

**BOARD OF SELECTMEN
MINUTES OF MEETING
JUNE 22, 2009**

Selectmen present: Rosendel Gerry, Chairman, Stacey Parra, Vice-Chairman, H. Bob Plausse, Cathy Hardy, and Jason Trundy

The meeting was called to order by Chairman Gerry at 6:00 p.m., and he welcomed new Board members Stacey Parra and Jason Trundy.

1. Citizen's/Selectmen's Forum:

Comprehensive Plan Review Committee member Barbara Gould stated the CPRC is in need of volunteers to serve on this important Committee; she and Cheryl Cassidy are currently the only two Committee members. Ms. Gould asked that any interested citizens contact the Town Office.

Chairman Gerry thanked Town Administrator David Kinney and the road crews for seeing that the road maintenance was "being done right"; there is almost "zero" damage from recent storms to Town roads.

Chairman Gerry also asked Board members to give thought to projects they would like to see addressed in the upcoming year, and asked that they bring ideas to the next meeting.

2. Administrator's Report:

David Kinney, Town Administrator, welcomed the new Board members and thanked Dick McLaughlin and Earle Brown for their hard work as Selectmen. He also reported:

- There was a successful completion of the Annual Town Meeting and Elections.
- He had met with Mike LaPlante of the Maine Department of Labor to discuss the October, 2008, inspections; a couple clarifications are needed prior to Wednesday, June 24, concerning the Fire Department and Police Department inspections. Most are paperwork clarifications (needing copies of police training certificates, not just listing certificates in the file, and getting corrected class training participation records for firemen). Also, the Police Department needs to provide much more detailed information concerning exposure control procedures. If these clarifications are not submitted to the Department of Labor by Wednesday, fines may be imposed.

3. Meetings & Announcements:

Town Administrator Kinney read the meetings and announcements from the agenda.

Jay Foster, Planning Board and Land Use member, briefly addressed the Board about the current practice of Planning Board members also serving as Land Use Committee members. Perhaps there should be discussion about the pros and cons of this practice and whether a charter change should be considered.

4. Upcoming Community Events:

The Strawberry Festival will be held July 11th. Also, Town Administrator Kinney said if organizations/groups have upcoming events, they should let him know so he could include them in this agenda item.

5. Meeting Minutes:

Motion by Plausse, second by Hardy, to approve the meeting minutes of May 26, 2009, as written. Vote 3-0-2 (Parra and Trundy abstained.)

Motion by Hardy, second by Plausse, to approve the meeting minutes of June 8, 2009, as written. Vote 3-0-2 (Parra and Trundy abstained.)

Motion by Plausse, second by Hardy, to approve the meeting minutes of June 13, 2009, as written. Vote 5-0.

6. Acceptance of Gifts from the Colin L. Coombs Marital Trust and Establishment of the Colin L. Coombs, Alice K. Coombs, and Elizabeth H. Griffin Fund:

Town Administrator Kinney explained that at the Board's June 8th meeting, Attorney Rick McKittrick advised the Board of two gifts made to the Town of Lincolnville from the Colin Coombs Marital Trust. The first gift, in the amount of \$132,166, is to be used to provide assistance to needy individuals and families who reside in Lincolnville. The second gift, in the amount of \$264,332, is to be used for educational purposes to benefit Lincolnville students. The Board must seek voter authorization in order to accept these gifts, per State statute.

Motion by Hardy, second by Plausse, that the Town Clerk prepare a Special Town Meeting Warrant for the Board's consideration, that the meeting be scheduled for July 27, 2009, at 6 p.m., and will include an article authorizing the Board of Selectmen to accept these generous gifts. Vote 5-0.

When asked by Selectman Trundy how the money would be invested, Town Administrator Kinney explained that all Town of Lincolnville reserve accounts are invested and managed by First Advisors, of The First, which must follow State statutes on how monies can and cannot be invested. The Town tries to maximize returns and minimize risks. Until fall of last year, the average rate of return was 8% to 10%. Since the economic downturn, the rate of return has been "flat."

7. Fire Station Project Update – Bob Fenney, Architect:

Bob Fenney, architect for the Fire Station project, updated the Board on the DEP wetland application process for the new Fire Station. Initially, the Town was told that the Augusta DEP office would be handling the application and, in fact, officials from that office were very helpful in refining the application which, in turn, saved the Town considerable fees. Then the Town was notified by the Bangor DEP office that it would be reviewing the plans, and the Bangor DEP official had a "different take" on things.

When a project impacts wetlands greater than 15,000 square feet, an applicant must compensate by either enhancing the wetland area (planting trees, for example) or by putting deed restrictions on other wetland areas to prevent future development. Keel Kemper, biologist with the Department of Inland Fisheries and Wildlife, made several visits to the site and felt there was no significant nesting bird population in the wetland area; that it is basically a “wet field.” Mr. Kemper wrote a letter to the DEP stating his opinion; DEP gave him “a hard time.” The Bangor DEP office is insisting on the deed restrictions.

The proposed restricted area would be located in the front two-thirds of the property, which would keep the back area of the property open in case a future right-of-way was ever needed. Board members questioned the mowing situation in the deed covenant area. Clarification is needed to make sure the Town can mow the restricted area after July 15th of any year.

If the Board agrees with this concept of deed restrictions, the application will be mailed tomorrow; the DEP has six weeks to act on the application. So it would probably be the first of August before bids for the Fire Station project could go out.

Motion by Plausse, second by Parra, that the Board of Selectmen instruct the Town Clerk to prepare an article for the Board’s consideration, authorizing the Board of Selectmen to place deed restrictions on the Fire Station property, pursuant to the State of Maine’s Natural Resource Protection Act, with said article, if acceptable to the Board, to be placed on the next available Town Meeting Warrant (possible date of July 27, 2009). Vote 5-0.

Mr. Fenney also addressed the subject of project bidding. With the current economy, he suspects there will be great interest by contractors to bid on this project. The Board should give some thought if they want to have bidder limitations; do they want to include out-of-state bidders, just in-State bidders, or in-State bidders within a certain distance from Lincolnville? Mr. Fenney’s personal opinion is that bidders should not be further south of Portland. He also went on to explain that there are some “built-in” restrictions, such as bonding. A bonded contractor has met many requirements to be bonded. Mr. Fenney said he would review the map and come to the Board with distance recommendations. Selectwoman Parra pointed out that the Board has the right to reject any bids, in-State or out-of-State. Town Administrator Kinney expressed his view that it would be better to be “up front” with bidders so they would not put time, energy, and money into a bid if they would not be eligible.

8. Hawking and Peddling License Application-North East Ice Cream:

Motion by Hardy, second by Plausse, that the Board of Selectmen approve the hawking and peddling license, as applied, for the North East Ice Cream. Vote 5-0.

9. Bid Awards:

• **Youngtown/Thurlow Intersection Improvement**

Motion by Plausse, second by Trundy, that the Board award the Youngtown and Thurlow Road Intersection Improvement project to R.J. Osgood at the bid price of \$18,260, and that the Town Administrator negotiate additional project improvements

within the constraints of the project budget with any abutters to this project to enhance the safety of the traveling public, as well as the durability and maintainability of the roadway with any such improvement to be procured by the Town, following its prescribed purchasing procedures.

Town Administrator Kinney explained to Board members that as part of the bid package, contractors were instructed to provide a certificate of insurance for their automobile, liability, and workers comp coverage. He had not realized that as of Friday, Mr. Osgood had not provided the workers comp certificate of insurance, was not sure that Mr. Osgood was required to have workers comp, but was told by Mr. Osgood that it would be faxed to him on Monday. Town Administrator Kinney explained the options before the Board:

- Award the bid contingent upon the workers comp certificate being submitted;
- Say the bidder was non-responsive and go to the next lowest bidder who had provided all the information required; or,
- Table the item until the next meeting.

Selectwoman Hardy expressed her view that bids are supposed to be submitted with all the required information listed in the bid specification. The workers comp certificate should have been submitted.

Selectman Plausse rescinded his motion and Selectman Trudy rescinded his second.

Town Administrator Kinney further explained that he had called Mr. Osgood Monday morning to let him know he was the apparent low bidder for the Youngtown/Thurlow project and that the recommendation going forward was that he be awarded the contract. Mr. Osgood told Mr. Kinney that his workers comp certificate would be faxed to the Town Office by his insurance company. The key question is should the information have been with the submitted bid, as required, or should the Board waive the workers comp insurance deadline requirement until the information is received?

Chairman Gerry said it was a tough question that is not easily answered. Selectmen Plausse and Selectwoman Hardy voiced their opinions that you must stick to the bid requirements.

Randy Fein, Youngtown Road property owner abutting the intersection, voiced her concerns about the project. She felt she was the person most impacted by the work and yet said she just found out about it a week ago. She stated her neighbor, Rick Thibodeau, also has concerns about the proposed work. Ms. Fein felt many of her concerns were not addressed in the bid specifications, and went on to list some of the concerns:

- Going down four feet, plus another 20 inches, displaces the property pin (which is currently underground and would need to be located with a metal detector);
- The twelve-inch excavation depth should be below the proposed elevation;
- She asked about the material being placed under the excavated portion of her driveway;
- If the tree stays where it is and the earth around the tree is moved, there isn't much chance for the tree to survive;

- The driveway slope is a concern; there is nothing in the specs that state how the levels will come together;
- If the older tree or hedge is destroyed, how will she, as the homeowner, be compensated?
- The Board should consider the stress put on the homeowner by a big change to her yard like this as her yard will not look the same for a couple years;
- What happens to the fill removed from the site? Can it be used to grade her property?
- Once the road elevation is changed and since her well is close to the road, she is concerned the project will have an impact on her well, and she and would like the Town to pay for water tests before and after the project.

Town Administrator Kinney stated safe travel is the goal of the project. The bid specifications for this portion of the work can be accomplished within the right-of-way of the road. Any enhancements to the project shouldn't benefit just the homeowner, but the Town as well. Fill, for instance, belongs to the residents of Lincolnville to reuse in other projects; perhaps a swap of fill for a tree could be considered. If enhancements are made, a change of order could be issued to the contractor. Town Administrator Kinney stated he would like authority from the Board to discuss project enhancements.

Motion by Hardy, second by Plausse, that the Youngtown/Thurlow Intersection bid be awarded to the next lowest bidder, Young's Construction. Vote 3-1-1 (Gerry opposed/Parra abstained).

Chairman Gerry wanted to address Ms. Fein's concerns, stated this project has been on the table for a year, and he knew the Town Administrator had previously spent a couple hours meeting with her at the site to address some of her concerns. Town Administrator Kinney said the grade of her driveway currently runs toward her house and after the work is done, the driveway will slope away from the house. Currently, the project does not call for removal of trees, but as David Kinney and Randy Fein had discussed, if enhancement to the project regarding tree removal could be agreed upon, the Town Administrator could either come back to the Board to address those enhancements, or the Selectmen could give the Town Administrator authority to negotiate enhancements, within the constraints of the budget.

Motion by Plausse, second by Hardy, that the Board authorize the Town Administrator to negotiate additional project improvements within the constraints of the project budget with any abutters to this project to enhance the safety of the traveling public, as well as the durability and maintainability of the roadway, with any such improvements to be procured by the Town following its prescribed purchasing procedures. Vote 5-0.

Ms. Fein should coordinate a time to meet with Town Administrator Kinney for discussion of enhancements, etc., prior to her going out of town, if possible. Mr. Kinney will be available to Ms. Fein, other neighbors, and the contractor to answer any questions regarding the project.

Ms. Fein reiterated she is not for this project, but has no way of stopping it, and hopes the change will actually benefit the public.

- **Paving**

Motion by Plausse, second by Parra, that the Board award the paving contract to Marriner's Inc., at the unit prices offered and as specified, with the specifications being that Marriner's will start on August 10th and their completion date will be August 17th, with an established deadline (to be done, period) of September 25, 2009. If not met, there will be a fine of \$250 per day for not completing the work by the deadline. Vote 5-0.

Mike Marriner of Marriner's, Inc., said the rainy weather is a concern, as it would be for the earthwork contractors as well; otherwise, he should have no problem fulfilling the bid.

- **Winter Sand**

Motion by Plausse, second by Hardy, that the Board award the winter sand contract to Aitken Gravel, Inc., at the bid price of \$9.55 per cubic yard. Vote 5-0.

- **Black Brook Culvert Installation**

Motion by Plausse, second by Parra, that the Board award the Black Brook Culvert Installation to George C. Hall & Sons, Inc., at the bid price of \$14,400. Vote 5-0.

- **Gravel**

Town Administrator Kinney reported that he and the Road Commissioner met with the low bidder, Bartlett's 10-4 Construction. They determined the quantity and timeliness of delivery would not be problems, and in order determine that the quality would be satisfactory, a sample of the material was being tested; the results should be back by the end of the week.

Motion by Plausse, second by Hardy, that the Board authorize the Town Administrator to award this contract or any portion of this contract to the lowest bidder who can provide the specified material on a timely basis in the quantity necessary and the Town Administrator report back to the Board on this award at its next meeting. Vote 5-0.

10. Consideration of Dangerous Building Hearing – Symington Property

Town Administrator Kinney reported to the Board that Donald Symington failed to meet the deadline to respond to the Town's request to provide a schedule to correct the problems or remove the building on his Hope Road/Main Street property, nor has he reimbursed the Town for removing the trash. Mr. Kinney also informed the Board that he has heard Chase Home Finance may be foreclosing on the property and that the DEP has filed a lien on the property.

Motion by Hardy, second by Plausse, that the Board hold a dangerous building hearing pursuant to Title 17 MRSA, Section 2851-2859, at a future regularly scheduled meeting of the Board of Selectmen for the property owned by Donald Symington at 572 Hope Road, and that the Board instructs the Town Administrator, Town Attorney, and Health Officer take all necessary actions, including notification to the property owner of the hearing in preparation for this hearing. Vote 5-0.

11. Municipal Officials – Resignations and Appointments:

Motion by Plausse, second by Parra, that the Board accept the resignations of Jason Trundy and C. Glenn Graef, with the Town's thanks for their service and appreciation for all they have done for the Community. Vote 4-0-1 (Trundy abstained).

Town Administrator Kinney explained to Board members that with these two resignations, the Police Department roster is down to the Chief and three part-time members (one being the Inland Harbor Master who does not work street patrol shifts). Chief Young and Town Administrator Kinney recommend advertising to seek additional part-time assistance to cover the hours within the Department approved by voters.

Motion by Plausse, second by Parra, that the Board authorize the Town Administrator to seek applicants for part-time police patrol officer, that the Police Chief and Town Administrator screen the candidates and bring their recommendation to the Board of consideration. Vote 4-1 (Hardy opposed).

Selectwoman Parra stated she prefers the Police Department keep hires to the minimum level as possible.

Motion by Plausse, second by Trundy, with the exception of the Registrar of Voters, the Police Chief, the Health Officer, whose terms have not expired, and the Road Commissioner, the Board appoints all of the individuals listed, for the term listed, on the Town Officers Appointment 2009-2010 list, dated June 15, 2009 (copy attached to minutes). Vote 5-0.

Motion by Plausse, second by Hardy, to appoint the Road Commissioner to a three-year term. Vote 4-0-1 (Parra abstained).

Chairman Gerry asked Town Administrator Kinney to get the guidelines, policies, and job description for the Harbor Master position.

There are several vacancies on Town boards and committees. Anyone interested in serving on any of these boards/committees should complete an Interested Citizen Form, which can be obtained at the Town Office or on the Town's website.

Dick McLaughlin was informed he had just been appointed as Parking Officer.

12. Consideration of Waldo County Incident Management Mutual Aid Agreement:
Motion by Plausse, second by Hardy, that the Board approve and sign the Waldo County Incident Management Mutual Aid Agreement, version 1.0, dated May 24, 2009, as recommended by Ron Young, Emergency Management Director. Vote 5-0.

13. Adopt, Renew, Amend, or Rescind Board Policies:

- **Rules of Procedure – Board of Selectmen**

Motion by Parra, second by Plausse, to adopt the Rules of Procedure and the Policy on Treasurer's Disbursement Warrants for Employee Wages and Benefits, as written.

Mike Ray stated he would like to see the Board include with their procedures communication with the various Town boards and committees; perhaps have a liaison. Board members Parra and Plausse stated they would like to see one committee invited each month to the Selectmen's meeting to report to the Board. Town Administrator Kinney felt that could be accomplished under Section 3 of the Rules of Procedures, and will start inviting a committee each month.

There was discussion among Board members concerning the Selectmen's portion of the Citizen's/Selectmen's Forum agenda item. Keeping the item as written has led to grandstanding or decisions on the fly in the past, although that has not been an issue with recent Boards.

Original motion was rescinded by Parra.

Motion by Parra, second by Plausse, that the Board adopt the Rules of Procedure with the elimination of the Selectmen's Forum. Vote 4-1 (Hardy opposed).

Motion by Parra, second by Plausse, to adopt the Policy on Treasurer's Disbursement Warrants for Employee Wages and Benefits. Vote 5-0.

It was the consensus of the Board to continue to hold Selectmen's meeting on the second and fourth Mondays of each month at 6 p.m.

14. Consideration of Preliminary State Valuation:

Town Administrator Kinney explained that included in the Selectmen's packets was a copy of the preliminary 2010 State Valuation Report that Assessors' Agent Vern Zeigler had received from Maine Revenue Services, Property Tax Division. After reviewing the Report and checking the math, Mr. Zeigler had no issues with it. On average, the Town of Lincolnville's assessed values are at 95.27% of what properties are selling for, the Town's taxable property value is \$498,600,000, and our Quality Rating is 13 (which is well within the State mandated guideline).

15. FY 09 Audit Services Contract:

Motion by Hardy, second by Plausse, that the Board authorize the Town Administrator to sign the engagement letter with Purdy Powers & Company to conduct our annual audit. Vote 5-0.

16. FY 10 Contract for Assessing Services:

Motion by Plausse, second by Hardy, that the Board approve and sign the Assessing Services contract with Fort Halifax Appraisals. Vote 5-0.

17. Treasurer's Warrant(s) – Selectmen Approve & Sign:

Motion by Plausse, second by Parra, to approve the Treasurer's Warrant. Vote 5-0.

18. Adjourn:

Motion by Plausse, second by Parra, to adjourn the meeting (8:14 p.m.). Vote 5-0.

Respectfully submitted,

Diane Bacon
Administrative Assistant