

Town of Lamoine, Maine



Established 1870

Lamoine Board of Selectmen Minutes of January 12, 2006

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

Present were: Selectmen Cynthia Donaldson, Richard Fennelly Jr., Perry Fowler, Brett Jones, Josephine Cooper; Administrative Assistant Stu Marckoon, Assistant Town Clerk Kathy DeFusco, Conservation Commission Member Carol Korty, Steve Salsbury, Cable TV Tech Bill Butler and Planning Board Chair Stuart Branch

Agenda – Stu said the Conservation Commission wanted to talk about recycling. The Board agreed to move the Gott Land Lease/Purchase up on the agenda.

Minutes – Richard and Cynthia handed in minor corrections to the December 15th minutes. Cynthia moved to approve the minutes with the corrections. Brett 2nd. **Vote in favor was 5-0.**

Gott Land Lease/Purchase – Steve Salsbury who represents Doug Gott & Sons, Inc., handed out maps he said are exhibit A to the proposed lease and/or sale. He said the map delineates 12-acres of land they would like to lease or buy. He explained how the maps were laid out. Selectmen asked several questions about the map and town property layout.

Stu said question before the board is what to put before town meeting – either to lease or sell it. Richard said he favored divesting it. Cynthia said she needed to think carefully before giving up town land. She said her daughter worked on a project involving a reclaimed pit with a housing project. Brett said if it were a peninsula of high ground that would be different. Jo said the Board should look ahead and think what the potential use could be. She said the location is very difficult even if it were not entirely encased by Gott owned land. She asked what happens when Gott is done with it. She said housing is only one option. She said it's so close to the landfill, housing would probably not be a likely option. Cynthia stated she would like the board to think about it. Richard said he thought old gravel pits might make useful house lots.

Brett said any funds from a sale should be dedicated to something. Jo asked if that could be put in the warrant. Stu said it could. Stuart Branch asked about the feasibility of septic systems in a spent pit, and if that is feasible 5-feet from the groundwater table. Perry said that would be pretty slim. Jo asked about a community system. Perry said that's possible, the rest of the unexcavated area would be needed to make that work. Jo said it's good to look at all the possibilities, but it's difficult to look into the future.

Carol Korty asked about the amount of town owned land and the unexcavated gravel. Mr. Salsbury noted the north side of the proposed sale consists of wetlands. He said there are 7-to-8 good acres, and the offer was for \$10,000 per acre. He said it's not suitable for a housing development. Perry said if the town is concerned with land, it should take the \$75,000 from this sale and buy a good piece of land. Jo said it looks like the town would be crazy not to take this offer. Ms. Korty asked if there would be any negative effect on the high wooded area which offers a good view. Richard said he didn't think there would be any impact as the other area is already excavated. Jo said her preference is to sell the land. Richard said that's where he is. Jo said that would have to go to the town. Ms. Korty asked if the land is sold to Gott, would that mean Gott gets more gravel. Mr. Salsbury said the intention was to keep that area as a working area as they've already taken most of the gravel.

Stu said he needed to know which question to place on the town meeting warrant. Jo moved to put the sale question on the warrant. Richard 2nd. Brett said he wanted to specify what the money would be used for. He said he'd like to see it used for the school. Richard said maybe that would be two separate items. Jo asked if it could go to a capital reserve fund. A short discussion followed on a capital reserve fund. Stu said any expenditure from that fund would need town meeting approval. Jo said capital needs come up. Richard said there are a lot of good reasons to put the money in a capital reserve fund. Jo said the school would be at the top of the list

Mr. Branch asked if there is any concern about putting money into a capital reserve in light of LD-1. Stu said that's actually a good reason to do that as it softens the blow on taxes for a capital project. Ms. Korty asked if the offer is \$75,000 or if that's how much the land is assessed for. She asked if it's worth looking into an appraisal. Stu said given the valuation on the property card, the \$75,000 is a generous offer. Richard said because the land is land-locked and excavated, the offer is pretty fair. Cynthia asked if this had to be put out to bid. Stu said not – the town meeting has the final say. **Vote in favor was 4-1 (Donaldson opposed).**

Jo moved to include an article to dedicate the money to a capital reserve fund. Perry 2nd. **Vote in favor was 5-0.**

Discussion re: Pine Grove Estates Subdivision Road

Stu said the request came in the Planning Board minutes. He read a request from e-mail from Michael Garrett. The request is that the Selectmen cause further development to cease and place the matter back before the Planning Board. He said the Selectmen were familiar with the history that the road was placed close to a trailer. He said the town attorney advised the Planning Board that the Planning Board does not have jurisdiction to call back the plan. He said the attorney advised that the Selectmen have that jurisdiction.

