

**BOARD OF SELECTMEN
MINUTES OF MEETING
March 30, 2015**

Present: Chair, Ladleah Dunn, Cathy Hardy, Arthur Durity, Rosendel Gerry, Jason Trundy

The meeting was called to order by Chair, Ladleah Dunn at 5:30pm at the Lincolnville Town Office.

The quote was read by Selectman Trundy.

1. Executive Session:

Rosey Gerry made a motion to enter into executive to discuss consideration of employment Title 1 MRSA Section 405(6)(A). The motion passed on a 5-0-0 vote.

2. Citizen's Forum:

Upon returning to open session at approximately 6:25pm Chairman Dunn asked if any person wanted to speak on a non-agenda item. There were none.

3. Administrator's Report:

David Kinney, Town Administrator, reported:

The second half property tax payments are due by April 8, 2015.

4. Meetings & Announcements:

David Kinney, Town Administrator read the upcoming meetings.

5. Upcoming Community Events:

There were none.

6. Meeting Minutes:

Cathy Hardy made a motion to approve the minutes from March 16, 2015, with her suggested corrections. Jason Trundy seconded the motion. The motion passed on a 5-0-0 vote.

7. Liquor License Renewal Application – Inn at Ocean's Edge:

Rosey Gerry made a motion that the Board approve and sign the liquor license application for the Inn at Ocean's Edge. Jason Trundy seconded the motion. The motion passed on a 5-0-0 vote.

The Board thanked the representative of the Inn at Ocean's Edge for attending the meeting and coming forward to help answer any questions the Board may have for them, regarding their liquor license.

8. Discussion concerning Traffic Calming Measures for Fernald's Neck Road - Coastal:

Chair Dunn stated it was her understanding that due to an unexpected circumstance; the representative was unable to attend this meeting and she recommended the Board table this item when the representative is back to work.

Cathy Hardy made a motion to table this item until another meeting. Jason Trundy seconded the motion. The motion passed on a 5-0-0 vote.

9. As Board of Assessors:

Rosey Gerry made a motion that the Board suspend their meeting as the Board of Selectmen and convene as the Board of Assessors. Art Durity seconded the motion. The motion passed on a 5-0-0 vote.

Rosey Gerry made a motion that the Board grant Property Tax Abatement #2014-12 as recommended by the Assessors' Agent for Ravin Nakjaroen, Account #1691 in the tax amount of \$299.15. Cathy Hardy seconded the motion. The motion passed on a 4-0-1 vote. (Dunn abstained)

Rosey Gerry made a motion that the Board approve and sign the Ratio Declaration & Reimbursement Application as prepared and recommended by the Assessors' Agent. Jason Trundy seconded the motion. The motion passed on a 5-0-0 vote.

Rosey Gerry made a motion to adjourn their meeting as the Board of Assessors and reconvene as the Board of Selectmen. Cathy Hardy seconded the motion. The motion passed on a 5-0-0 vote.

10. Outstanding Questions concerning possible road discontinuance:

Art Durity stated he asked that this item be added to this agenda because Mr. Sanderson asked some specific questions, at a previous meeting, and there were questions that

concerned Mr. Durity. One of the questions that concerned Mr. Durity was whether he had the right to maintain the physical road that will become the public easement, which crosses the Thomas property. Mr. Durity talked to Mr. Thomas and he went through his deed and there were no privileges in the deed for the Sanderson's or the Sanderson property. Therefore, Mr. Durity stated he felt this was a question for the town attorney whether he can go in there and maintain it, so that it's passable by vehicle. The implication, if he can't, it's conceivable that that road could be passable by foot traffic. If that were to happen, it's conceivable, that if they were to go to court, a judge could put them effectively landlocked. Mr. Durity stated that if a judge were to do that, there would probably be a good reason for a judge to then say that the damages are equal to the full value of their house. Mr. Durity also stated he was not offering this in defense of the Sanderson's, but the answer to this question is a matter of due diligence to protect the Town of Lincolnville against possible consequences down the road.

Mr. Durity noted the case in Portland, ME where a road was discontinued and the homeowner was given \$0 in damages and they sued the town and the homeowner was awarded \$382,000 in damages.

Rosey Gerry stated, "I believe that the town attorney answered that questions and that was one of the contributing factors for this Board to move forward. This Board has followed the rules and has done everything that we are required, by law, to do."

Gerry asked Mr. Kinney to clarify this and Mr. Kinney stated that the 3rd question that Mr. Sanderson asked at the February 23, 2015 Board meeting was: "Does Mr. Sanderson have the right to maintain the Albert Blood Road when the road is on the Thomas property? Can the Thomas' or future owners dictate how the road is to be maintained or to close it if there are problems such as the issue that arise during mud season?"

Mr. Kinney stated at that meeting he could not answer that question without a title search on the Sanderson's property and the Thomas' property.

Cathy Hardy asked if that would be the landowners responsibility and Mr. Kinney stated it would be up to the person that wanted to know the answer to the question and if this Board wanted to do a title search on that property, we could hire an attorney to do a title search on either or both of those properties.

Trundy said, "I would like to know how the appraiser determined the impact of value on their home if he doesn't have the answer to that question, because if the answer to that question is they can't maintain that road, which would have a significant impact on value.

Mr. Kinney said, "The appraiser may have more information than I have to answer that about the title search or maybe knows more about road discontinuance than I do."

Mr. Durity said, "Could we ask the appraiser, if one of his assumptions for that assessment was that the road would be in an ongoing basis passable by car?"

Mr. Kinney said, "If the Board has the information it feels necessary to make the decision, then if the Board doesn't have the right answers and wants additional information, then we'll go get the additional information."

Mr. Durity stated, "I didn't bring this up to challenge the decision that has already been voted on, and all the rules have been followed and this isn't challenging the rules, this is just to cross T's and dot I's and making sure that we haven't set ourselves up by asking the question, it's making sure we aren't setting ourselves up for a big hit if this were to go to court."

Dunn and Hardy both agreed that it wouldn't hurt to revisit and ask the appraiser if he is comfortable that this has been addressed, when he made his declaration of damages.

Hardy wanted clarification on #4 of Mr. Sanderson's question from the February 23, 2015 meeting: # 4 If the Sanderson's maintain the road, how liable are they if there are damages to vehicles or injuries to persons on the road?

Mr. Kinney stated that Maine Law is very strong to protect landowners for use of their property and there is a specific statute about Limited Liability which states that unless you have done something negligent, to make it dangerous and intentionally left if that way, or you're charging a fee to come onto your property, you're very well protected by the Limited Liability.

Mr. Gerry explained he was perfectly satisfied that the Board has done what they as a Board, needs to do.

11. Review of Reserve Accounts:

Cathy Hardy started by thanking Tracy Colby for bringing this up at the last meeting and David Kinney for a great job summarizing what these accounts are and what the restrictions or requirements are for each of these reserve accounts. She felt that there are four accounts that she felt the Board should look at.

- a. Capital Investment: Mr. Kinney stated in the past the Town set aside funds into the Capital Investment Reserve for future capital type projects. This fund in the past has been used for the School project, the Town Office project and similar items. As the reserve is not specific the voters must approve any use of these funds. The account balance was \$43,408.81 at the end of the last fiscal year.

Hardy asked Mr. Kinney to explain what other instances he could think of that were funded by money from this account. Mr. Kinney stated that the major one was the School project and the Town Office project. Mr. Kinney stated his

theory for Capital Reserve is to tell people what the specific item is that the Town is saving money for.

Hardy said, "I agree with Mr. Kinney's way of doing this process and when there is a need, letting the townspeople know what that need is, and then asking them to set aside money for that. There is \$43,408.81 that is in this account that has not been designated for anything. It's a carryover for the way things were done before we started setting specific things aside. I would like feedback from the Board and I would like the Board to consider putting this as an item for discussion at town meeting, because the voters need to approve any use of these funds. If the Board were to designate that balance amount to be used for property relief, in this budget year, the voters would discuss that at town meeting.

Mr. Kinney said, "The reserve is not specific and the voters must approve any use of these funds. The biggest concern, from Lincolnville citizens, appears to be the condition of the roads and he explained the best course of action with Capital Funds is to refine your capital plan and look for your sources of money."

- b. Police Cruiser: Mr. Kinney explained the Town had established a police cruiser fund for the replacement of a police cruiser. The funds in this account can only be used by the Board of Selectmen for a police cruiser. To use these funds for another purposed would require a town meeting vote. The account balance was \$2,178.94 at the end of the fiscal year.

Hardy suggested adding this figure of \$2,178.94 because there were funds set aside for a future police cruiser, which is not on the plans right now and she wanted that figure added.

- c. Norton Pond Float: Mr. Kinney explained this is an account established by town meeting vote to fund the replacement of the floats at Breezemere Park on Norton Pond. The account balance was \$23,223.25 as of June 30, 2014. The Town expended approximately \$15,000 for float replacement in the current fiscal year. The funds in this account can only be used by the Board of Selectmen for floats and associated hardware. To use these funds for another purpose would require a town meeting vote.

Hardy said, "There is still another \$8,000 (+/-) that is sitting in an account and since the floats have been replaced, she suggested that this money be put to better use and put this in the Recreation Commission's Budget, so that when the floats are due, it will be part of request for the budget that year, that they are asking for."

- d. Megunticook Dam: Mr. Kinney explained the waters of Megunticook Lake and Norton Pond are impounded by two dams owned by the Town of Camden. The Town of Lincolnville partners with the Town of Camden on the maintenance

and upkeep of these dams. The account balance was \$44,521.44 at the end of the fiscal year. The funds in this account can only be used by the Board of Selectmen for Megunticook Dam related expenses. To use these funds for another purpose would require a town meeting vote.

Hardy stated her request would be to keep the minimum of \$30,000 and add \$5,000 to the Dam account. This would give the Town a balance of approximately \$63,330 that she would recommend be used towards tax relief and roads. Mr. Kinney stated this figure will be slightly different because these figures were from June of 2014. He will give the Board an update at a later date.

Mr. Kinney explained that there are two Board appointed committees (Recreation Committee for the Norton Pond floats & Megunticook Dam Committee for the Dams) that work to oversee the funds and he suggested the Board seek the input from the members of these committees.

Mr. Kinney asked that the Board invite the Recreation Committee and the Dam Committee to attend the next Board of Selectmen's meeting on April 27th.

12. Correction to Board of Appeals Appointment (Alternate vs. Regular):

Cathy Hardy made a motion that Reesa Harrison be appointed to the Board of Appeals as an Alternate Member with a term expiring June 2015. Art Durity seconded the motion. The motion passed on a 5-0-0 vote.

13. Review of Harbor Deliverables List:

Chair Dunn explained that since the boating season is rapidly approaching, it would make sense to review where the Board of Selectmen is and ask Mr. Kinney where we stand with mooring issuances and is there a waiting list.

Mr. Kinney explained that when the Board put together the deadlines for the deliverables, the Selectmen determining the Outer Harbor's by the end of December, is not a real practicable point, because we don't send renewals out in January. There are currently 3 individuals that are on the Outer Harbor Mooring Wait List; two are renewing their interest from the last year and one new that joined the list in January.

Mr. Kinney reported that the deadline to pay all Mooring and Wait List Fees is April 10, 2015 to avoid loss of privileges.

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

Jason Trundy made a motion that the Board approve the Treasurer's and Payroll warrants. Art Durity seconded the motion. The motion passed on a 5-0-0 vote.

15. **Adjourn:**

Cathy Hardy made a motion to adjourn. Art Durity seconded the motion. The motion passed on a 5-0-0 vote.

Respectfully submitted,

Melissa A. Geary
Administrative Assistant