she didn't think the Selectmen could take any action. Mr. Holt said the contracts are done, there is no current contract between the town and Gott. He said the best the Town of Lamoine could do is to allow the 50-to-100 foot setback.

Tim Gott said they didn't dig their own gravel during the contract with the town. He said when he asked about the setback at a meeting in 2014 the Planning Board said it didn't matter. He said there is an 80-foot tall banking that is higher than the town's land. He said they have stayed off the Smith pit line.

Bob said the Selectmen would be spinning its wheels and should follow the town attorney's advice. Jo said this was not accomplishing much. Richard Davis said he recalled making an agreement when he served as a Selectman, and the only trouble with that contract was an inaccurate accusation that the Gotts were digging on the town's property line. He said it was a pretty simple contract.

Jo said she's not sure what the next steps are. Gary said it appears the next step is to have Gott meet with the Planning Board. Mr. Bearor said they are doing that now. Nathan asked what happens if they are not talking about the same pits. Mr. Bearor said they are talking about the same boundary line.

**Appointments – Planning Board** - Stu reported the two expiring appointments are sought by the two current board members who indicated they would like to serve only through the MacQuinn permitting process. He said two others, Richard Davis and Catherine deTuede have indicated they would like to serve. Nathan noted that one of the positions is an alternate appointment.

Bob read from the appointment policy, including the following:

- a. **Reappointment** – *The Administrative Assistant shall contact all appointees prior to the expiration of their term and determine whether the appointee desires reappointment. The Administrative Assistant shall maintain and disseminate the list of expiring appointments and whether the appointee desires reappointment. The Board of Selectmen are not obligated to interview any appointee who seeks reappointment, but may choose to do so and hold such interviews in executive session pursuant to 1MRSA §405(6)(a). The Board is not obligated to reappoint any official.*

There was a lengthy discussion about the appointment process, including interviews in executive session, and whether the two current office holders wished to end their service.

Richard Fennelly said he didn't recall holding any executive sessions to appoint committee and board members when he served as a Selectman, he just considered the qualifications of the candidates. Stu said the use of executive session would only be to interview candidates. Town Attorney Pileggi said the board does a good job on executive sessions, and confirmed it could only be used to interview candidates, but not to make an appointment.

Kathleen asked Mr. Pileggi about replacing current board members in the midst of the MacQuinn permitting issue. Mr. Pileggi said the Planning Board is in the midst of the process, but there has been no substantive discussion at this point. Nathan asked what would happen if this were further along. Mr. Pileggi said it's common if there has been substantial discussion on the application that service on the board would be beneficial to continue. He said if someone were halfway through they would not have heard all the evidence, but the town is not there yet. Nathan noted that municipal government changes all the time. Mr. Pileggi noted that the process has changed over the years; that it's no longer takes just one meeting to grant a gravel permit. He said it is usually to the advantage of the applicant to have the same members who've heard a permit all the way.

Gary said there are two people present this evening who would like to serve on the Planning Board and he'd like to hear from them. All four candidates provided information in regard why they would like to serve on the Planning Board.

Richard Davis gave a brief biography and said he's concerned about respect for private property ownership. He said he's against planning ahead for 50-years and has no personal vendetta. Kathleen asked if he had any experience dealing with ordinances. Mr. Davis said he did not.

Catherine deTuede read a lengthy application letter, apologizing as she was recovering from a procedure earlier in the day. Kathleen asked if she'd ever served on a Planning Board. Ms. deTuede said she had not.

Mr. Davis spoke a bit further about his work experience.

Donald Bamman said he's enjoyed his last five years on the Planning Board and said they've revamped some ordinance to better fit the Comprehensive Plan. He said the plan allows for regulation of gravel mining and that has become more time consuming and complex. He said he was going to request that he not be reappointed, but when the MacQuinn suit was dropped, he agreed to oversee the new application. He said he doesn't see serving another 5-years, but would like to see the MacQuinn process through.

David Legere, the current alternate gave his biography including other board service. He said he would like to continue serving, though he was debating it. He said he had told Stu that he wanted to continue through the MacQuinn application. He said if there were a change on the board for political reasons, he would continue to serve as a citizen. He said he believes he has served well. Nathan asked if he is willing to serve. Mr. Legere said he is, but he will not waive his right to step down.

Bob asked how many women currently serve on the Planning Board. Mr. Holt said there were none at this time. Bob commented that he's learned a lot from female board members over the years.

Kathleen moved to nominate the current members for reappointment. Bob 2<sup>nd</sup>. Discussion followed regarding apprehension to serve, the time commitment and the option to resign. Jo noted that it's a nice problem to have more people wishing to serve than positions open. Ms. deTuede said while she would like to serve, it would perhaps be better in an alternate position. She said she would be just as happy to serve in five years. Jo noted that Budget Committee members are needed. Kathleen noted that a community center committee will form in the fall, and there are plenty of opportunities to serve. **Vote in favor 3-2(McFarland, Mason opposed).**

Conservation Commission – Jo moved to appoint Jeff Cosulich and Kerry Diskin to the Conservation Commission. Kathleen 2<sup>nd</sup>. **Vote in favor was 5-0.** It was noted an alternate slot on the Conservation Commission is now open.

Paid, non-contracted Personnel – Nathan moved to appoint the following to one year terms:

Fire Chief	George Smith
Fire Warden	George Smith
Harbor Master	David Herrick
Deputy Harbor Master	Kevin Murphy
Road Commissioner	Stuart Marckoon

Kathleen 2<sup>nd</sup>. **Vote in favor was 5-0.**

Unpaid Appointed Personnel

Kathleen moved to appoint the following:

Office	Appointee	Expiration
Board of Appeals Member	Hancock Fenton	June 30, 2020
Board of Appeals Member	Jon VanAmringe	June 30, 2020
Budget Committee Member	Merle Bragdon	June 30, 2020
Budget Committee Member	Robin Veysey	June 30, 2020
Parks Commissioner	Marguerite Andros	June 30, 2020
Technology Committee Member	Brett Jones	June 30, 2020
Recreation Committee Member	Gregory Stone	June 30, 2020
Recreation Committee Member	Elizabeth Stanley	June 30, 2020
Recreation Committee-Alternate Member	Sharon Smythe	June 30, 2020
Addressing Officer	Stuart Marckoon	June 30, 2018
Deputy Fire Warden	Stuart Marckoon	June 30, 2018

Jo 2<sup>nd</sup>. **Vote in favor was 5-0.**

Contracted Personnel

Gary moved to appoint the following to one year terms ending June 30, 2018:

Town Clerk	Jennifer Kovacs
Tax Collector	Jennifer Kovacs
Excise Tax Collector	Jennifer Kovacs
Deputy Treasurer	Jennifer Kovacs
Animal Control Officer	Shannon Byers
Fire Chief	George Smith
Transfer Station Manager	Chris Meyer
Code Enforcement Officer	Edward R. Gallegos
Local Plumbing Inspector	Michael Jordan

**Assessing** – There was a brief discussion about when to fill the position vacated by the resignation of Michael Jordan as tax assessor. The Board of Assessors have recommended filling it at the annual town meeting next March when the term would have expired.

The Board also discussed the various options available for assessing in communities. Kathleen agreed to research how other towns in Hancock County handle the assessing function.

**Anonymous Gift** – Planning Board Chair John Holt reported that someone left 7 Dunkin Donuts gift cards for \$20.00 for the Planning Board at the June 12<sup>th</sup> meeting. He said it was a thoughtful gesture, but he brought them to Stu. He said he would like whoever made the offer to come get the cards because the Planning Board cannot accept them. He suggested an article in the next Lamoine Quarterly, saying while the Planning Board

appreciates the gesture, it cannot accept gifts. Stu asked if the Board of Selectmen wished to craft an Ethics policy. There was no desire to do so.

**Pole Permit** – Gary moved to sign a pole permit application from Emera Maine for Seal Point Road. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0, Gary signed the permit.**

**Eagle Scout** – Selectmen signed a certificate of commendation for Matthew Curtis who just became an Eagle Scout the night before. Jo said she had attended the ceremony. Kathleen inquired about Mr. Curtis's project. Stu reported it was work on a nature trail in Hancock.

Bob noted that Jo had just been named a Paul Harris Fellow by the Ellsworth Rotary Club.

**Game Camera Bloomfield Park** – Kathleen moved to approve a request for a game camera to be installed at Bloomfield Park. Jo 2<sup>nd</sup>. Nathan said he would support it with apprehension as those cameras tend to disappear. Gary agreed it is likely to have a short life. **Vote in favor was 5-0.**

**Pinkham Park Donation** – Stu reported that the Parks Commission has reiterated its recommendation to accept the donation, and the Conservation Commission will send along its recommendation shortly. No action was taken.

**Paving Update** – Stu reported that the paving on Shore Road and Mill Road was complete. He said he has asked Richard McMullen to come up with a price to place gravel on the shoulders, and part of the encumbrance order includes funding for that.

**Sign RFP** – Selectmen opened an additional RFP for an electronic sign at the town hall from NeoKraft. The proposal was for \$13,451 excluding the planter and electrical work. The Board asked Stu to do some legwork, including looking at a similar project in Belgrade.

**Next Meeting Dates** – The Board will hold regular meetings on July 20, August 3, September 7 and September 21.

**Executive Session** – Jo moved to enter executive session pursuant to 1MRSA §405(6)(A) for the purposes of conducting performance evaluations with the Town Clerk/Tax Collector and the Administrative Assistant. Gary 2<sup>nd</sup>. **Vote in favor was 5-0 at 8:41 PM. Out at 9:21 PM.**

The Board signed contracts with the Animal Control Officer, Transfer Station Manager, and Code Enforcement Officer, and acknowledgements of the next year contract provisions with the Town Clerk/Tax Collector and Administrative Assistant.

Nate thanked the Hodgkins Fund subcommittee for its work.

There being no further business, the meeting adjourned at 9:26 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen