

**BOARD OF SELECTMEN
MINUTES OF MEETING
NOVEMBER 23, 2009**

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

1. Citizen's/Selectmen's Forum:

Mike Ray asked the status of committees/boards reporting to the Board with updates/progress reports. Town Administrator David Kinney said committees/boards coming to Board meetings has been "up and running" for months, and at least once a month will continue to be on Selectmen's agendas.

2. Administrator's Report:

David Kinney, Town Administrator, reported:

- Due to inaction on his part, the Town lost an opportunity for a grant to construct a bathroom facility at the Beach. But he is working to remedy the situation by calling contractors to provide free labor, seeking material donations, and will continue to also check availability of other grants.
- During the last rainstorm, a section of the new plastic culvert on Slab City Road floated upward. The contractor has fixed it by excavating around it, resetting the metal piping, and installing a headwall to hold it down.
- Central Maine Power is back in Town working on the rework list, which list is available on the Town's website and also in the Town Office.
- Dog licenses are due by December 31st and can be renewed on-line or at the Town Office.
- The Harbor Master will report to the Board at their next meeting on guest moorings and fees; the Harbor Ordinance calls for him to report to the Board in November, but the Harbor Committee is meeting this week to discuss fees, so the Harbor Master will report on both topics at the same upcoming meeting.
- The Cemetery Trustees invites the Board of Selectmen to tour abandoned cemeteries this Sunday, November 29th, at 1 p.m.; the rain date will be December 6th at 1 p.m.

3. Meetings & Announcements:

Town Administrator Kinney read the meetings and announcements from the agenda. He also announced that the Harbor Committee will meet Friday, November 27th at 4 p.m. at the LIA Building, the Cemetery Trustees will meet Sunday, November 29th at 1 p.m. at the Town Office, and the Municipal Building Committee will meet Wednesday, December 2nd, at 5 p.m. at the Town Office. When asked about the Coombs Trust investments being discussed at the Finance Advisory Committee meeting, Town Administrator Kinney said the entire investment portfolio would be discussed.

4. Upcoming Community Events:

Cindy Dunham reported that Christmas-By-The-Sea Weekend is December 4, 5, and 6, with the Lincolnville Beach lighting ceremony on Saturday, December 5th at 4 p.m., Santa's

arrival is at 4:30 p.m., and the Christmas party after Santa's arrival will take place at the LIA Building.

5. Meeting Minutes:

Motion by Plausse, second by Parra, to approve the November 9, 2009, minutes, as written. Vote 4-0-1 (Selectwoman Hardy abstained as she was absent at that meeting).

6. Public Hearing – Conservation Commission Recommendation to Sell Town-owned Properties Abutting Ducktrap River:

Motion by Plausse, second by Parra, to open the public hearing. Vote 5-0.

Jim Dunham, Chairman of the Conservation Commission, summarized the Commission's interaction with the Board of Selectmen since July in determining the best course of action for the two Town-owned properties on Ducktrap River: the Gillmor/Town Forest parcel and the Sprague Hastings parcel. It is the Conservation Commission's recommendation to sell the two parcels to the State of Maine; the State would place the lots in land protection.

Barbara Gould, Chairwoman of the Comprehensive Plan Review Committee, reported that the Comprehensive Plan Review Committee concurred with Scott Dickerson's summary and the Lincolnville Conservation Commission's recommendation, as it relates to the Comprehensive Plan for purposes of conservation and traditional recreation, and sees no impediment to the sale of these properties to the State of Maine. Ms. Gould presented the Board with a written memo stating the Comprehensive Plan Review Committee's findings.

Tony Oppersdorff, Secretary of the Lake and Ponds Committee, stated the Lakes and Ponds Committee voted unanimously in favor of the Town selling both properties to the State.

Chris Osgood voiced his opinion that this sounds like a win/win situation and hopes the Board votes in favor of selling to the property to the State.

Mike Ray, Planning Board member, didn't see any problem with the sale in regard to the Land Use Ordinance.

Board members voiced support of the Conservation Commission's recommendation, but had a couple questions of Scott Dickerson, Executive Director of the Coastal Mountain Land Trust and Lincolnville resident. In response to their questions, Mr. Dickerson couldn't see the State building roads on either property, especially given the current financial climate. The money for the State to buy the property comes from the Sears Island Consent Degree so the property will always be protected. He went on to explain the next step in the process is to establish a price. Legal access to a property means a higher value, so a title search will determine if legal access exists. Once that information is determined, an appraiser can be hired to determine value.

Town Administrator Kinney reported that Town Attorney Terry Calderwood felt a title search on the Gilmore property would cost less than \$500. Attorney Calderwood estimated a title search on the Sprague/Hastings property could be similar in cost, but he did not have time to review that file before leaving for Thanksgiving vacation.

Mr. Dickerson estimated the cost to appraise each lot will run \$2,000 to \$3,000, and said Coastal Mountain Land Trust has funds to help with that expense.

Tracy Colby asked what would be done with the funds the Town would get by selling to the State. Town Administrator Kinney explained that it would depend on the warrant article wording; if the warrant article does not specify a use for the money, it would lapse to the undesignated fund balance which, in the past, has been used to help reduce the tax burden. If the warrant article has wording that specifies how the money will be spent, then that would determine how the funds will be spent.

Motion by Plausse, second by Parra, to adjourn the public hearing. Vote 5-0.

Board members Parra and Hardy thanked the Conservation Commission, Coastal Mountain Land Trust, and all the committees for their work and input on this issue.

Motion by Plausse, second by Parra, to instruct the Town Attorney to conduct title searches for the two Town-owned properties, commonly referred to as the Gillmor Lot, identified on Tax Map 31 as Lot 41, and the Sprague-Hastings Lot, identified on Tax Map 33 as Lot 31. Vote 5-0.

7. Request to Consider an Engine Brake Ordinance:

Resident Bradford Payne addressed the Board again on the level of noise from engine brakes along the Beach/Route One area (having addressed the Board in late September/early October), requesting additional signage be placed north of Lincolnville Beach. He was told then that “jake” brakes are legal and there’s nothing the Town can do to enforce not using them, other than requesting they not be used via signage. To date, nothing has been done. He has since learned that the Town of Searsport has an ordinance in place, prohibiting the use of engine compression brakes, dynamic brakes, and engine retarders, within the limits of the Town of Searsport. Mr. Payne questioned why Lincolnville could not have a similar ordinance since the Town of Searsport evidently thinks it’s legal to prohibit the use of the engine brakes, and encouraged the Town Administrator to speak with Searsport.

Route One resident Marion Swanson explained the language of the current signs, but also said she spoke with a trucker once and was told he uses the brakes on purpose when he sees signs like that.

Although Selectmen sympathized with residents, it was the consensus of the Board that an ordinance would not be enforceable due to federal regulations. *The Noise Control Act of 1972* regulates emissions for motor carriers engaged in interstate commerce. According to the Maine Municipal Association, that statute “expressly prohibits states and their political subdivisions (including municipalities) from adopting or enforcing noise standards applicable to any motor carrier engaged in interstate commerce unless the standards are identical to the federal standards;” therefore, an ordinance would be unenforceable. Adopting an ordinance with no teeth would waste Police Department time, energy, and money, only to have cases thrown out of court. Town Administrator Kinney explained that when trucks use their regular brakes, not engine brakes, the brakes get hotter and could ultimately fail; engine brakes have a function. He couldn’t see adopting an ordinance that cannot be enforced.

Selectwoman Parra gave Bradford Payne her copy of the Maine Municipal information regarding federal regulations.

Mike Ray encouraged Town Administrator Kinney to speak with the Town Administrator in Searsport, as our sources may not be as reliable as Searsport's.

Will Brown suggested that another sign might reinforce the idea not to use engine brakes, which might change a few behaviors, and be a quick fix.

Selectman Plausse thought the strategic placement of another sign might help, as well as further investigation with Searsport about its Ordinance. Selectwoman Parra felt that most Lincolnville truckers are respectful of the issue. Selectman Trundy suggested contacting the Town Attorney to see if he thinks he could defend an ordinance like Searsport's in court. Selectwoman Hardy felt based on the Maine Municipal Association information, an ordinance would be unenforceable and couldn't see wasting Town money having the Town Attorney review the Searsport ordinance.

Motion by Hardy, second by Plausse, to authorize another sign to be placed in a strategic location (beyond Bay Shore Baptist Church towards the Beach). Vote 3-2 (Parra and Gerry opposed).

Chairman Gerry understood the problem, but questioned how long before other streets want the same signs. He explained it doesn't take long for regular truck brakes to heat and glaze over, and then possibly fail.

8. Request to Reconsider Placing Draft Minutes on Town Website:

Resident Tracy Colby explained her reasons for requesting that draft minutes be placed on the Town's website:

- Usually there are no substantive changes made to draft minutes;
- *The Freedom of Information Act* entitles the public to draft minutes;
- She doesn't have cable to watch televised Selectmen's meetings, so she has to make an appointment to watch the meeting DVD or purchase draft minutes;
- There is sometimes quite a time lag before approved minutes are posted on the Town's website;
- We don't have a local paper reporting on Lincolnville news as in the past.

Selectwoman Parra questioned when draft minutes are available. Town Administrator Kinney responded that usually a day or two after the meeting, the draft minutes have been typed and are ready for his review/corrections. Once he has reviewed them and changes/corrections have been made, the draft is included in the Selectmen's packet for the upcoming meeting. Selectman Plausse wanted to review drafts and their accuracy prior to them being posted on the Town's website. Selectwoman Hardy didn't have a problem with posting draft minutes on the website and agrees with Tracy Colby. When questioned by Chairman Gerry, Tracy Colby said she requests drafts about three or four times a year. He said he agrees with Selectman Plausse and with Selectwoman Hardy.

Betty Johnson agreed with Tracy Colby on this issue, and feels all committee draft minutes, clearly marked "DRAFT," should be posted on the Town's website. She also felt all minutes should come into the Town Office within a couple days of a meeting.

Barbara Gould felt if *The Freedom of Information Act* allows for the public to have drafts, then they should be on the website; usually there are no substantive changes.

When questioned by Chairman Gerry, Town Administrator David Kinney explained that it only takes a few minutes to post an item to the website. However, previous administrative assistants use to maintain the website, but after they left the Town's employ, the job fell to him. Having to post all committee drafts and approved minutes would be much more time consuming.

Motion by Hardy, second by Trundy, to put draft Board of Selectmen minutes on the Town website in a timely manner so the public has access to them without paying for them. Vote 2-3 (Gerry, Parra, and Plausse opposed).

Tracy Colby voiced her opinion that the votes against the motion were made to spite her, and that the Board had probably spoken with one another prior to tonight's meeting to decide this issue. Board members assured her that was not the case, explained their reasons for voting against the motion, and took exception to her suggestion they had previously discussed this matter with one another. Selectmen Gerry offered to bring \$100 to the Town Office to defray any expense to Ms. Colby for draft minutes.

9. Land Use Committee Update:

Town Administrator Kinney explained the Chairman of the Land Use Committee could not make tonight's meeting and asked that this item be moved to the next Selectmen's agenda.

Motion by Parra, second by Hardy, to postpone the Land Use Committee update to the next meeting. Vote 5-0.

10. Water Resources Committee Update:

Town Administrator Kinney explained that the Water Resource Committee has been working with Steve Levy of the Maine Rural Water Association to develop draft legislation to create the Lincolnville Sewer District and to apply for a Small Community Facility Planning Loan in the amount of \$18,000 from the Maine Municipal Bond Bank. The Sewer District would include the Beach area, from the Ferry slip to Green Tree Tea and Coffee Shop, to the Glock residence on Route 173, to the Windsor Chair business on Route One, but the District can serve outside that area for water and sewer, if need be. The District will be governed by trustees, who are residents within the District. The first trustees would be appointed by the Board of Selectmen, and subsequent trustees would be elected by the Townspeople. The only Town money involved would be for appointments/referendums. The Water Resources Committee is recommending the draft, with the exception of the second sentence of Section 5, which they believe should be changed to "Trustees must be residents and voters of the District."

Some of the Board's questions included: Would residents be forced to tie into the system and pay towards the debt service if they had a functioning sewer and drain system? What is

the Town's financial responsibility to the District? Does the \$18,000 loan need Selectmen approval, and is it a three-year loan, interest free? If a resident has a functioning system now that fails in the future, would they have to tie into the system then? In response to these questions, Town Administrator Kinney said residents with a current functioning sewer and drain system would not be required to tie into the system and pay towards debt service. The Town's only financial obligation is in the initial trustees appointments and referendums. The Townspeople would have to vote on borrowing the money, and Selectmen would have to approve expenditures. The loan is a three-year, interest-free loan. Residents with a failed system in the future would be obligated to follow the Maine State Plumbing Code.

Chris Osgood said usually once sewer is installed, density increases, so it is very important that the limits of the District are agreeable to the Town before the fact, not after. He felt it is critical to determine where the Town wants growth.

Betty Johnson, Vice-Chair of the Water Resource Committee, felt it is important for the loan to go forward, understood Chris Osgood's thoughts on growth, but feels the District will make the entire Beach area safer/cleaner. When questioned by Selectwoman Parra, Betty Johnson stated the Water Resource Committee currently has \$2,000.

Motion by Plausse, second by Hardy, that the Board instruct the Town Administrator to prepare a Special Town Meeting warrant, including article(s) necessary to seek authorization to execute a Small Community Facility Planning Loan with the Maine Municipal Bond Bank in the amount of \$18,000. Vote 5-0.

Motion by Hardy, second by Plausse, that the proposed legislation creating the Lincolnville Sewer District, as recommended by the Water Resources Committee, be submitted to the Legislature for their consideration. Vote 5-0.

