



# Lamoine Board of Selectmen

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## Minutes – April 1, 2021

Selectboard vice-chair Jo Cooper called the meeting to order at 7:07 PM.

Present at the Lamoine Town Hall were Selectmen S. Josephine Cooper, Nathan Mason, Administrative Assistant Stu Marckoon.

Present via Zoom Meetings were: Selectmen Kathleen Rybarz and Robert Christie; Code Enforcement Officer Rebecca Albright; Members of the public Carol Mason, Mark Harris, Alan Moldawer, Jonny Brown, Lorna Goodrich, Kathleen DeFusco, Thomas True, Jim Bradley, and Ellsworth American Reporter Rebecca Alley.

Selectman Gary McFarland had notified the board he was unable to attend due to a previous obligation. He planned to sign required documents later.

**Agenda Review** – No changes were proposed to the printed agenda or addendum.

**Minutes – March 18, 2021** – Kathleen voted to approve the minutes as presented. Nathan 2<sup>nd</sup>. **Rollcall Vote in favor was 4-0.**

**Expenditure warrant 23** – Selectmen approved the warrant in the amount of \$92,084.02 by Rollcall vote. Stu noted that the door on the Salt / Sand Shed has been replaced. Bob asked how much that cost. Stu said it was \$5,300.00. Selectmen present signed the warrant.

**Cash & Budget Reports** – Stu reported that expenditures and revenues are about where they should be for now. There were no questions.

**Excise Tax Quarterly Report** – Stu reported that the town had its largest 1<sup>st</sup> quarter of the calendar year ever, by far. Nathan asked if it was because of new vehicles. Stu said that seems correct – people have registered a lot of new cars thanks to low interest rates and stimulus payments.

**Checking Account Reconciliation** – Stu reported he had reconciled the checking account late in the day and sent the files via e-mail. Selectmen approved the review by a **rollcall vote of 4-0.**

**Information Request – Moldawer v. CEO II** – Jo said the Board had responded to the request from Mr. Harris and Mr. Moldawer made at the previous meeting. She asked if there were any comments.

Mark Harris said he appreciated the work that went into the response, but it did not answer the basic question of why the board did not ask for a surveyor to measure the building height. Code Enforcement Officer (CEO) Rebecca Albright said the process that has gone through the Board of Appeals has gone all the way and it has ended. She said the Board of Selectmen should not be put into a situation where the outcome should

be played with. She said there are other non-municipal avenues available to the appellants, but the town process has been exhausted. Mr. Harris said he simply does not agree with the conclusion from CEO Albright. He said it didn't make sense. CEO Albright said there was no timely appeal made to her report, and this is a non-issue.

Alan Moldawer remarked that Mr. Harris had written a detailed letter pointing out the discrepancy of the 34-foot 10-inche measurement. He claimed the building was placed on the lot after substantial fill was brought in, and claimed there is a discrepancy in the measurements. He said the CEO has made the statement in the past that she would need a surveyor. He said the CEO's determination is fairly ridiculous. He said the Board of Appeals did a thorough job and clearly rejected the CEO's methodology twice. He said the file contained the original grades and the determination ignored the elevation of the top of the house. He said he did not appeal the CEO's report. He said the Appeals Board wanted to hire a surveyor but could not order the CEO to do so. He said to appeal this a 3<sup>rd</sup> time would have been absurd. He said the math comes out to more 2-feet more than the 35-foot limit. He said he was disappointed with the Board of Selectmen. He said he expected the CEO would honor the Board of Appeals ruling, but no additional measurement was done. He said he expected the Selectboard would honor the Board of Appeals ruling, but instead chose to go into Executive Session.

Jo asked Mr. Moldawer to stop for a moment. She said he was throwing a lot of things around that are not necessarily accurate. Mr. Moldawer said the Selectboard went into executive session on December 17<sup>th</sup> without publicly voting on it. Stu said the vote to go into executive session was done in public.

Mr. Moldawer said the Selectmen have declined to discuss this issue publicly. He said all that's needed is a surveyor. He said the top of the True house is at 131' of elevation and the original grade was 94 feet. He said he believes the town no longer has confidence in the actions of either the Board of Selectmen or the Code Enforcement Officer.

Bob said to Mr. Moldawer that he appears to be speaking only for himself. He said that if everyone at the meeting went to measure the height, he doubted that everyone would come back with coinciding measurements. He said the town received guidance with this matter. He said the CEO generated a report on January 22, 2021 and since that time the parties have been discussing this. He said he is guided by the collective decision to stand behind the Code Enforcement Officer's last measurements.

Mr. Harris asked if the Selectboard is going with the CEO's determination, could the CEO go through the calculations. He asked if she is using a height of 131-feet. Jo said the meeting has spent 25 minutes on this already and there have been multiple discussions. She said there has been a chance for people to have their say, but the Board of Selectmen cannot give the complainants the answer they want.

CEO Albright said she was instructed by town attorney Charles Gilbert on how to determine the height and it's all spelled out in the report. She said it is factual and based on indisputable evidence. She said the matter is in the grave.

Mr. Moldawer said he should have appealed the matter a third time. During the zoom meeting, Mr. Moldawer shared a screen which Jo asked him to take down and requested that he ask permission to do so.

Jo asked if there were any other comments from the Selectboard. Kathleen said the Board finished this matter in January and it's time to move on to other business. Nathan said the Selectmen serve the town, and Mr. Moldawer has reportedly brought up to others that the Board met dishonestly. He said he doesn't know the True family, but the Selectmen hired the Code Enforcement Officer to do a job, and she has done so. He said a foundation cannot be built on fill – it has to be on compacted earth. He said he's not sure where the controversy stems from. He said he has seen no factual detailed information on the house height submitted by the appellants. He said he trusts the town's CEO when she says it's not too high, and that he takes offense to people accusing the board of acting illegally.

Jo said the Selectboard indeed serves the entire town and must be careful in its expenditures. She said this has cost a lot in attorney fees as well as a lot of time by the Administrative Assistant. She said she understands it is frustrating to the appellants, but she said she didn't think that the Selectboard could give them the answer they desire.

Mr. Moldawer thanked the board for its time.

**Regional Shellfishing** – Kathleen said the Town of Franklin has agreed to be the administrative town. She said the Joint Municipal Board (JMB) meets on Monday, April 5, 2021. She said the administrative town would handle the commercial sales, but the Town of Franklin has asked Lamoine to host and post the Regional Shellfishing Web Page. She said it's possible that the Town of Trenton would be the backup administrative town. She said there has been a question of what hours the commercial license would be available, and stated again that the JMB would meet on both April 5<sup>th</sup> and the 19<sup>th</sup>.

Stu asked if employment of a clam warden has been settled. He said he questions whether the warden can be considered an independent contractor, and has to have a law enforcement sponsor. Kathleen said the State of Maine is working closely with the JMB and she is confident that it's authorized. She also noted that Berry Cove will be closed for two years for conservation purposes, which will upset some of the residents of the cove.

**Insurance Inspection** – Stu reported that an inspector from the town's insurance company visited to inspect the salt/sand shed, transfer station, and three parks in the past two weeks. He said that there are some training requirements and repairs at the salt/sand shed that are needed.

**Filing Assistance** – Stu said he was seeking approval from the board to utilize a client from an agency that assists with job skill building. The agency would pay their client's wages and that person would assist with filing. Nathan asked what kind of tasks would

be done. Stu said it's fairly menial work. Kathleen asked how long the person would be available. Stu said he's not sure. After a brief discussion the board had no objections.

**Lamoine 150!** – Stu said he had drafted an order that would allow use of Lamoine Beach for fireworks. He said Central Maine Pyrotechnics would prefer to shoot off fireworks from below the high water mark instead of from a barge due to cost. Nathan said he wondered if there would be enough space for the crowd. He suggested clarifying whether people would be allowed within 350-feet of the launch area.

Kathleen said she understood the 150 committee would bus people to the beach from the school parking lot. She said there is not a big area. Bob said he is concerned by the potential traffic issues. He expressed concern about crowd control and traffic issues, but said he was not a nay-sayer, but there are things to think about.

Nathan said event attendees would likely try to park on Bay Road which is not appropriate. Jo said they would plan to hire a deputy to handle crowds and traffic. She asked if Bob could attend the next Lamoine 150! Meeting on April 8<sup>th</sup> at 4PM.

Kathleen asked whether it might be better to utilize Marlboro Beach. There was a brief discussion and little support.

Jo said the committee will discuss this next Thursday.

**Broadband/Stimulus** – Stu said he's heard nothing new about the purported stimulus payment headed to the town and what Broadband expansion money might exist. Kathleen said she supports the idea for the fire tank by the fire station brought up last meeting.

**Personnel Review Schedule** – Jo said the annual reviews could start at any time. Stu said he would be happy to go first at the April 15<sup>th</sup> meeting at 6:30 PM. Selectmen asked him to schedule the rest of the usually reviewed staff.

**Lamoine Quarterly** – Stu requested the Selectmen to review the final draft of the April 2021 quarterly as he hopes to send it in for printing on Monday. There was a brief discussion about a very flattering article in the March Maine Town and City about the Lamoine Quarterly.

**Transfer Station Capacity** – Stu reported that the transfer station had to close early on Saturday, March 27<sup>th</sup> because the dumpsters ran out of room. He said there were some rather pointed messages on social media and the town hall phone. He said he has asked the attendants to call when they expect it will have to close early so word can be circulated on social media.

Stu noted that manager Chris Meyer had suggested hanging box cutters to assist users that need to break down boxes. Selectmen opposed the idea as potentially dangerous. There was a lengthy discussion of options, including adding another dumpster or opening an additional day weekly. The Board asked Stu to inquire of the Maine DEP

about adding a 14<sup>th</sup> dumpster to the facility. The Board also took note that CES had finished the initial design for compacting MSW and recycling.

**Walker Road Complaint** – Selectmen had received a complaint from a Walker Road resident whose neighbor does not share the normal state of yard cleanliness as much of the rest of the town. He said he had referred the complaint to both the Code Enforcement Officer and the Health Officer. He said he and the CEO took a ride to the site and took pictures from the road this afternoon. He said there are no junk vehicles being stored, but there is a lot of clutter. He said there is no ordinance that regulates that situation. Nathan asked if it's a health issue. Stu said he's not heard back from the health officer, but to his observation, it does not appear to be.

**Personal Property Tax Abatement** – Stu reported that the skidder that had been assessed to David and Julie Herrick for years was sold a couple of years ago, but they had not informed the assessors that they no longer own it. He said the Selectmen, of their own knowledge, have the authority to abate property taxes. Kathleen moved to do so, Kathleen 2<sup>nd</sup>. **Rollcall Vote in favor was 4-0.**

**Other Matters** – Bob noted that the town continues to benefit from choosing to remain with the Penobscot Energy Recovery Company for waste disposal. He said it appears the Municipal Review Committee communities are in a quandary. Kathleen thanked Ken Smith for his help with that decision.

Stu noted that some scheduling and training conflicts will mean the town office might have to close early on Monday, as well as at lunch on Tuesday and Wednesday. He said he would publicize that on social media.

Nate noted that the new clock in the meeting room is difficult to read when the meeting room lights are on. (It turns out the clock has a night time dim mode which was disabled after the meeting!).

There being no further business, the meeting adjourned at 8:17 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen