



Lamoine Board of Selectmen Minutes of October 19, 2006

Chairman Jo Cooper called the meeting to order at 7:06 PM

Present were: Selectmen Cynthia Donaldson, Brett Jones, Richard Fennelly Jr., Perry Fowler, Josephine Cooper; Administrative Assistant Stu Marckoon, Parks Commission chair Kerry Galeaz, and members of the public Laura Trepanier, Robert Cooper and Eric Cooper (briefly)

Agenda Review – Stu noted the addition of two items on the addendum.

Minutes – October 5, 2006 – Richard said he had some very minor corrections, as did Jo. She moved to approve with the corrections. Richard 2nd. **Vote in favor was 4-0, Fowler abstained.**

General Assistance Hearing/Enactment – Jo opened the public hearing at 7:08 PM. Richard noted an error in Appendix A listing the maximum amount for a 2-person household in Hancock County. Stu said he would check on that. Richard asked if anyone had ever questioned the figures in the ordinance. Stu said no one has ever questioned it. Richard said the figures appear close to the real housing costs. There being no further testimony, the hearing closed at 7:10 PM.

Cynthia moved to approve the updated figures in the General Assistance Ordinance. Richard 2nd. **Vote in favor was 5-0.** Selectmen signed the ordinance cover sheet.

Parks Commission – Kerry Galeaz reported that he has been in contact with Stuart and Lisa Branch to set up a meeting time and that will happen soon. He said the Parks Commission felt that if the town could work on finding an official determination on whether it's a town owned road or not, that would help. Richard said he pulled up the deeds from the Registry of Deeds website, and read from the Branch's deed a section about the public right of way that crosses their property. He said there is similar language in all the other deeds in that area, including the deed from Whitcomb to the Town of Lamoine. He said the Whitcomb deed includes a right of way from Route 184, presumably the Latona Spring road. He said the language is clear that it conveys a right to the town to get to the park. He said the town should feel comfortable to exercise its rights to that access, and if someone contests it, they could get legal research on their own nickel.

Perry asked if the right of way gives the town the right to maintain the road. Richard said any attorney could answer that. He said the town probably has the right to maintain the road, but not the obligation. Mr. Galeaz said that should probably be the question laid

out on the table. Richard said it was his belief that if one possessed an easement, one must logically be able to maintain it. Perry asked if the board discussed speed bumps with the Branches last time. Jo said they did, and that Mr. Branch suggested moving the road.

Brett asked if the access in the deed was clearly defined. Richard said it was over the existing woods road. A short discussion followed about moving that woods road. Richard said the question would boil down to whether the town wishes to incur the cost of moving that road. Mr. Galeaz said that's why the parks commission is trying to get the fine point of rights and ownership. A short discussion followed on road configuration, access easements that might be needed, DEP Approval for moving the road, the local Shoreland Zoning Ordinance, language in the deeds and accessing the area through the Latona Spring Road.

Richard moved to utilize the town attorney to give an opinion as to whether the town can maintain those roads over which the town has a right of way. Perry said the answer to that question would now settle the question on other rights of way too. Richard said it was his intent that the answer would apply to any road that exists on a town right of way. Brett 2nd. **Vote in favor was 5-0.**

Deputy Code Enforcement Officer Appointment – Brett said that material provided by Stu was interesting and changed his mind. Stu said all he did was cut and paste from the ordinances, and he had no opinion one way or the other as to whether there is a conflict with a Planning Board member also serving as a Code Enforcement Officer.

Richard asked if anyone was of the opinion that the CEO is supervised by the Planning Board. Jo said the Planning Board depends a lot on the CEO. Cynthia said the ordinances continuously define the relationship between the two. Perry said the CEO is the number one support person for the Planning Board. Brett said the CEO is the executive overseeing the ordinances in town. He said the CEO makes sure the decisions of the Planning Board are enforced. He said he believed that the two separate entities should not exist as the same person. Richard said he didn't get why they couldn't. He said he did not see that as a conflict.

Jo said it could get a little messy. She said the CEO makes recommendations to the Planning Board. She gave a hypothetical where a judgment call would have to be made. Perry said the Planning Board often puts a lot of emphasis on information from the CEO. He said if the CEO puts a spin or has an opinion or is not informative enough, that carries great weight with the Planning Board.

Richard said there are 5-Planning Board members who vote, so this potentially would be just one of five votes. Perry said the CEO could be quite influential. Jo said she didn't think she would have a question on this conflict. Perry said you can't look at the applicant for the job – just at the policy and situation. Cynthia said there is a difference between interpreting and enforcing. Perry said the reason the Selectmen decided not to appoint Mr. Towne to the Planning Board was that potential for conflict between a

Planning Board member and the CEO. He said there is bound to be difficulty with two Code Enforcement Officers if one of them sits on the Planning Board.

Jo said the role of the Deputy CEO has to be clear, and that's hard to do. Perry asked what the hurry was since the Selectmen have not interviewed anyone. Jo said the concern came when Dennis Ford was in the hospital and there was no one to fill in. Richard said the Selectmen have a hurdle to get over before the interview process starts. Cynthia said it's the Board's obligation to avoid the appearance of a conflict of interest. A short discussion followed.

Jo said it feels like the Selectmen could be setting someone up. Perry said no matter who was in the position, they could distort things. He said if the person was also on the planning board, it could be they would have to sit as the Code Enforcement Officer at the Planning Board meeting. A short discussion followed.

Cynthia said the position should be defined. She said one question would be whether the deputy CEO would continue to see a project or complaint all the way through, and if so, does the Deputy get paid in addition to the CEO for doing that. She said it's an interesting dilemma. Brett said continuity is pretty important. Richard asked if the town has been in the position before that a Deputy was needed, and if so, could some sort of mutual aid agreement be worked out with another town. Stu said he recalled that when John Holdsworth was CEO there was once a time when he called upon John Fink of Trenton to help in a pinch. A short discussion followed on the workability of a "mutual aid agreement".

Brett noted that the deputy CEO is generally groomed as the successor to the CEO if needed. Jo said the position should be better defined. Stu suggested that it be discussed with Dennis upon his return. Jo said the Planning Board should also be in on the discussion. Richard moved to table the appointment of a Deputy CEO. Perry 2nd. **Vote in favor was 5-0.**

Other Parks Issues – Mr. Galeaz said he wanted to bring up some other matters the Parks Commission had discussed. He said the commission wanted to repave the handicapped access area and put in two parking stalls, and wanted the Selectmen's blessing to proceed with that. He said the area behind the bike rack was filled years ago for trailer parking. He said re-establishing that area has come up in the context of redoing the boat ramp. He said he met with Jay Fowler to discuss the area, and it seems pretty firm. He said all that needs to be done is to mow and roto-til the area for now, as it may be settled enough. Stu asked Mr. Galeaz if he was just asking for the paving and striping to be included in next year's budget request. Mr. Galeaz said that was correct. The board said they were in favor of that.

Mr. Galeaz asked why the well at Lamoine Beach was decommissioned. Jo said it was because it would be a public water supply subject to testing and regulation. Mr. Galeaz asked if it could be used for non-potable functions such as foot washing. A short discussion followed. Richard said he would encourage the parks commission to research

the well issue and let the Selectmen know. He said if it turns out not to be too extensive a project, he doesn't know why the town wouldn't re-establish the well.

Mr. Galeaz asked about the rocks at the beach at Blunt's pond. He noted that they had budgeted to put some sand at that beach, but the DEP regulations were cumbersome. He asked if the rocks could be moved from the shore. Stu said the fire department also favored that idea. He said the rocks were put there to keep the cars off the ice. Selectmen said moving the rocks sounds like a good idea.

Conservation Commission Awards – Cynthia said it sounds like a great idea. Jo moved to endorse the project. Perry 2nd. **Vote in favor was 5-0.**

Public Interest Pay Phone – Stu reported the pay phone application was approved by the Public Utilities Commission, and he believes it was the only one in Hancock County.

Firearms Discharge Ordinance – Stu said he did some research on the Maine Municipal Association site and recommended that the town not pursue its own ordinance. Richard said he agreed with that. Jo said it appears any local ordinance would not accomplish what the requestor wanted. Richard said if the lethal range were a concern, the entire town would have to be cut off from shooting.

Community Development Block Grant – Selectmen reviewed the various programs available and discussed them at some length. Cynthia suggested sharing with the school committee the opportunity for parking as that is a priority at the school, and perhaps that could be built into the school project.

CTV Meeting – Stu reported that the meeting is on November 16th, and Donna Theall planned to attend with him. A brief discussion followed on how to encourage Time Warner to build further out into rural areas that desire service.

Policy Manual – Stu said he put together the various policies that have been passed over the years and it became a very large document. He said it's posted on line, and his plan was to print a very limited number of copies, having one available at the town hall, one at the fire station and one at the school, and people would be encouraged to access it on-line.

Warrant 8 – Selectmen signed warrant 8 for \$317,882.55. Stu noted \$250,000 was a transfer to the investment management account, and the first snow contract bill for the season was included.

Cash & Budget Report – There were no questions.

Checking Account Reconciliation Review – Selectmen signed the form expressing satisfaction with the review of the checking account.

Budget Committee Follow-up – Stu said the Budget Committee had requested three things, a review of the pay for the clerk and assistant clerk, reconfiguring the budget to separate out capital projects, and encouraging the planning board to review subdivision fees to better reflect true town costs of subdivisions. He said he did that today and the material was with that laid out tonight. Stu said he also prepared the solid waste budget which is down about \$900 thanks to better data.

School Building Meeting Follow up – Jo said it was an interesting meeting. Perry said the next public meeting will be the big one. Jo said the feeling she got was to make the facility useful for as much of the community as possible, and to utilize the existing building to the greatest extent possible. Perry said he's still processing the whole thing, and did not realize that the state loan approved could not be utilized for an addition but only for fixing certain things.

Harbor Ordinance – Stu said Gerry Ford had asked him to research whether anyone under 18 could be issued a mooring permit, so he did and put that in memo form. Stu said Maine Municipal Association told him it was not a contract per se, and it was OK to issue permits to someone under 18. Richard said he would like to see the 18-year old provision taken from the proposed changes in order to encourage young folks who wish to fish for a living.

Other – Cynthia said the mention of the rail project at the Budget Committee the other night was embarrassing and asked that it be done quickly. Discussion followed on getting a contractor. It was suggested that Stu call Alpha One for assistance with that.

Tweedie Consent Agreement – Stu reported that attorney Diane O'Connell had e-mailed a consent agreement that Mr. Tweedie's attorney agreed to, and there were no substantive changes to what had been proposed. Jo moved to sign the agreement. Perry 2nd. **Vote in favor was 5-0.** Jo signed two copies of the agreement.

TABOR Resolve – Stu said several communities have been signing resolves to oppose the TABOR question so he prepared one in case the Selectmen wished to do so. He said there was no pressing need one way or the other, but in case the Board wished to take a stand, it was available. A discussion on the merits or lack thereof in the proposed referendum followed. Selectmen did not take any stand.

The next meeting will be November 2nd.

There being no further business, the meeting adjourned at 8:35 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.