



Lamoine Board of Selectmen Minutes of February 23, 2006

Selectman chair Jo Cooper called the meeting to order at 7:08 PM.

Present were Selectmen Richard Fennelly Jr., Perry Fowler, Brett Jones, Cynthia Donaldson, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Code Enforcement Officer Dennis Ford, Planning Board Chair Stuart Branch, Harbor Master Gerald Ford, Planning Board Secretary Michael Garrett, Ronald and Todd Simons and Teresa Rohner.

Agenda Review – Several items were placed on the Agenda Addendum prior to the meeting. No changes in the agenda order were requested.

Minutes – Richard said he had several minor changes to the minutes. Cynthia said she wrote out changes to the section where LD 1772 was discussed. Selectmen opted to delay adoption to the next meeting so they could have a chance to read the minutes.

Meeting with Parties in Pine Grove Estates Subdivision Dispute – Stu reported that CEO Dennis Ford measured the area in question on Tuesday and made a map which was with the Selectmen's material tonight.

Jo said the suggestion to Mr. Simons was to move the road over to the north side of the right of way so it would be as far as possible from Ms. Rohner's mobile home. Mr. Simons said he didn't see why he should move the road. He said the stakes were there when the Planning Board viewed the property. He said the latest survey shows the mobile home encroaches on his property by 1.5 feet. Jo asked who made the survey. Mr. Simons said Steve Salisbury.

Perry said where the mobile home was depicted on the original subdivision plan was wrong. Mr. Simons said what they've done according to the subdivision plan is right. He said the road on the subdivision plan is in the right place.

Jo said the disagreement still exists on where the boundary is located. Mr. Simons says he doesn't have a disagreement on the boundary – he agrees it's where Mr. Salisbury surveyed it. He said that disagreement is between him and Ms. Rohner.

Jo said this is a safety issue for the town. She said what the Planning Board was shown and what is reality are not the same thing. Mr. Simons asked if the law says that abutting structures have to be accurately measured. Perry said yes. Mr. Rohner said a new pad and trailer were placed after his survey was started. Ms. Rohner said she has a survey

and her new mobile home was placed in the same location as the old one. She said she could supply pictures.

Jo again said the concern for the Selectmen is safety. She said for whatever reason the mobile home shown on the subdivision plan was not in the same location as it actually exists. Mr. Simons said the town saw the stakes. Brett said there is supposed to be a buffer zone between abutting properties. Jo said she thought the Selectmen received a letter from Mr. Simons' attorney saying he was willing to move the road to the northern boundary of the right of way.

Perry asked Ms. Rohner if she put in a new home in December 2003. Ms. Rohner replied that she did and it was in the same spot. Stu read the section of the building and land use ordinance as follows: *The subdivision design shall minimize glare and noise pollution either from within or outside the development by providing and maintaining a vegetated buffer zone at least 20 feet wide along abutting property lines.* Brett asked how the road made it to a state of construction so close to the trailer. Mr. Simons said they stopped construction and had it resurveyed.

Ms. Rohner said she had a lot of rock dings in the side of her home. Jo said the property line dispute is not for the Selectmen to solve. Mr. Simons said he's willing to put in trees. Jo said the town has to adhere to the ordinance. She said the notice of violation asked that Mr. Simons plant trees, put in the right of way marking pins, and that the parties solve the line dispute. She said both parties are in a bind. Ms. Rohner said more than what's before the Selectmen is on the table and lawyers are working on it. She gave a brief history of the property line dispute.

Stuart Branch asked if Mr. Simons knew whether the sewer pipes would run in the right of way. He asked if the road has to shift to the north, would that interfere with the sewer pipes. Todd Simons said it would interfere with the septic field. Jo said the suggestion was that the road move to the northern edge of the right of way. Ronald Simons said they could do that as long as they didn't have to add any more road. Mr. Branch said if the road had to shift to the edge of the lot it might interfere with the septic system. He said he's not shore how he can show the road without it interfering with the septic. Mr. Simons said if he has to move the road he can't use the septic system.

Stu explained that the proposal from the Selectmen was to move the travel portion of the road so that the northern edge borders the right of way. He said the parties seem to be confused between travel ways and the right of way. He said there is no proposal to shift the right of way location, only to move the travel portion of the road within the right of way away from Ms. Rohner's trailer.

Jo read the notations from the code enforcement officer from the map he made from the pin measurements. She said if the road is moved to the northern edge of the right-of-way it would not encroach on the septic system. She said trees would have to be planted between the southern edge of the travel lane and the Rohner trailer.

Ronald Simons asked about the town holding up issuance of building permits. Jo said that would be done until the road is in a safe location. Perry said once Mr. Simons moved the road, there would be no reason to hold up building permits. Ms. Rohner asked if permits would be issued before all the conditions are met. She said she wondered if trees would be planted. Jo said she would say yes – the conditions must be met before permits are issued. Ronald Simons said he didn't think there would be a problem. Stu said the deadlines are spelled out in the notice of violation.

Jo said she didn't think the deadlines would be a major hardship in selling lots. Ronald Simons asked what the deadline was for moving the road. Jo read from the notice of violation that construction had to begin by March 15th and be complete by May 1st. Mr. Branch said he still questioned whether the septic pipes would be in the 50-foot right of way. Ronald Simons said the idea was to run the pipes outside of the right of way. Mr. Branch asked if shifting the road would interfere with the ditch for the septic pipes. A short discussion followed about running the septic pipes under the road.

Todd Simons said they were willing to move the travel way to the northern edge of the Right of Way, and then they would be about 27-feet from the closest part of Ms. Rohner's trailer. He said they were willing to plant the trees as a buffer. Ms. Rohner asked if there was any stipulation as to the height of the trees. Brett reviewed the purpose of the trees. Todd Simons said they would be at least 6-feet high when they're put in. Mr. Branch said the ordinance calls for 6-foot trees. Brett said with the move, the road would now be about 20-feet from Ms. Rohner's back steps. Ms. Rohner said that would have been OK with her from the beginning.

Ms. Rohner asked about the length of the buffer line. Brett said it should be the length of the property line. Ms. Rohner said that would be awesome. Jo said Ronald Simons had indicated it would be difficult to plant the trees by May 1st. Mr. Simons said he doesn't get trees until the 10th of May. He said a deadline of May 15th would be OK. Perry said the septic system won't be built before then in all likelihood. Jo said May 15th as a tree planting deadline would be acceptable. A brief discussion followed on reaching a consent agreement. Ms. Rohner said she couldn't sign anything. Stu said the agreement is between the Selectmen and Mr. Simons and would not involve Ms. Rohner. Ronald Simons asked when he had to move the road. Jo said the notice of violation states that it would start by March 15th. Stu said he would draw up a draft consent agreement, run it by the town attorney, and have it on the agenda for March 9th.

Ms. Rohner said if she'd had a chance to be present 3-years ago when the subdivision was approved she would have requested a fence on the back part of her property. She said she's lost all her privacy. Brett said nothing prohibits Ms. Rohner from building a fence. Jo said maybe Ms. Rohner and Mr. Simons could resolve that when the line dispute is done. Mr. Simons said he's a farmer and not a developer and he didn't want to delay the subdivision. Ms. Rohner and both Mr. Simons left the meeting.

Expenditure Warrant 17 – Selectmen signed expenditure warrant 17 for \$1,876.13. Stu said it's the smallest warrant they've ever had – noting most of the cost was for the town report printing.

Draft of Pine Tree Waste Contract – Selectmen reviewed the 1st draft of a contract to haul trash and recycling by Pine Tree Waste. Cynthia asked about tires and oversight. Several minor changes were made to the draft, including numbering corrections. Stu said he would send the revisions to Pine Tree Waste for their review.

Request from Eastern Maine Development Corporation for Economic Development Projects – Selectmen said they agreed with Stu that they're not aware of any that are taking place.

Road Posting Waiver – Jo moved to approve a waiver for road postings for Philip Leyendecker on Shore Road for food deliveries to his home occupation snack business. Richard 2nd. **Vote in favor was 5-0, the permit was signed.**

Budget Figure Clarification – Richard said he wanted to clarify the budget figures he stated last week. He said that the Selectmen managed less than 7% of the budget, and that refers to that portion that comes from the property tax commitment. He said that amount would actually be 1-point-9 percent for next year, while the education budget from property taxes would be 92% and the county budget is 6%. Brett said that 1.9% is the amount of the LD-1 override.

Stump Grinding – Stu said a report from CEO Ford was placed with the Selectmen's materials this evening. Michael Garrett said he hadn't seen the report. Perry said Mr. Garrett could borrow his. Perry said a portion of the stumps on site were allowed there by the town as they were hauled away from the school lot in preparation for a play area.

Mr. Garrett said it looks like CEO Ford is convinced that the material piled there is either from on site or was approved to be taken there, so that's not an issue. He said he wonders about water testing. He said the slash and stumps are being stored over the aquifer, and there ought to be quarterly water tests because they're leaching into the soil.

CEO Ford said the letter sent by the Selectmen several years ago regarding water testing did not set a time for that to begin. Jo said that letter was generated at the time the wells were vandalized. Perry said it looks like a baseline test was conducted. CEO Ford said he thinks they would conduct a test this spring. Mr. Garrett read from the letter from the Selectmen written a few years ago. He said if they didn't have anything on the land it wouldn't be an issue, but this stuff is leaching. Jo said the letter was intended to say that one well was adequate. A short discussion of how long the materials have been stored there and the water testing schedule followed.

Jo said the town needs to get on top of the water testing schedule. She said reference should be made to the original testing required in the site plan review permit. Cynthia asked if the town had a baseline test. CEO Ford said if we do, it's with the gravel tests

Gott has provided to the town. He said the spoke with Tim Gott who advised him to call Steve Salsbury and both believed the baseline test was done. CEO Ford said he advised them to send those test results. Brett asked if the well that's in place is downstream. Mr. Garrett said yes. Jo said water quality is the concern. She said if the testing has happened, they need to send the town the reports, and if not, it needs to start. Cynthia said Mr. Gott had agreed to that.

Town Meeting – LD 1 Presentation – Stu said he'd added a couple of pie charts to the LD slides for town meeting. He then went through the presentation-coinciding with display of the slides on the Cable TV Channel.

Richard said his point was that the Selectmen manage 1-point-9 percent of the property tax commitment. Cynthia said there was some discussion as to why this article was last on the warrant. She said it has to be so people will know how much the override would be. Richard said the Selectmen are being up front about that tonight. He said the article has been in the town meeting warrant and the Board is talking about it well in advance of the meeting.

Dennis Ford asked why the town couldn't go back to the tax commitment used in 2003 for a baseline. Brett said the law doesn't allow that. Mr. Ford said the voters could pump up the amounts approved for charities and have the increase be more than what is proposed by the Budget Committee. A short discussion followed regarding the difference between an increase in the LD-1 base article and a one-time override for a catastrophic event. Jo noted the budget committee function has become important and the town meeting is the boss of what's raised. Mr. Ford said people should know ahead of time that the more funding they approve the more their taxes would go up.

Executive Session – Jo moved to enter into executive session pursuant to 1MRSA§405(6)(F) (General Assistance Case). Brett 2nd. In at 8:25 PM. Out at 8:32 PM.

There being no further business, the meeting adjourned at 8:32 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst.