



Lamoine Board of Selectmen Minutes of July 13, 2006

Chair Jo Cooper called the meeting to order at 7:05 PM

Present were: Selectmen Brett Jones, Richard Fennelly, Cynthia Donaldson, Perry Fowler, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Assistant Town Clerk Kathleen DeFusco, Code Enforcement Officer Dennis Ford, Harbor Master Gerald Ford, Planning Board Secretary Michael Garrett, Planning Board candidates Jane Hamilton, Michael Jordan and Terry Towne, and Cable TV Technician Merle Bragdon.

Addendum – Stu read over the proposed agenda addendum and said there are a few items that require action.

Minutes of June 22, 2006: - Richard said he had two typos that needed fixing. Jo also had one. Cynthia said the school grant issue was not clear to her. Jo suggested she ask David Bridgham to help clarify. Perry moved to approve the minutes with the minor corrections. Jo 2nd. **Vote in favor was 5-0.**

Alternate Planning Board Candidates – Jo said the Selectmen wanted to get a sense of the candidates they didn't have a chance to meet last meeting.

Jane Sargent-Hamilton said her family is from Maine, but she was raised in another state. She said she would like to see Lamoine stay the way it is. She said the town ought to get more support from Augusta, but the quality of life has to be preserved. She said she didn't have any planning board experience, but she did work in Massachusetts to fight against a dump that was proposed for their town, and they won the battle after 11-years. She said she was part of a local community group and participated in protests against the dump. She gave a brief explanation of that effort. She said she's lived in Lamoine for two years and in Winter Harbor before that, but her family has roots in Lamoine. She said she's seen what urban sprawl can do. Jo said she appreciated Ms. Hamilton being willing to serve, and said there are lots of opportunities to get involved in town government.

Terry Towne said he's lived in Lamoine since 1978, and can bring a lot of experience with ordinances to the board. He said he's still a certified Code Enforcement Officer (CEO), and can look at an ordinance fairly and give an application a fair evaluation. He said he's got two years left on his term as assessor and would like to finish being an assessor after this term, and this would be a way to continue his work with the town. Jo said Mr. Towne has a lot of background and has brought a lot of issues before the Selectmen and Planning Board. She said he brought up something that once derailed passage of an ordinance, and asked if being on the board would make more constructive

things happen. Mr. Towne said he may disagree with the board at times but if he were on the board, it would be harder to speak out, as he would have to support the board decisions as a member of the team. Jo said people quickly learn they can't have their own agenda. She asked Mr. Towne if ordinance improvements could happen. Mr. Towne replied that he's tried to work with the planning board in the past year, especially on the Shoreland Zoning Ordinance, including getting information from the State well in advance instead of at the last minute.

Jo said there are four candidates and only one position to appoint. Brett said he'd like to hear opinions on if an ordinance were ambiguous, which side the candidate would come down on – the one that favors the property owner, or the side that would prevent a project from going forward. He asked what changes the candidates would like to see in Lamoine.

Ms. Hamilton said in Massachusetts they had a 2-acre minimum requirement on their lots. She said some of the existing lots were grandfathered in order to keep the character of the town. Michael Jordan said he would probably lean toward the property owner. He said he favors letting a landowner do what he wishes with his land provided it's within the law. Mr. Towne said the Maine Law Court is clear that an ambiguous matter would have to favor the property owner. He said his concern is subsurface wastewater disposal systems. He said the town should be clear in its expectations, and asked if the town really wanted to allow collective systems. He said that would be for the townspeople to look at.

Selectmen asked Mike Garrett for his opinion. Mr. Garrett replied that it was not his job to select the planning board members, so he would pass on answering the questions. Jo asked how the selection process should work in light that there are a number of applicants for the job. Perry noted that the candidates are all well qualified. He said the only thing he's heard is that there were no other builders on the planning board. Jo said the Selectmen should decide on the selection process first. Richard said it's not even easy to select a process.

Richard asked if there were any construction people on the Planning Board. Stu said Stuart Branch is a carpenter during the winter months. Richard asked if there was value of having someone in the building trades on the board. Jo asked why that would be an advantage. Richard said it would add a dimension of a different skill set to the board. He said it would be someone in the field that is affected by decisions the board makes. Perry said he's torn. He said Mr. Towne's work with the Planning Board has been fantastic, and has saved some headaches. He said the town employs a Code Enforcement Officer and he doesn't want to see a conflict there. He said that's the only problem he would see with Mr. Towne being on the Planning Board. He said Mr. Jordan's experience in the building trade helps, and someone involved in the permitting process would benefit the board.

Jo said she was trying to recall James Gallagher's background. Stu said he was a retired sociology professor from the University of Maine. Brett said he would concur with Perry

and Richard that the Planning Board does not have the perspective of practical application and the effect of decisions on a tradesman on the board at this time. Cynthia said it's wonderful to have four people interested. She said the meetings of the Planning Board are not private, and it's always valuable to hear thoughts. She said everyone had persuasive arguments and brings something different to the board. Perry said he feels that having a diverse mix of individuals on the board is important, and someone in the building field would add to the package. He said at one time the board lacked the law aspect, and member Melody Havey filled that void ably. Jo said it's important to get new perspectives in town, and even though she grew up in the area there is still a perception about people "from away." She said she applauds new residents who wish to become involved. She said there have been run-ins with Mr. Towne but his background and knowledge would be strong and a positive benefit to the town. She said she hates making this type of decision because she doesn't want to discourage people who stick their neck out to serve.

Perry asked if they could add more members to the board. Stu said he doesn't think the statute allows that. Mr. Towne said the ordinance limits the number on the board. He said he would respect whatever decision the Board of Selectmen made. Brett said when he moved to Lamoine he heard the "from away" comments, but he's experienced nothing but warm welcomes. Jo said she wants the newer applicants to know that would not be the reason they're not selected.

Perry moved to appoint Michael Jordan as an alternate to the Planning Board. Richard 2nd. Jo asked how to proceed, and said it's difficult to say no to someone willing to serve.
Vote in favor was 5-0.

Harbor Ordinance Workshop – Stu said he put together the package of proposed changes in consultation with Harbor Master Gerald Ford.

Mr. Ford reviewed the proposed changes. He said most every harbor requires some proof of boat registration. He said people have held mooring permits in Lamoine for several years, but have never used them. He said that's not fair to those on the waiting list.

Mr. Ford said the fee issue is always touchy, but Lamoine is currently charging the lowest fee in the State of Maine. He said no one has ever tapped the potential money from the mooring holders to do improvements to the harbor. He said if the fee is increased to \$50, those paying but not using will look hard at that, and it would likely free up some moorings. He said there is a typographical error on the application fee, and that should be \$15.00.

Mr. Ford said he's cleaned up the mooring list pretty well. He said the issue involving a person who wanted to take over another's mooring has been taken care of, and that person now legally holds a mooring. He said there is supposed to be an application to get on the waiting list, and a fee should accompany that. Jo asked how many are on the waiting list. Mr. Ford said there are 8, and two verbal requests. Jo asked if they had to fill out applications. Mr. Ford said the 8 on the list have done so. Richard asked if the

application to get on the list is an annual fee. Mr. Ford said it's just one application fee and a person stays on the list until they ask to get off. He said the only time there would be a change is if they get a different boat and need to make a new application.

Mr. Ford said in the past a person could have up to a dozen moorings, and it's not fair for someone to have a lot. He said the average fisherman only needs two moorings – one for the boat and one for a lobster car. He said most everyone else needs only one mooring. He said the limit of two accommodates the commercial lobsterman.

Mr. Ford said the age limit is clear, because it's state law. He said the town is leasing a piece of land, and a person must be 18-years old to enter a contract. Brett asked if this might preclude a youth lobsterman licensee a problem, and the maximum number of moorings might allow for a student fisherman boat. Mr. Ford said a parent must be with the student until they reach 18 years old. A short discussion followed.

Mr. Ford said there is not much of a problem with the proposed color for the mooring balls. He said the Coast Guard will soon require that color scheme, and people have been putting in the proper color balls in compliance with this provision. Jo asked if the mooring number must be displayed. Mr. Ford said yes, that's in the present ordinance. Richard asked if the new color mooring balls will be accomplished through attrition. Mr. Ford said yes, and 90% of the balls are the right color already. He said a special paint is needed for the strip.

Mr. Ford said the State requested that the mooring number be displayed on the tender boats so they could figure out who they belong to. He said there are many tenders on the beach, and if there's one there without a number, the state park could remove them. He said it's a safety issue. A short discussion followed on where the mooring number on a tender should be displayed.

Stu said the waiting list language was his idea. He said the non-transferability issue was a result of an earlier problem that came up in the town office. Richard asked how inter-family transfers work. Mr. Ford explained how a commercial fisherman can transfer to their offspring. Brett suggested that exception statute be cited in the ordinance.

Cynthia asked about joint ownership, and a short discussion followed, agreeing that the mooring is only in one name, and if the name of the boat's joint owner is on the mooring permit, that boat would be properly assigned to that mooring.

Stu said the section that states moorings are subject to inspection places state law and practice into the local ordinance. Mr. Ford said state law will soon require inspections. A short discussion followed on the inspection process and the state law.

Brett said he would prefer to see fees based on need, and doesn't like punitive fees. Mr. Ford said he has in mind that something needs to be done with the ramp, including lengthening and repairing it. A short discussion followed. He said it would also be helpful to expand the area for tying up tenders, and maybe placing a storage cage in the

area. He said the Harbor Fund should grow, and that might be a place for the Parks and Recreation Committee to get some funding for smaller projects. Richard said a \$50 fee doesn't bother him. He said it sounded like a fair price and asked how it compares. Mr. Ford said Ellsworth charges \$100, and the lowest on Mt. Desert Island is \$100. Richard said he agreed that would be a good source of funding for parks and recreation.

Richard said he had a couple of changes to propose. One is to eliminate redundant wording in section 4B, and to incorporate language regarding lobster cars into section 4B (a). Stu noted the numbering of section 4B is inconsistent and will be changed.

Mr. Ford said the Army Corps of Engineers recently took inventory of lobster cars and they are making them register.

Richard said there ought to be an appendix for suggested fines. Jo said Section 8 covers that. Mr. Ford said state statute also covers fines. Richard suggested one minor change to the mooring permit.

Stu asked what process the Selectmen would like to follow. Jo said it could be done at the next town meeting. She said there's no decision on a date at this point, and no scheduled town meeting depending on what the school would like to do. Perry said there could be a public hearing and it could be voted on by referendum. Jo said she'd like this issue on the next agenda.

Town Attorney Policy – Stu noted that he'd added section 3-G requiring a report on town attorney expenditures following the discussion of the previous meeting. Jo moved to approve. Perry 2nd. **Vote in favor was 5-0.** Selectmen signed the policy

Policy regarding complaint format. – Perry moved to approve the policy. Richard 2nd. **Vote in favor was 5-0.** Selectmen signed the policy.

Mileage Policy – Cynthia moved to approve setting the mileage rate at 40-cents/mile. Perry 2nd. **Vote in favor was 5-0.**

Seal Point Road update – Stu reported that he suggested to Perry that if they could coordinate with Roger Picard, the cost to replace the culverts and rebuild the short section of road could be significantly reduced. A short discussion followed. Stu said Perry should call Mr. Picard when they're ready for paving.

Safe Routes to School Grant – Stu said this requires coordination with the school. Jo said she would take the lead on the application.

Flooring – Stu said he'd like to solicit several options for the meeting room flooring. The various options (carpeting, laminate, vinyl) were discussed. Selectmen said it would be helpful to have some research on what works, but that might be difficult given that those in the know would also be likely bidders on the job.

Landfill Inspection – Stu said he had a community service person cut down the trees growing in the landfill cap. Selectmen said mowing the cap should be included in the road mowing project.

Pay Phone/PUC – A brief discussion was held on what would be the most beneficial place for a pay phone under the PUC. It was agreed that the school would be best. Stu said he would fill out an application stating such.

Code Enforcement Officer Contract – CEO Dennis Ford asked that negotiations be held in executive session later.

Expenditure Warrants – Selectmen signed expenditure warrant 27 for FY 2006 for \$20,914.54 and expenditure warrant 1 for FY 2007 for \$50,966.20.

Cash and Budget Report – There were no questions regarding the written report.

Checking Account Review – Selectmen signed the monthly statement expressing satisfaction with the review of the checking account.

Encumbrance Order – Stu explained the road and administrative items contained on the encumbrance order. Jo moved to approved it, Perry 2nd. **Vote in favor was 5-0.** Selectmen signed the order.

Road Commissioner- Road Commissioner Dennis Ford said he'd provided a brief memo to the Selectmen to address some repair concerns. Jo said she understands that Mr. Ford wants permission to clean the ditches, shoulders and culverts on Asa's Lane and Needles Eye Road. Mr. Ford said anyone should be able to grade the shoulders to make the ditches functional. He asked what the protocol should be. He said in the past it's been to get hold of someone, and he's not comfortable with that because there doesn't seem to be much control of the costs. Jo said checking with the board to get the work done is the proper protocol. She said she had questions about fines beyond a completion date. Mr. Ford said that's one method to use to guarantee the work gets done. Richard said it usually results in a higher price from the contractor. Mr. Ford asked how the town could be protected so the work is done. Perry said simply stating that if the project is not done by a date certain, it would be assigned to someone else should work. Richard said that's a termination clause.

Mr. Ford said his repair request takes care of the worst parts of town. Richard said Mr. Ford is doing what the board expects – getting estimates and checking that against the budget. He asked if the issue should be revisited once estimates come in. Jo said it's a time issue, and it should be delegated to Mr. Ford. Richard said he agreed – Mr. Ford has a budget and he should manage it.

Jo said the memo also asks to discuss budgeting for ditching and shoulder work. Mr. Ford said it's a way to gain some life out of the roads. A short discussion followed. Mr.

Ford said he's afraid someone will get off the shoulder of a road and that will be a bad accident. He said he asked Richard King to fill in bad ruts on Buttermilk Road.

Cynthia said she's comfortable with having the contract go to someone else if the work isn't done in a timely manner. Mr. Ford said he's trying to make sure the work gets done. Brett asked about contract language and what the penalty clause might be. A short discussion followed. Jo said the contract would be paid when the job is done, and it has to be done by a date certain. Perry said not everything could happen that way, as there are weather and material issues beyond the contractor's control. A discussion followed on how contractors work. Cynthia thanked Mr. Ford for the presentation.

Road Mowing – Stu said he'd been approached by Richard McMullen who's interested in the mowing job. He said in past years, Skip Grindle has been the only one interested. Perry said the specification should be that 5-to-6 feet from the pavement is mowed, not specifying the type of equipment used. Cynthia said the landfill cap mowing is to be included. Selectmen authorized Stu to gather estimates and award the job accordingly.

Request for Do Not Litter Signs – Selectmen received a letter from Lynda Tadema-Wielandt of the Conservation Commission requesting two "Please Do Not Litter" signs be installed. Jo said it's a relatively inexpensive good idea. She moved to grant the request. Richard 2nd. **Vote in favor was 5-0.**

Other – Stu gave a brief run-down of the other agenda addendum items, none of which required any action with the exception of a vote for the LPC delegates to Maine Municipal Association. The Selectmen signed the ballots for the two listed candidates.

Executive Session – Jo moved to enter executive session for the purpose of discussing personnel matters pursuant to 1MRSA§405(6) (a) in regard to the Assistant Town Clerk and the Code Enforcement Officer. Perry 2nd. **Vote in favor was 5-0.** In at 9:02 PM out at 9:27 PM.

Contract with Code Enforcement Officer – Jo moved to sign a contract with Dennis Ford for employment as Code Enforcement Officer. Brett 2nd. **Vote in favor was 5-0.** Selectmen and Mr. Ford signed the contract.

There being no further business, the meeting adjourned at 9:28 AM

Respectfully submitted,

Stu Marckoon, Adm. Asst.