Jo asked if there has been a complaint. Stu said there has been no citation by the CEO. He said the CEO issued a building permit for lot number one on advice of the town attorney. Stu read from the town attorney's letter stating that neither party has submitted

a survey to the town so the extent of the violation is not known. He said it's not the town's responsibility to get that information.

Richard said it seems there has been a violation in that the buffer zone has been removed. Jo asked if he could cite that. Cynthia said until the maps are produced we can't say that. A short discussion followed on where the buffer zone might be.

Jo said the landowners have to determine where the boundary is. She said the Planning Board doesn't want development continued until this is resolved. Perry said if the developer continues his development without knowing where the line is, he's putting himself at risk. Jo asked about the CEO issuing building permits. She asked what happens if the other lots sell without a settlement.

Brett said there is no way to compel the parties to have a survey done. Cynthia said there is leverage in telling them they have to stop. Jo said the Selectmen can't say "stop" unless the CEO says there is a violation. Richard asked if it's reasonable to ask them to "stop" selling pending delivery of a survey. Brett said it could be asked as a courtesy. Jo asked when to begin on that. She said the Planning Board says it's a big problem that needs to be resolved.

Mr. Branch said there is another area of concern in the cluster septic design. He said no lots that have been sold are pumping to that system but if something changes, a subdivision exists without a septic plan. Perry said the distance to the mobile home is not correct on the plan. Jo asked what the Selectmen's responsibility is. Brett asked if the Board could ask Dennis to measure the lot.

Jo said the Board should step back – she said the Planning Board says there is a problem; they've gone to the town attorney who said the Planning Board can't enforce it. Stu asked if the board could request the town attorney to take appropriate action. Jo said she wants to respond to the Planning Board, and there is a landowner with a serious concern, and possibly a developer with one. She said it sounds like things have to stop until we have some information. She said the board should ask the town attorney how to get there. Perry said the attorney answered the Planning Board's question. He said the Selectmen need to request information from the town attorney. Cynthia said the Planning Board could make recommendations. Mr. Branch said that is their recommendation. He said there are 3-issues. He said one is the misrepresentation of where the trailer is in relation to the road which may not have anything to do with property lines. . He said if there is no way to go back if there was a misrepresentation on the plan, it would be hard to function as a board. He said from the Planning Board point of view they would start again. He said the buffer zone was removed, and they have a letter from Ms. Rohner stating the trees had come out and those were the trees the board assumed was the buffer zone. He said the final concern is that the septic area potentially couldn't work. He said there are enough concerns that a stop work order ought to be issued.

Richard said either the board could issue the request to cease until the survey is provided or have the town attorney do it on behalf of the board. Perry moved to have Stu contact

the town attorney to ask him what the correct route is to accomplish a cease order or a notice of violation. Stu asked if the board wanted the town attorney to take that action. Perry, Jo, and Cynthia said yes. Richard 2nd.

Brett asked if the banks know there is a problem. Stu said there was a realtor who called about the lot this week and he gave the realtor a verbal caution. Perry said if there was some direction the Town Attorney should give, and if the board needs to meet before the next meeting, so be it. Mr. Branch said the board was waiting for the final state approved design on the system, and the town has a real concern on that.

Ms. Korty said the Planning Board doesn't have enforcement power, and Perry's motion was for advice to do it right. She said the authority lies with the Board of Selectmen. Mr. Branch asked if the Selectmen could give Dennis some direction. Richard said the cluster design has not yet been approved, so the permit could not be approved without that cluster design. Kathy DeFusco said the plan Mr. Simons brought in doesn't match what is there, she didn't understand that. **Vote in favor was 5-0.** Stu reviewed the motion – which is to ask the town attorney what is the proper course to take to resolve the issues, whether it be a stop-work order or notice of violation and that it be resolved before anything else happens, and that he be the one to do that.

Jo said she appreciated the Planning Board's input. A short discussion followed on possible ordinance changes to require survey stakes at the time of the site visit, sunsetting the life of a subdivision permit, and tracking development issues and conditions.

Street Name – Dorothy's Lane

Perry moved to approve the name Dorothy's Lane for a short spur off Misty Way. Richard 2nd. **Vote in favor was 5-0.** Selectmen signed the road naming order.

Conservation Commission Grant Request

Ms. Korty said the Conservation Commission is moving ahead with the 2nd phase of the fresh water initiative. She said they spoke about the school project last month. She said that has the dual function of education and data collection at a low cost. She said the other aspect of this phase is to measure water quantity. She said the plan is to select six wells in each town which are drilled into bedrock. She said Willem Brutsaert is advising the commission on that. She said it wouldn't cost the town anything.

She said they would measure both the underlying bedrock and the aquifer itself, and that's what this grant is for. She said they want to buy 3 sophisticated water levelers. She said they record the level of the water daily. She said the thought is to go once a month to each well and hook up a computer and accrue on a long-term basis. She said the state requires an annual report. Stu asked what state annual report is required. Ms. Korty said in gravel pits, and the monitors would be placed in gravel pits, and they would need permission from the pit owners. A short discussion followed on where to put the

monitors. Stu suggested the wells at either the town office or the Anderson property might work.

Ms. Korty said they want to put the monitors by a big excavation. Perry said it looks like the commission is trying to find a problem with the gravel pits and not what is going on with the aquifer. A short discussion followed.

Ms. Korty said the maximum grant from the New England Grassroots Foundation is \$2,500, and the loggers cost \$2,600. Stu asked if the expectation is that volunteers would collect that data. Ms. Korty said yes. Perry asked if there is an expense to the town. Ms. Korty said there is an in-kind expense in that they use the town hall and there is a relatively small amount of photocopying needed. She said she recently copied the press articles on the project. She said this phase would not require any mass mailings.

Perry asked if the request is for a grant for \$2,500. Ms. Korty said the Conservation Commission has no budget or right to request money on its own. Perry asked if it would come back to the Selectmen to approve the project. He said he doesn't have enough details to make a decision. Ms. Korty said they could do that. Perry said it sounds as though they're asking for money for a project that is already approved. Cynthia said the board could request that the Conservation Commission meet with the Selectmen again to discuss how it would proceed. Ms. Korty said she made an assumption on how this would go ahead. Perry said phase 1 was a good plan. Perry asked if by asking for the money, they agree to the plan, and if the Selectmen say no, would they give the money back. Ms. Korty said it would take a couple months between applying for the grant and getting it, and during that time, the plan would be fine tuned. She said they would be meeting on the 25th of the month to pick out some wells, and she could find out other information to give to the Selectmen. She said if they absolutely said no in the end, they would have to give the money back.

Jo said it looks like a logistical issue. Ms. Korty said she was sorry she didn't approach the Selectmen sooner – she's new to the process. She said the project seemed like a good idea to get data over many years. She said the first phase reported last July there were no major problems found, but that the town should be monitored on a long-term basis. She said the loggers would give the town long term information. She said she would give her word that they would stay on top of it.

Richard said it appears the monitors cost \$795 each. Ms. Korty said the budget includes cable and a locking head. Richard said his company had just ordered the same monitors from the same company, and they've found that some of them have to be replaced sooner than they wish. He asked if a monitor fails, would the commission come back to the town for a replacement. Ms. Korty said no- they Conservation Commission raises funds for the projects they do. A short discussion followed on the reliability of the monitors.

Cynthia asked about the school project. Ms. Korty said they would know on January 17th if they'll get the grant. She said they would train the teachers on February 4th.

Jo moved to sign the letter prepared by Ms. Korty, and make the conservation commission aware that there are questions and the Selectmen would appreciate more details. Perry 2nd. **Vote in favor was 5-0. Selectmen signed the grant application letter.**

Recycling

Ms. Korty said the Conservation Commission apologized for being remiss with their minutes. She said as a result of not having minutes people were not aware that they have been working for months on recycling issues. She said they're trying to find ways to keep materials out of landfills, and many people have worked on it. She said they've brought in folks from Coastal Recycling and the Acadia Disposal District (ADD). She said ADD is at least a year off, but Coastal might be a good option. She said it was too close to town meeting now to present something, but thought that if the contract is up in June, that maybe a special town meeting could act on a proposal. She said she learned that a bid request just went out for a 5-year contract. She said the Conservation Commission hopes that the new contract is not the way it is now and that items could be added to the recycling list to keep things out of dumps.