11. Board, Committee & Commissions Appointments:

- **Gateway 1 Implementation Steering Committee Member and Alternate**
Motion by Parra, second by Plausse, to appoint Chris Osgood as a member of the Gateway 1 Implementation Steering Committee and Will Brown as an alternate member of the Committee. Vote 5-0.

Chris Osgood thanked the Board and expressed his view that the Town should lock in the services of a land use expert now before all the Gateway 1 towns try hiring from the same pool of land experts. Barbara Gould said the Comprehensive Plan Review Committee does want to use a land use planner, but not just for Gateway issues. Board members and committee members in attendance were pleased with Jane Lafleur.

- **Comprehensive Plan Review Committee**
Motion by Plausse, second by Hardy, to appoint Patricia Shannon to the Comprehensive Plan Review Committee. Vote 5-0.
- **Finance Advisory Committee**
Motion by Hardy, second by Parra, to appoint Steve Kemple to the Financial Advisory Committee. Vote 5-0.

12. Recognition of C-R-L Chamber of Commerce Award Winners:

Town Administrator Kinney explained that the Lincolnville Fall Harvest Festival was awarded the Economic Enhancement Award at the annual Camden-Rockport-Lincolnville Chamber of Commerce Awards Dinner. Mary Ann Mercier, Rick Pierson, Amy Rollins, Bob Plausse, Dick McLaughlin, Marion Swanson, Marilyn Carron, Wendy McKusker, the Parent Teacher Organization of Lincolnville Central School, the Cellar Door Winery, the Lincolnville Band, Lolly Clayton, and Joe Corrado were mentioned at the Dinner. Selectwoman Parra also mentioned Bettina Doulton of the Cellar Door Winery for her hard work on the event.

Also, Town Administrator Kinney congratulated Chairman Gerry for receiving the Chamber's Special Recognition Award, which totally surprised Chairman Gerry at the Dinner.

13. Discussion Concerning the Holding of Town Meetings on Holidays:

Selectwoman Parra explained that several Town committees held meetings on Veterans Day this year, and she felt it was disrespectful to veterans, may have been offensive to others, and made it expensive for staff members to attend meetings on a paid day off.

Motion by Parra, second by Plausse, for the Town of Lincolnville not to hold board/committee meetings on federally recognized holidays. Vote 4-0-1 (Hardy abstained).

Selectwoman Hardy didn't want to take away the boards'/committees' autonomy by mandating when or when not to hold meetings. Selectman Plausse felt committees should be able to work around federal holidays, especially Veteran's Day. Selectman Trundy thought it goes beyond controlling committee schedules, but it also is about the public being able to attend meetings on holidays.

14. Discussion of Tax Acquired Property (276 Greenacre Road):

Town Administrator Kinney explained that the Town-owned property at 276 Greenacre Road has a structure on the 1.6-acre lot that has no value due to its dilapidated condition. The Fire Department would like to use the structure as a training exercise by burning it down.

Motion by Parra, second by Hardy, to allow the structure at 276 Greenacre Road to be used by the Lincolnville Fire Department as a training exercise, and a well-placed water screen to protect neighboring structures will be used. Vote 5-0.

Motion by Parra, second by Plausse, to have the Town Administrator work with the Road Commissioner to clean up the debris from the structure after the training exercise, taking debris to the dump, if necessary. Vote 5-0.

The Board will review the entire list of Town-owned properties at a future meeting for possible inclusion on the June Town Meeting warrant.

15. Declaration of Surplus Equipment/Sale of Laptop Computer to Waldoboro PD:

Motion by Parra, second by Plausse, to declare the old Police Department lap top as surplus and authorize the sale to the Town of Waldoboro for \$200. Vote 5-0.

Town Administrator Kinney explained that if a Town-owned equipment is deemed surplus by department/department heads, the Board can sell surplus equipment under \$500 in value without Town approval, per Town Meeting authorization.

16. MRS Board of Directors Election Ballot:

The Municipal Review Committee Board of Directors oversees the incinerator in Orrington, of which Lincolnville is a charter member. Lincolnville can cast its vote for one of the candidates running for the Board of Directors.

Motion by Parra, second by Plausse, to cast Lincolnville's vote for Robert Farrar of Bangor. Vote 5-0.

Selectman Plausse informed the Board that the Waldo County Budget Committee has completed its deliberation on the County Budget and Selectman Plausse would like that item on the next agenda in order to explain the proposed budget.

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

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

Prior to the vote, Chairman Gerry briefly pointed out to the Board that the School is spending \$3,018 to waterproof the sidewalks.

18. Adjourn:

Motion by Parra, second by Plausse, to adjourn the meeting (8:17 p.m.). Vote 5-0.

Respectfully submitted,

Diane Bacon
Administrative Assistant