



Lamoine Select Board

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Draft

Minutes – April 7, 2022

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Select Board members Larissa Thomas, S. Josephine Cooper, Gary McFarland, Kathleen Rybarz, Nathan Mason; Administrative Assistant Stu Marckoon, Harbor Master David Herrick, Deputy Harbor Master Kevin Murphy and via Zoom Jon Lewis, Crystal Canney and David Kallin, all of the Preserve Maine's Fishing Heritage Foundation.

Agenda Review - No changes were proposed to the printed agenda.

Minutes – March 17, 2022 – Stu noted that Larissa had submitted a few minor grammatical edits. Kathleen moved to approve as corrected. Gary 2nd. **Vote in favor was 4-0 (Mason had not arrived yet)**

Expenditure Warrant 22 – Board Members had signed the warrant the previous week in the amount of \$79,508.30. There were no questions regarding the warrant.

Expenditure Warrant 23 – Board Members signed the warrant in the amount of \$61,574.53. Stu noted the bulk of that was the school operations warrant.

Cash & Budget Reports – Stu noted that the ARPA premium pay in January generated employer taxes of nearly \$2,300 which skewed the administration account. He said he'd placed a memorandum in the materials for tonight for the 2nd half of premium pay which will reduce the amount so that the employer taxes are accounted for in the ARPA funds. He said he intends to disburse the 2nd half now that the Hancock County check has arrived in the next payroll.

Tax Acquired Property – Stu reported that there has been no contact from the owner of the remaining piece of tax acquired property. He said the person living in the home on Buttermilk Road has until April 15th to respond according to the letter sent several weeks ago.

Excise Tax Quarterly Report – Stu noted that the excise taxes for the first quarter of 2022 were down sharply compared to 2021. He said 2021 seemed to be an anomaly, and the amount received in 2022 was in line with previous years prior to 2021.

Checking Account Reconciliation – Board Members signed the statement expressing satisfaction with the reconciliation which was sent via e-mail on April 1st. Kathleen reported she was having issues with receiving e-mail from the town to her g-mail account.

Meeting with Harbor Masters – Jo noted that the board has not met with the Harbor Masters in a while, and a question came up at the last meeting. Stu said the only concern that seemed to be raised was that the mooring waiting list didn't turn over fast

enough. He reported that the mooring stickers for 2022 came in, and he has mailed out reminders and assigned un-renewed moorings to the next four on the waiting list.

Harbor Master David Herrick said permit holders don't seem to be very good about affixing the stickers to their mooring balls. He said it would be good to start the process of removing mooring balls that are not used. Deputy Harbor Master Kevin Murphy said that he could talk with Mr. Collier who services many of the moorings in the harbor about that. Larissa asked if the Harbor Master has the authority to remove moorings. Mr. Herrick said it would have to be done legally. He said stickers are supposed to be affixed to the mooring ball, and he doesn't know whose mooring balls many of those in the harbor belong to. Mr. Murphy said there were about 30 mooring balls in the harbor last year.

Stu said that Mr. Murphy had mentioned something about having the Army Corps of Engineers map out where the moorings are located. Mr. Murphy explained how that would work. Stu asked about the process of getting that to happen. Mr. Herrick said he has a contact at the Army Corps and would ask. There was a brief discussion regarding the timing of that process.

Nathan asked if there were other issues beyond the permit stickers, and if inspections of moorings should be addressed. Mr. Herrick said it might be good to have a policy to require inspections. A brief discussion followed. Larissa asked if there is any fine provision in the ordinance for abandoned moorings. Nathan said maybe that could be written into the ordinance. Stu said he would print off the Harbor Ordinance for the next meeting.

Mr. Murphy said he'd heard another person wanted to take his place as Deputy. He said he wasn't planning to quit, and if Mr. Herrick ever planned to retire, he would happily step in as Harbor Master and suggest a deputy. Mr. Herrick said he was ill last summer, but is often at the harbor and will be there more often this year.

Mr. Herrick said he'd like to get some "no wake zone" buoys for the harbor. Jo said that's a good idea. A brief discussion followed about sunken vessels. Jo said it would be good for the harbor masters to touch base with the Select Board annually.

Aquaculture Moratorium – Crystal Canney of Preserve Maine's Fishing Heritage Foundation introduced attorney David Kallin and Jon Lewis who all attended the meeting via Zoom. She noted that Mr. Herrick had recently testified at a hearing regarding a proposed lease in Frenchman Bay.

Mr. Kallin said he would be glad to answer questions. He said a previous question had asked how much authority a municipality has to regulate what happens in ocean waters. He said towns regulate property rights on land, and a lease area could be regulated by home rule authority. He said the State of Maine has control only over the lease itself. He said statutes like the Harbor Ordinance can create local rules, and the Harbor Master has authority to remove fishing gear if it interferes with navigation. He said the home

rule authority extends to the municipal boundaries. He said a lease would not exempt an area from local regulation.

Jo asked how boundaries are defined, noting that many of the proposed aquaculture projects are well beyond the town boundary. Mr. Kallin said the municipal boundaries were defined by the enabling legislation when a municipality was created by the Legislature. Gary asked if a small farm received a lease, could it then be sold to a larger farm and enlarged. Jon Lewis said it's true that a lease can be transferred, but a license cannot and it would be bound by the conditions and boundaries. He said if it were enlarged, it would require a new permitting process.

Larissa asked what the end game was. She said a moratorium would be temporary giving the town time to adopt an ordinance. She asked whether the town would have veto power over a project if the ordinance created a separate permitting process. Ms. Canney said the moratorium would give the town a chance to step back and see what fits for 180 days and another 180 days to get an ordinance. Nathan asked if the state would have the right to override an ordinance. Mr. Kallin said each town could regulate activities in its waters. He said they are encouraging municipalities to regulate locally, creating overlapping regimes. Larissa asked what would happen if the state grants a lease, but Lamoine denies a local permit. Mr. Kallin said a local ordinance would require an additional layer of approval. He said the town could not control the lease size, but there is room for local control. He said the state only has leasing control.

Nathan asked if the Department of Marine Resources is just punching out lots and whether they're giving any regard to the overall impact of lease sites on a large scale basis. Mr. Lewis said the DMR is doing some environmental work and explained further. Nathan asked if anyone is looking at the cumulative impact of aquaculture leases. Mr. Lewis said, sort of, but they are looking at applications on an individual basis. Nathan asked about leases that span town boundaries. Mr. Lewis said that is rare, and the DMR would look to local Harbor Masters. Mr. Kallin said neighboring communities could coordinate authority for a shared lease area.

Nathan asked if the goal is to create an ordinance, might the town just start to develop one now. Jo said it would be difficult to put a moratorium on if a particular project is proposed. Kathleen said there are no pending lease applications for Lamoine. A brief discussion followed. Mr. Kallin said a moratorium would put people on notice that the town is considering regulation. He said the town would be sending a signal that the municipality thinks this an important issue to address. He said the town should work on the end game at any point.

Jo said because of the large project proposed elsewhere in Frenchman Bay, there is some urgency. Kathleen said there is some energy in the community. Nathan said he feared this would get lawyers involved and the town would end up chasing its tail.

Larissa said the town doesn't currently get any application for aquaculture projects, so that's not stopping anything. Gary said the town could start on ordinance work without a moratorium. Ms. Canney said there could be a large scale application proposed and if a

moratorium were in place the town wouldn't have to worry about it while deciding what an ordinance would look like. Kathleen said if someone wanted a lease, they could talk with the town.

Nathan said this is not a small hurdle and asked who is doing environmental impact studies. Ms. Canney said that's a big question on this issue. Mr. Lewis said the DMR doesn't have the resources. Larissa asked how the Army Corps of Engineers and NEPA factor in. Mr. Lewis said the Army Corps looks at structures and takes the NEPA process into consideration.

Larissa said it's been noted that the state and federal governments seem to have inadequate resources to deal with such operations, and neither does the town. She asked how the town could deal with that. Mr. Lewis said the town has local people on the ground that others can talk with. He said an ordinance would be up to the town and an ordinance could require detailed or general reviews. He said there are a variety of options. Ms. Canney said it's a lot of work. Larissa said the town does not have the capabilities. Ms. Canney said her organization could work with the town. Stu said the bottom line now is that the town would have no way to enforce an ordinance.

Kathleen noted that the Planning Board can require third parties be brought in to evaluate things like gravel permits. She said an aquaculture ordinance could require an expert. Larissa asked if the DMR does that. Ms. Canney said the DMR can't do that. She said she worries that towns would have a bigger problem if they don't do something, and that's what she hears in other towns.

Nathan said this will require a lot more discussion. Kathleen thanked the guests for answering questions. Larissa asked if there was a model ordinance text should the town adopt a moratorium. Ms. Canney said the town has the white paper they produced, and could work based on that.

Discussion followed on the impacts of a possible ordinance. Jo asked what the next step might be. Stu asked who would write an ordinance if a moratorium were to pass. Jo said she'd like to see ordinance examples from other communities and a brief discussion followed. Larissa said even ordinances from other states might be helpful.

Intervenor Status – American Aquafarms – After a brief discussion about whether intervenor status is automatic for municipalities, Kathleen moved to request the town attorney discuss this with the Board. Gary 2nd. **Vote in favor was 5-0.**

Maine Lobsterman's' Association Funding Request – Jo noted this was not included in the budget. Nathan suggested communicating with the organization and letting them know what the funding request process is.

Catering Application – After a brief discussion about potential parking issues, Nathan moved to approve the catering application request for a wedding on Lorimer Road. Gary 2nd. **Vote in favor was 5-0, the Board signed the application.**

Conservation Commission Resiliency Grant – Larissa said if the board had any edits that should be made to let her know. She said the Conservation Commission meets on Wednesday and she's waiting for feedback. She said the application includes using some funds in a power purchase agreement.

Nathan said he was impressed that Larissa wrote the entire application. He asked about the 10% match. Larissa said no match is needed unless something requested is not on the approved list. Jo asked about the next step. Larissa said if there are any changes from the Conservation Commission she would bring it back to the Select Board for a last look before submitting. She said if there were no changes, she would move forward with the application, which would go in well before the state's deadline.

Fire Department Restitution Ordinance – Stu reported that after approaching the idea several meetings ago, he has drafted an ordinance in consultation with the fire department's executive board, and with input from Central Maine Cost Recovery. The Board discussed the revenue distribution paragraph. Nathan moved to send the ordinance to town meeting. Gary 2nd. **Vote in favor was 5-0.**

Transfer Station Maintenance Issues – Stu reported that the transfer station manager has suggested new garage doors for the swap shop and bottle buildings. He noted the doors are more than 25-years old but that the facilities maintenance director has repaired the bottle room door for now. After a brief discussion Nathan moved to get the doors adequately fixed along with other minor repairs at the transfer station. Gary 2nd. **Vote in favor was 5-0.**

Cell Tower Easement – Stu reported that despite signing all the documents granting American Tower a permanent easement for the cell tower, they have not been filed at the Registry of Deeds, and the town has not yet started receiving the easement monthly payments. He said he's contacted the town attorney to see if there is some update on that.

Landfill Water Monitoring – Stu reported that the Maine DEP is requiring testing of the residential and perimeter wells for PFAS this year, but they're willing to pay for that. Kathleen said perhaps a topic for a Conservation Commission talk would be PFAS and well testing. A brief discussion followed – no action was requested.

Recycling Transportation Contract Addendum – Stu noted that the contract with DM&J requires that the town supply the containers for recycling, which ecomaine had done, but now they are charging for them. He said DM&J is willing to supply 3 or 4 containers, provided the town pays for two of them. Larissa said she'd like to get some information from ecomaine before the next contract with them is signed. Stu said he would research when the contract expires. Kathleen moved to sign the addendum regarding containers with DM&J. Larissa 2nd. **Vote in favor was 5-0.**

Appointments – Board of Appeals – Nathan moved to appoint Brett Jones (who is currently an alternate) as a full Board of Appeals member to replace Larissa on the board. Gary 2nd. **Vote in favor was 5-0.**

Larissa asked how long the Board generally advertises for people to fill openings. Stu said it depends. Nathan moved to appoint Gary Loft and Melody Havey as Alternate Board of Appeals members. Kathleen 2nd. **Vote in favor was 5-0.**

Lamoine Quarterly – Stu thanked Larissa for supplying great edits to the draft. There were no other changes suggested, and the publication was deemed OK to print.

Marlboro Beach Road Speed Limit – Stu reported that he got a message from Maine DOT that a decision should come soon on what the speed limit should be on Marlboro Beach Road.

Bottle Proceeds – Gary moved to award the returnable proceeds for June 2022 to Frenchman Bay Riders. Larissa 2nd. **Vote in favor was 5-0.**

Mowing – Stu reported that McMullen Landscape has offered, if possible, to keep the mowing price the same for 2022. Larissa reported that she is proposing to the Conservation Commission that an event called “No Mow May” be encouraged in order to protect bee habitat, which would help pollinators. There was a lengthy discussion about bees, and the Board had no objection to continuing with the company continuing to care for the town’s several lawns.

Other Business – **Ballfields** – Nathan said he would like to see the athletic fields behind the Lamoine Consolidated School placed on the next agenda. He said the school is able to field a baseball and softball team for the first time in many years, but the fields have not been maintained properly and are not usable. He said he’s lined up some donated help, but there is no budget for field maintenance apparently.

He said he would like to get together with the school committee and the recreation committee to establish a field maintenance fund/budget with the goal of having the fields usable next year.

Housing Bill – Kathleen noted that the Legislature is debating a bill regarding affordable housing that may force municipalities to require up to 4 dwelling units on parcels where one is allowed now. She said Maine Municipal Association is asking for input on the bill, and there is concern about it being a one size fits all bill.

Next Meetings – Jo noted the next meetings will be on April 21, May 5, May 19, June 2, 16 and 30.

There being no further business, the meeting adjourned at 9:11 PM

Respectfully submitted

Stu Marckoon, Adm. Asst. to the Select Board