Ms. Korty said since the bid is out, it would be unfair to bidders if the Selectmen refused all the bids if it doesn't address the issue of increasing the recycling items. She said legally all the bids could be refused. She said Ken Smith requested that an addendum could be placed with the bid package, so that bidders could submit prices for 1, 2 or 3 years. She said that would allow the town to switch that part of the contract away from hauling the materials to Bangor. She said there is no specific recommendation. She said if the town went with Coastal Recycling, their board would not charge Lamoine an admission fee. She said the price per resident is \$6/head. She said if another town joins, the price drops.

Stu said he worked with Coastal Recycling when he started, and the town dropped them because they were very expensive. He said the cost is \$6/head, and you still have to pay someone to take it there. He said the bid is for transportation only. Ms. Korty said because they're close to Hancock transport could be done with smaller loads. Stu said the reason it's done the way it's done now is because it was more expensive for Rusty Boynton to haul to Hancock weekly than it is monthly with Pine Tree to Bangor. He explained why it was so expensive. He said the \$6/head is about \$9,000 per year, and the town doesn't pay that much to haul it to Bangor.

Ms. Korty said there are materials the town doesn't take, such as some #2 plastics. She said the commission is asking to find a way to not lock into a 5-year bid, and to possibly join forces with other communities. Stu said the town belongs to MRRA which is the ultimate in cooperative ventures. He suggested that a renegotiation clause could be written into the contract with the successful bidder that if there is a change to where it would be hauled to, it could be a different price. Ms. Korty asked if that could include more items for recycling. Stu said that could possibly be written in.

Cynthia said she was fascinated with the Trash Talk presentation. She noted that a woman from Winter Harbor was sorting all the material herself and taking it to Hancock, and she couldn't believe someone would do that work. Brett asked if there was any evidence joining Coastal Recycling would lower the town's cost. Stu said the system the town uses is pretty cheap. He said he'd be interested to see a comparison to other towns.

Ms. Korty said another issue is a pay-per-bag option. She said the problem is that other towns do it, and people find out Lamoine doesn't, and they bring their trash here. Stu said the trash volume dropped significantly in 2005, probably due to a correction by Pine Tree Waste. Brett noted the recent long-term planning survey was 2/3rd against a pay per bag.

Stu said again a negotiation clause could be put into the contract. Ms. Korty asked if that would be better than an addendum. Stu said the Selectmen open the bids on 2-weeks.

Brett said he did some research on GIS software and asked if the Conservation Commission had any information. Jo said her husband could help with that. Cynthia encouraged the Commission to do more trash talk workshops, especially on composting. Jo said minutes from the Commission would be very helpful. Ms. Korty said the Commission has fallen down on attending the Planning Board meetings, and they will reinstate that. She asked if it would be helpful to have a regular attendee give a presentation to the Selectmen's meeting. Jo said that was not necessary, but the minutes would be good to have.

Foreclosed Property (Map 20 Lot 5-on)

Stu said the town now owns a mobile home on Francis Drive due to unpaid property taxes. Richard said the contents do not go with it. Perry asked what we do about getting the trailer cleaned up. Stu said whoever owns the contents has to get it out if the trailer is to leave the property. He said he's composed a letter to the owner as per town meeting direction. Cynthia asked if the town is liable for the trailer. Stu said it's on private property. He said the town has 60-days in which to insure it, but he would call MMA to check on liability. He said he did not expect a positive answer from the trailer owner. He said the trailer is on land owned by Mr. Bentivoglio, and he's suggested simultaneous letters to the trailer owner (Mr. Robbins) and to Mr. Bentivoglio making the same offer should Mr. Robbins refuse.

Jo moved to authorize Stu to send both letters. Perry 2nd. **Vote in favor was 5-0.** Cynthia reminded Stu to check out the liability issue.

Adelphia Sale

Stu said he'd received an inquiry from the attorney in regard to any town resolve on the pending sale to Time Warner. Stu said he informed the attorney the town did not pass any resolve. Ms. Korty asked if there was any way to force the cable company to provide coverage in areas that don't have cable. Stu said there is a density requirement in the franchise agreement for 15-homes per strand mile. A short discussion followed.

Historic Grant

Jo said she read over the material and suggested it be forwarded to the Lamoine Historical Society.

Boston Post Cane

Stu informed the Selectmen that Mr. Vidito who held the cane had passed away and the cane had been returned to the town office. He said Jennie Neleski is next in line for the cane. He asked if it was OK for he and Jo to make arrangements to present the cane to Mrs. Neleski who is currently residing at a care facility in Ellsworth but is still a legal resident of Lamoine. Selectmen had no problem with that. Ms. Korty noted that the historical society plans to conduct interviews with older citizens next week.

Salt/Sand Shed

Richard said he printed off the topographical map of the area around the former Anderson property, and there appears to be a lot of room to place a shed on this lot. Stu said he started filling out a variance form and is suggesting the Board send out a Request for Proposals for an engineer. He said he placed \$15,000 in the budget for the engineering process.

Brett asked how long it would take to recoup the cost of a shed through savings. He said he wondered what the difference would be in a plowing contract if the town provided the shed. Richard asked if Nankervis could give the town what the difference would be. Jo said it's better to have the salt under cover. Richard said the estimated cost would be \$150,000 to \$175,000. Stu said it looks like it would be at least a 20-year payback.

Richard said he recognizes the issues at the Needles Eye Road site, and he is not convinced of the need given other expenditures facing the town. He said this might not be the wisest use of tax money. Jo asked what those other expenditures are. Richard said looking at the capital list including school needs and fire trucks, there are lots of them. He said the town can't fund it all, and the question needs to be answered on what the town needs most. He said he's not opposed to putting this issue in front of the town meeting.

Perry said he is not sure the town would have to build a big shed – he said a shed that holds only half the size being talked about would work as sand is now produced year round. Stu said if the town went to a salt priority program, the larger space would not be needed.

Richard said it's hard for him to get comfortable with the idea of enclosing the salt/sand and managing the shed well and then spreading salt all over the highways which pollutes the environment. Jo said the town currently has an area and wondered how many different areas could be ruined. She said if Nankervis no longer provides the service, the

town has no choice. She asked what is more cost effective over time. A short discussion followed on source point pollution.

Richard said it's a lot of money to spend, and the town is only avoiding localized contamination. Jo said the gravel on the Anderson property could be used to offset some of the cost. A short discussion followed. Perry said he's not happy to have to hire an engineer. A short discussion followed on building designs. Brett said a new building could come in less than \$100,000 so an engineer would not be required. Perry said he would like to do a little more research on his own before the town hires an engineer. More discussion followed on potential building design. Jo said the Board should set a deadline for more information. She said the issue should be on the next agenda. Perry said he would get more information.

School Priority Rankings – Jo and Perry filled out their sheets after Mrs. DeFusco photocopied new sheets for them.

Town Report Matters – Stu asked if the Selectmen wished to use the Copy Center in Augusta for the town report again. Selectmen said yes. Selectmen reviewed their draft report and made a small change.

Town Meeting Matters – Stu said the draft warrant was in the Selectmen's materials for tonight. He said the only ordinance issue is the Parks ordinance which will be on the next Selectmen's agenda, but he's not seen a finished product from the Planning Board. He noted Harvey Kelley has agreed to moderate again this year. He said the Budget Committee had suggested that the LD-1 override article appear at the end of the warrant. He said the committee meets a week from tonight to make their recommendations. Cynthia asked if that's when the Budget Committee actually works on the budget. Stu said yes. Selectmen said they would like to look over the warrant to decide if there is anything else they want. Brett asked about a cut-off time for petitions. Stu said there is never a cut-off time, but if someone wants to vote by referendum at the March 2006 town meeting, the deadline would be January 20th (45-days before the March 7, 2006 secret ballot elections).

Road Maintenance

Brett asked how the town could get the state to pay for maintenance on Mud Creek Road. Stu said the town only pays to plow it and gets some reimbursement from the state through the URIP program. A short discussion on snow plowing took place.

Expenditure Warrant 13

Selectmen signed expenditure warrant 13 for \$48,419.29

Tree Cutting on Buttermilk Road

Cynthia asked what all the cutting was on Buttermilk Road. Richard said it appeared to be timber harvesting but he wouldn't be surprised if some sort of development occurred in the future. Brett noted the fire department responded to a skidder fire the previous week.

Checking Account Reconciliation

Selectmen signed a statement expressing satisfaction with review of the checking account reconciliation.

Other Business

Jo said personnel contracts and how they're put together could go on a future agenda.

Cards Signed

Selectmen signed cards honoring Betty Ashmore on her 75th birthday and thanking Laura Trepanier for her service to the Cable TV Committee.

Ethics Notification

Richard said his employer required him to enter into the town record that he is required to follow ethical conduct. Stu said he would place the letter into Mr. Fennelly's folder.

Next Meeting

The next meeting will be on January 26, 2006.

There being no further business, the meeting adjourned at 9:35 PM

Respectfully submitted,

Stu Marckoon, Administrative Assistant