

**BOARD OF SELECTMEN
MINUTES OF MEETING
APRIL 25, 2011**

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

The meeting was called to order by Chairman Gerry at 6 p.m. in Walsh Common.

1. Citizen's Forum:

Julia Libby announced she is running for the Board of Selectmen.

2. Administrator's Report:

David Kinney, Town Administrator, reported:

- Nomination papers are available at the Town Office and must be returned by May 2, 2011. There are vacancies on the Board of Selectmen, the LCS School Committee, and the Budget Committee.
- The Take Back Initiative will be held Saturday, April 30th, from 10 a.m. to noon at the Town Office. Anyone with unused, expired prescriptions can bring them to the Town Office where law enforcement officials will collect and dispose of them.
- The 2010 Census shows the year-round population of Lincolnville as 2,164, which is a 6% increase from the 2,042 population figure from the 2000 Census. Waldo County had a 6.4% population increase, which was the fastest growing county in the State.
- Bids for roadside vegetation removal, Beach bathroom construction, and storage building roof replacement are due back by Thursday afternoon.

Selectwoman Parra read the quote of the day. Chairman Gerry announced that due to another commitment, Selectwoman Hardy will be arriving late tonight.

3. Meetings & Announcements:

Town Administrator Kinney read the meetings and announcements.

4. Upcoming Community Events:

Town Administrator Kinney announced the Lincolnville Women's Club will hold its May Day Breakfast on Saturday, April 30th, from 7 a.m. to 10 a.m. at the LIA Building.

5. Meeting Minutes:

Motion by Plausse, second by Parra, to approve the April 11, 2011, minutes as written. Vote 4-0.

6. HeartSafe Community – Justin Hills, CFAA:

Justin Hills, a full-time employee of the Camden First Aid Association (CFAA), addressed the Board about the HeartSafe Community Award recently presented to CFAA. The Award is given to recognize EMS services in Maine providing excellent cardiovascular health education, CPR education/training, Automated External Defibrillators (AED) placement and training, and Advanced Life Support responders. In addition to CFAA, the cities of Brewer, Bangor, and Augusta also received the Award; recipients were given a Heartsafe plaque, a HeartSafe Community sticker and road sign, which Justin Hills gave to Town Administrator Kinney, along with a press release.

7. As Board of Assessors – Tree Growth Withdrawal Penalty Commitment:

Motion by Plausse, second by Parra, to suspend their meeting as Board of Selectmen and convene as Board of Assessors. Vote 4-0.

Assessors' Agent Vern Ziegler gave a chronological summary of the Tree Growth penalty issues facing Richard and Elaine Knight, owners of Map 16, Lot 8. The Board had tabled further discussion at its February 14th meeting to allow the Knights more time to gather additional information. The Knights received a letter from Gilbert S. Viitala, Professional Forester, and provided a copy of that letter to Mr. Ziegler, who then forwarded it to the Maine Forest Service for review. Morten Moesswilde, District Forester of the Maine Forest Service, stated that his earlier conclusion stands; that the harvest which took place on the Knight's property did not substantially comply with an eligible Forest Management and Harvest Plan.

Richard and Elaine Knight addressed the Board, clarifying a couple points: eight-tenths of an acre, not eight acres, was taken out of 19.44 acres, not 17 acres, for a house lot. Their agent, Walter Lamont, had spoken to Gilbert Viitala, a Professional Forester, who felt the quality of the timber on the Knight's lot was not commercial quality, would never grow to commercial quality, and should be cleared. Mr. Lamont filled out the Intent to Harvest, a copy of which was sent to the Lincolnville Code Enforcement Officer. The Knights explained they had not personally spoken to Mr. Viitala. They knew their property was in the Tree Growth Program but didn't really know what that meant. They have planted 150 seedlings so far, and plan to plant more seedlings to stagger growth.

(Selectwoman Hardy was now in attendance at the meeting.)

Assessors' Agent Ziegler explained that Mr. Viitala had not submitted an amendment to the original Forest and Management and Harvest Plan written by Mitch Kihn; therefore, the Plan, as originally written, should have been followed. He also explained there is a 90% reduction in assessment on property in the Tree Growth Program.

Board members expressed views that although the Knights are legally responsible, they were given bad advice; this was not an intentionally malicious act. Board members hoped there was a way to rectify the situation which would keep the property in the Tree Growth Program. Chairman Gerry, although sympathetic to the Knight's situation, did not want to

set a precedent for people to plead ignorance of the law; 43% of Lincolnville acreage is fully exempt or in value-reduced programs, which means the rest of Lincolnville taxpayers have to make up the difference.

Motion by Parra, second by Plausse, that Assessors' Agent Vern Ziegler work with the Knights, the Maine Forest Service, and a professional forester to see if the situation can be rectified to keep the property in Tree Growth, keeping the long-term goals of the original Plan. The motion was amended to include a time frame of 75 days. Motion, with amendment, passed with a 5-0 vote.

Motion by Plausse, second by Hardy, to adjourn as Board of Assessors and reconvene as Board of Selectmen. Vote 5-0.

8. Mortensen Septic System Expansion/Easement – Norton Pond Road:

Town Administrator Kinney explained Patricia Mortensen of 114 Norton Pond Road wants to improve the existing septic system in order to finish their garage, and is asking for an easement on Town property to expand the system. He also explained Town voters have given the Board authority to grant easements on Town property for sewer systems.

Gary Holsapple, Patricia Mortensen's husband, addressed the Board, explaining they want to create a single-bedroom mother-in-law apartment, but do not have the room on their lot to put additional septic system chambers. Town Administrator Kinney estimated the easement would involve an area approximately 25 feet deep by 75 feet wide on Town property, located across Norton Pond Road, and abutting the Mortensen lot, where the garage is located. In response to questions from Board members, Mr. Holsapple explained this property is their primary residence and the septic systems on either side of them are relatively new systems.

Motion by Plausse, second by Parra, that all costs associated with this application, including but not limited to, the required soil tests, easement survey and legal description, plumbing permits, and construction, all of these costs, be borne by the Applicant; that prior to issuing approval, the Town requires that the Applicant have a land survey completed with the area necessary for the construction and future maintenance of the septic system properly marked and a description of this survey written; that after the survey is complete, the site will be inspected by representatives of the Town to insure that no more land area than necessary is being requested; that the written description be given to the Town Attorney for preparation of the easement document; that the Applicant receive an invoice for the Town's costs associated with the Attorney's work; and that after the Applicant has completed the above and paid the associated legal fees, including the estimated recording costs, the easement will be presented to the Board of Selectmen for their approval. Vote 5-0.

9. Former Center Fire Station & Annex:

Town Administrator Kinney explained he sought legal and insurance information, as the Board requested at their last meeting, regarding proposed uses of the former Center Fire Station. He had received emails from Town Attorney Sally Daggett and Heidi Swiderek, Underwriter with the Maine Municipal Association Risk Pool. The Board received authority from Town voters to sell the property; leasing the property would require voter approval; any agreement with the Town must be with an individual or legal entity; outside groups using the Facility need to provide insurance, naming the Town as Additional Insured. Town Administrator Kinney also spoke with Code Enforcement Officer Therio about possible uses for the property.

Although Board members support the concept of revitalizing Lincolnville Center, based on the information from Attorney Daggett and Heidi Swiderek, it is apparent the Town must deal with a legal entity. Jim Dunham of the Revitalization Committee said the Committee is not a legal entity at this point in time, is pursuing the possibility of working with already established legal entities, such as the Lincolnville Improvement Association, or determining what is involved to achieve 501(c)3 status as a non-profit corporation. He explained time is a factor as some of these avenues would take time which, he fears, would diminish enthusiasm among Committee members. Town Administrator Kinney explained Lincolnville's participation in the MMA Risk Pool provides insurance coverage for Town properties, but this proposed venture may be crossing the line into commercial activities. The Town and its insurance carrier need to know who is utilizing Town property and what the property is being used for. As a group of individuals, this Committee is not a Town committee overseen by the Board of Selectmen.

Board members asked Mr. Dunham if the Revitalization Committee is ready to make the commitment to become a legal entity. Cindy Dunham understood the Board's questions about the commitment of the Committee and reiterated they are trying to have discussions with existing legal entities. Any grant monies sought by the group, such as library grants, would also require legal entity status. Liz Hand asked if a fair market price had been established for the property, perhaps giving the group a starting point or monetary goal to reach. Chairman Gerry said last April three local realtors gave suggested listing prices ranging from \$59,000 to \$118,000, resulting in an average list price of \$87,000. Town Administrator Kinney suggested other towns, such as Camden, have determined it would be in their town's best interest to sell property for as little as one dollar if new owners agreed to provide jobs, etc. Selectwoman Hardy suggested a reasonable balanced offer could satisfy both sides, selling the property for more than \$1, yet not expecting \$87,000. Chairman Gerry suggested the Committee "get on the band wagon" to form a legal entity. Mr. Dunham said he would go back to the Committee to discuss this.

Paul Crowley encouraged the Board to work with this group, but also thought the Committee could form a legal entity relatively quickly and suggested the Board set a deadline for them to reach, perhaps two weeks from tonight, to get their "ducks in a row".

Chairman Gerry summarized by saying the Committee should come back to the next Selectmen's meeting with the legal entity status issue resolved, if possible. If they do that, the Board can move forward in working with them; if not, they Board will pursue the option of selling the property.

Susan Gage suggested event insurance might be an option for fundraising events for the Revitalization Committee.

10. Lien-Acquired Property Discussion:

Chairman Gerry said this agenda item has generated a great deal of community interest. He read the Rules of Procedure which would be followed tonight in hearing public comments, asking people to be brief, to the point, and not to repeat points already offered.

Sandra Shute, resident of Richards Road, first addressed the Board about the possibility of the recent tax-acquired property on Richards Road being used for public access. She cited several reasons by the parcel is not appropriate for such a use, including reading a portion of a letter written by the law firm of Drummond & Drummond, L.L.P., which listed five reasons why public access is prohibited from this parcel of land. This letter, and many others received by Town Administrator Kinney, was included in the Board's packet. Ms. Shute also read a portion of a letter written by several Richards Road residents addressing the DEP maximum slope limits for the installation of a boat ramp, stating the slope of that property is too steep and beyond the DEP's maximum limits. She summarized by saying using this property for public access would be impractical and an inappropriate use of public funds.

Richard Lenfest of 32 Devine Drive spoke to the ecological risk to Coleman Pond and Ducktrap River if this property was used for public access. He said this is one of the best and most important ponds in the State, due to the salmon in Ducktrap River.

Whitney Oppersdorff, Vice Chair of the Lakes and Ponds Committee and Co-President of the Coleman Pond Association, had written a memo to the Board, offering information about Coleman Pond which she hoped would assist them in deciding what to do with this property. She offered a map of the Pond to Board members which showed various depths on the water; Coleman Pond is a shallow Pond.

Attorney Carol Emery spoke on behalf of her clients, Linda Nuesse and her daughter, Heather MacLeod, the owners who had not paid their taxes on the Richards Road property and Heal Road property. She said illness and family tragedy were the reasons her clients unintentionally did not pay the taxes. Attorney Emery asked the Board to consider selling the property back to her clients for the unpaid taxes; she was prepared tonight to write a check.

Mary Jane Root, an abutting property owner to the newly tax-acquired property, voiced concern about the steep grade of the land, as well as the safety of her grandchildren when they play near this property if there was public access.

Paul Crowley said although the Town has a tradition of working with people who have lost their property due to unpaid taxes, this is an opportunity for the Town to provide public access to Coleman Pond. Great Pond legislation states any pond over ten acres belongs to the State of Maine, not the people who own cottages around a pond of that size. The legislation also states people are allowed to walk across vacant property abutting a great pond without it being considered trespassing. He said the Town should seek the assistance of the Attorney General, the Town Attorney, and the Department of Inland Fisheries and Wildlife; Lincolnville is not alone in its efforts to provide public access, and the Board shouldn't feel pressured to make a hasty decision, but should consider what will be in Lincolnville's best interest 200 years down the road.

Susan Gage of 14 Brawn Road had empathy for illness and appreciated all the opinions offered tonight. She felt Coleman Pond, with its horseshoe shape, is very narrow and shallow, with only one deep spot. She was surprised to hear tonight the number of public access spots already within the Town. She voiced her concern about the slope of this property, the ecological impact public access may have on the Pond, and suggested this was not the appropriate property for public access.

Liz Hand, who owns a camp on Coleman Pond, reiterated the issue of slope which exceeds DEP limits, there is no beach, and suggested there are other areas more suitable for access, perhaps from a public road; Richards Road is a private road.

Kay Eva Cauley Smith was impressed with the humanity the Board has shown in their deliberation of several agenda items tonight. Everyone faces problems like the Nuesse's from time to time, and she hoped the Board would find a humane solution for this agenda item.

There being no other audience members wishing to make comments, Chairman Gerry ended the public input portion of this agenda item. He then asked Board members for comments/input. Selectwoman Hardy, when on the tour of the properties, was struck by how steep it was and questioned if there is another piece better suited for public access. Selectman Trundy agreed with Paul Crowley, saying this is a complex issue and the Board should move very deliberately, seeking input from various committees and agencies. Selectman Plausse had never seen this situation before, but felt it was not as complicated as it seems: sell the property or use it for public access. He also expressed frustration with implications that backroom decisions were being made by the Board concerning controversial issues like this. Board members are not crooks; decisions are made based on what is in the best interest of the Town. Board members would like input from the Comprehensive Plan Review Committee, the Conservation Commission, the Recreation Committee, Lakes and Ponds Committee and Ken Bailey, and do not want to rush to make decisions. Sandy Lyle of the Lakes and Pond Committee said they would like a month from now to address this issue.

Motion by Parra, second by Hardy, that the Board table the matter, send a reminder to the various boards, committees, and commissions that they are seeking their input on this matter, and with regard to the Coleman Pond issue include input from the Department of Inland Fisheries and Wildlife and Ken Bailey, and that the Board discuss with the Town Attorney our legal rights and duties concerning this matter, including reviewing the letter of Carol Emery as representative of Linda Nuesse and Heather MacLeod. An amendment was added to the motion to have this done within five weeks. The motion, with amendment, was approved with a 5-0 vote.

11. Contract Award(s) – Town Office Landscaping and Building Demolition:

Motion by Parra, second by Plausse, to award the Town Office Landscaping contract to Ford’s Lawncare, L.L.C. of Hope, Maine, in the amount of \$1,395. Vote 5-0.

Motion by Plausse, second by Hardy, to award the contract for the demolition of the structure at 276 Greenacre road to R. J. Osgood & Son of Lincolnville, Maine, in the amount of \$1,100. Vote 5-0.

12. Paving Program – Marriner’s, Inc. Correspondence:

Motion by Hardy, second by Parra, that the Board accept the offer of Marriner’s, Inc., to honor their 2010 contract pricing for the work not completed last year and for the FY 12 work, contingent on Town Meeting approval of the funding.

Discussion: Town Administrator Kinney explained Mike Marriner would prefer to start on last year’s work first; the other work he would like to start early, but the Town will not have funds until given voter approval. Chairman Gerry felt the Town has been shafted too many times by Marriners, said it was not in the Town’s best interest to hire them, and felt other bids should be sought. When questioned about current pricing, Town Administrator Kinney tried to find out from other communities what they are paying, but had no responses. He thinks asphalt is about the same price as last year, but felt bids would probably be at or above last year’s bid, unless there’s a shortage of work out there.

Vote 2-3 failed. (Trundy, Gerry, and Plausse opposed.)

Town Administrator Kinney will proceed with the normal bid process for paving.

13. FY 11 Budget Adjustment:

Town Administrator Kinney explained the Boards & Committee-Planning Board Secretary budget line is overrun by approximately \$2,700, and suggests the overage be covered from the Boards & Committee-Camera Operator budget line. The Protection-Street Light budget line will be less than a \$500 overrun at fiscal year end and said there are ample funds within the Protection budget to cover this line. Board members agreed.

14. Countersign CSD Budget Meeting Warrant and Notice of Election/Referendum:
Motion by Plausse, second by Trundy, that the Board countersign the Warrant and Notice of Election Calling Five Town Community School District Budget Validation Referendum, as prepared by the Board of the Five Town Community School District. Vote 5-0.

15. Review Draft Town Meeting Warrant Articles:

Town Administrator Kinney went through the proposed warrant articles for June Town Meeting, as listed in the Board's packets, with the following changes: Articles 5 through 15 would be budget articles, showing the Budget Committee recommendations; Article 16 will deal with the Norton Pond Fund; Article 30 to authorize the Board to dispose of Town-owned property with a value of \$1,000 or less (the amount has been \$500 in past years); Article 34 deals with a lease agreement with the LIA and/or Historical Society, as the insurance company wants a written lease agreement with them; Article 35, dealing with the Center Fire Station, will probably be scratched.

Selectwoman Hardy asked the Board to consider eliminating a portion of Article 10, dealing with the expenses of the Center Fire Station. Board members did not feel they could support her suggestion, feeling the structure would deteriorate very quickly without heat or electricity. Chairman Gerry said if the Revitalization Committee does not move forward with becoming a legal entity, he will push to get the property sold.

16. MMBB Small Community Loan/Grant Closeout:

Town Administrator Kinney explained the Town had been issued a Small Community Loan/Grant by the Maine Municipal Bond Bank, but the Town did not draw any funds from the loan. The Lincolnville Sewer District has obtained a similar loan for the same purpose, so the Town's loan can be closed.

Motion by Parra, second by Hardy, to close the loan from the Maine Municipal Bond Bank issued to the Town from a Small Community Loan/Grant. Vote 5-0.

17. Appointment of Election Warden for June 14, 2011.

Motion by Parra, second by Hardy, to appoint David Kinney as election Warden for the June 14, 2011, election. Vote 5-0.

18. Healthy Beaches Agreement:

Motion by Parra, second by Plausse, to authorize the Town Administrator to sign the Maine Healthy Beaches Program Agreement form 2011-2012. Vote 5-0.

19. Midcoast Economic Development District Correspondence:

Motion by Parra, second by Hardy, to nominate Rosey Gerry and David Kinney as Lincolnville's two representatives to the General Assembly of the Midcoast Economic Development District. Vote 4-0-1 (Gerry abstained).

20. **Treasurer's and Payroll Warrants – Approve and Sign:**
Motion by Parra, second by Plausse to approve the Treasurer's Warrant, the Payroll Warrant, the Coombs Trust Warrant, and the Fire Station Construction Warrant. Vote 5-0.

21. **Adjourn:**
Motion by Parra, second by Plausse, to adjourn the meeting (9:04 p.m.). Vote 5-0.

Respectfully submitted,

Diane Bacon
Administrative Assistant