

**BOARD OF SELECTMEN  
MINUTES OF MEETING  
AUGUST 9, 2010**

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

Chairman Gerry opened the meeting at 5:30 p.m. Selectwoman Hardy read the quote of the day.

**1. Citizens' Forum:**

Jay Foster, Land Use Committee member and Planning Board alternate, addressed the Board about the process involved for people to open or expand businesses in Lincolnville. He felt the Town has excellent land use ordinances in place, but thinks there are misconceptions about the Planning Board. Because the process may be unclear to potential businesses, he feels it results in the perception that Lincolnville does not have a supportive business environment. He suggested better public relations to help promote Lincolnville's ordinances would dispel some of the rumors or perceptions. The Land Use Committee is currently reviewing the Town's land use ordinances, per the Board of Selectmen's charge, to see what can be done to help businesses move more quickly through the review process.

Mr. Foster had spoken with several Lincolnville business owners who had gone through the review process within the past year. Some owners spoke favorably of the process, saying it was fair. But other owners said they were afraid of the process, saying it was intimidating. All of the owners spoke highly of the professional assistance they received from Code Enforcement Officer Frank Therio.

Chairman Gerry had spoken with the owners of Dot's Market and was told by them they would not want to go through the process again. Chairman Gerry said there were "little tiny needle" points that needed to get straightened out. He questioned if applications that are less formal or less organized are scrutinized more closely than those with hired engineering firms completing the application. Jay Foster felt all applications are reviewed the same, using the same ordinance with the same standards. Mr. Foster also felt businesses should build the review process timeline into their business plans since it usually requires two or three meetings to complete the review process. He said the Planning Board should not be considered public enemy number one, and he thinks better public relations might help alleviate that perception, but the ordinances should not be circumvented.

Selectwoman Hardy commented that she attended the Planning Board public hearing on the Cellardoor Winery and feels some audience members may not have had a clear understanding of the issue at hand, but also said Planning Board Chairwoman Lois Lyman clearly stated two or three times that some of the comments were not focused on the issue.

Selectman Plausse, who also attended the Cellardoor Winery public hearing, said his concern wasn't the Ordinance, but that determinations be made expeditiously.

## **2. Administrator's Report:**

David Kinney, Town Administrator, reported:

- The Circuitbreaker applications for the 2009 taxes are now available on-line and in the Town Office, and he encouraged people to apply.
- The meeting held at Norton Pond on August 5<sup>th</sup> was well attended and fairly well received. Continued testing in problematic watershed areas will hopefully help find the causes of pollution.
- The Fire Station contractor is focusing on interior petitions while the weather has been so hot; roofing and masonry may start this week. The contractor should meet the October completion date.
- The material over the bank on the Aho property has been cleared up. Wayne Heal has been contacted to pick up the dumpster. The Town will seek reimbursement from the Ahos for any costs the Town incurs. If the Ahos do not pay, the Town will seek collection relief through the Consent Order.
- Selectwoman Parra told Board members it was important that the Selectmen meet with the LCS School Committee to relay the Board's feeling about the School Consolidation Building Policy. Lincolnville Central School is a vital community center for Lincolnville, with many organizations utilizing LCS for meetings and functions since Lincolnville does not have the meeting facilities other towns have. As a Reorganization Planning Committee member, Selectwoman Parra has voiced her opinion how important it is for the Lincolnville community to have use of LCS, but feels it is important for the whole Board to express the importance to the School Committee. Selectman Plausse questioned what the Town's recourse is if a Consolidation Building Policy ends up not allowing the Town to use LCS as it does now; Selectwoman Parra answered that Lincolnville could take the penalty and withdraw from the school consolidation. The Board advised Town Administrator Kinney that they would like to be put on Lincolnville Central School Committee's September meeting agenda.
- Land Use Committee Chairman Bob Winslow had requested that one or two Board members join the Land Use Committee tonight after the Board's meeting to speak about the resource protection issue, if the Selectmen's meeting is done in time.

## **3. Meetings & Announcements:**

Town Administrator Kinney read the upcoming meetings from the agenda. He also announced the August 11<sup>th</sup> Planning Board meeting has been cancelled, as well as the August 18<sup>th</sup> Conservation Commission meeting. Selectwoman Parra announced the Midcoast Solid Waste Corporation meeting will be held Wednesday, August 18<sup>th</sup>, 7 p.m., at the Hope Town Office.

## **4. Upcoming Community Events:**

Diane O'Brien announced that the Blueberry Wing Ding at the Beach and the Art on the Beach at the Pub parking lot will be held this Saturday, August 14<sup>th</sup>.

**5. Meeting Minutes – July 26, 2010:**

**Motion by Plausse, second by Hardy, to approve the July 26<sup>th</sup> minutes as written. Vote 4-0.**

**6. As Board of Assessors – Property Tax Commitment:**

**Motion by Hardy, second by Plausse, that they suspend their meeting as Board of Selectmen and convene as Board of Assessors. Vote 4-0.**

Assessors' Agent Vern Zeigler addressed the Board, briefly explaining the four forms needing the Assessors' signatures for the 2010-2011 tax commitment. Today he reproofed his figures. Assessors' Agent Zeigler also stated the overlay is less than one-third of what it could be. He also explained the State reduced the Homestead Exemption from \$13,000 to \$10,000, which results in a \$37.20 increase to those with a Homestead Exemption. The proposed mil rate for 2010-2011 is 0.0124, which is a six percent increase from last year. He pointed out, however, that two of the six percent is due to the reduction in assessment values for the Norton Pond and Ducktrap Condominiums properties. The majority of the remaining four percent is due to the School funding that the voters approved.

**Motion by Plausse, second by Parra, that the Board of Assessors approve and sign the Assessors' Certification of Assessment, the 2010 Municipal Tax Assessment Warrant, the Certificate of Commitment, and the Certificate of Assessment to be Returned to the Municipal Treasurer, as prepared by the Assessors' Agent, establishing the tax rate for the fiscal year July 1, 2010, to June 30, 2011, at 0.0124 mils on the dollar (\$12.40 per \$1,000), and the due dates of October 8, 2010, and April 8, 2011, with interest at 7 percent per annum to be paid on any unpaid portion commencing on October 9, 2010, and April 9, 2011. Vote 4-0.**

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

**7. Fall Festival (October 2<sup>nd</sup>) Activity Update – Rick Pierson:**

Rick Pierson updated the Board on plans for the October 2<sup>nd</sup> Fall Festival, which will be held in conjunction with the Cellardoor Winery's Octoberfest. Mr. Pierson explained the Festival will run from 9 a.m. to 3 p.m. Activities for children, at no charge, will include facepainting, music, scavenger hunt, cakewalk, and the Shriners carts. The parade, which will be held from 10 – 11 a.m., will include dragons, fire trucks, antique cars, and a color guard. Traffic will be rerouted, so Police Department assistance is needed. Mr. Pierson encouraged the Town to create a float for the parade. There will be a trolley operating all during the event, transporting people to (and from) the Beach to/from satellite parking areas. When Selectwoman Parra questioned if there would be sufficient parking if the Beach parking lot is not used, Mr. Pierson responded that the satellite parking areas should provide adequate parking, and the Trolley will be looping back and forth all day.

**Motion by Hardy, second by Parra, to approve and support the event on October 2<sup>nd</sup> and to close the Town parking lot for that time. Vote 4-0.**

**8. Stephens Property Follow-up:**

Selectwoman Hardy and Chairman Gerry walked the Stephens property with several other community members, including Conservation Commission, Recreation Committee, and Snowmobile Club members. Selectwoman Hardy said the structures are in need of repair, the view could be improved with clearing, and she would like to see the Town acquire the property if there's a use for the Town. Town Administrator Kinney further explained there are nine structures on the property, including the main cabin, a bunk house, two privies, five storage buildings, and one dump. Access to the property would be a challenge. Selectwoman Hardy suggested Americorp volunteers might be a resource to help clear the property. Selectwoman Parra said she would like to see this work.

*Since the time was 6:30 p.m., the Chairman suspended discussion on Item 8 until after the Public Hearing.*

**13. 6:30 PM Public Hearing – Proposed Lincolnville Sewer District:**

**Motion by Plausse, second by Hardy, to open the public hearing concerning the proposed Lincolnville Sewer District and the referendum election to be held on August 26, 2010. Vote 4-0.**

Steve Levy, Executive Director of the Maine Rural Water Association, explained he was engaged by the Town to do research on setting up a sewer/water district along Lincolnville Beach. Members of the Water Resources Committee who were present in the audience also stood and introduced themselves. Mr. Levy explained private and special legislation was developed, and approved by the Maine Legislature, which will enable the registered voters residing within the boundaries of the proposed District to decide if a sewer district should be formed or not. If voted in, the goal of the District would be to secure financing to resolve sewer issues along Lincolnville Beach, which includes 23 businesses, 60 households, and 200 jobs. Mr. Levy went on to explain that since there have also been water quality issues along Lincolnville Beach, the approved legislation also gives the district authority to form a water district without going back to the Maine Legislature for approval.

A sewer district, as a quasi-municipal entity, could set rates but not assess taxes. The only responsibilities of the Town of Lincolnville are: to hold a public hearing, hold a referendum, and if the district is approved by the voters, appoint the first three Board of Directors for a 1, 2, and 3-year term. There are no Town monies involved.

Mr. Levy continued to address the public and Board members, saying there are about 100 water districts in the State of Maine, 60 to 70 sewer districts, and 40 joint water/sewer districts, so this is not a novel concept. The DEP handles the regulations of a sewer district (which involves a host of other State and Federal agencies), while a water district is regulated by the Department of Human Services Drinking Water Program and the Public Utilities Commission. A board of trustees (first appointed and then elected) would handle the day-to-day operating decisions, if a district was approved. The district can go back to the Legislature if changes are needed down the road.

Regarding financing, Mr. Levy explained there are loans and grants available, based on the median (not average) household income. This may put Lincolnville at a disadvantage than poorer towns, but he said Lincolnville has an important story to tell regarding their sewer and water issues, and the public hearing and referendum are the first two steps towards telling that story.

Selectwoman Parra questioned the assessment of benefited users. Mr. Levy explained there is nothing in Title 38, the law that governs sanitary districts, which mandates that the Trustees must assess fees to benefited parties, although they may. If a homeowner has a functioning septic system, there is no requirement that they must hook into the sewer district line. If a private septic system fails, per the plumbing inspector, and is within 200 feet of the sewer district's line, the homeowner then must hook in.

Selectwoman Parra also asked about the Board of Trustees. Mr. Levy stated if the referendum passes and a district is formed, the Board of Selectmen must appoint the first three trustees from within the district, on a 1, 2, and 3-year staggered term. Each year, the registered voters residing within the district boundaries would elect a new trustee to replace the one whose term had expired. He said although the Board of Trustees is an independent board, it cannot operate independently; going against the will of the district just doesn't work. And with staggered terms, there would be residual influence, which is a cross-control.

Selectwoman Hardy questioned if those voting are only those within the district. Mr. Levy said only registered voters residing within the district boundaries could vote. Town Administrator Kinney later stated there are about 60 registered voters residing within the proposed district boundaries. Selectwoman Hardy also asked what happens if future trustees have a changed point of view than current trustees; Mr. Levy responded that that's what could happen in a democracy.

Selectman Plausse asked if there are property owners who benefit from the line, but don't hook up, who decides if they are assessed a fee; Mr. Levy responded the Board of Trustees. Selectman Plausse also asked if the sewer district defaults on a bond, is it the Town's direct, or indirect, liability? Mr. Levy explained the sewer district would issue revenue bonds, not general obligation bonds, and it would not be the Town's responsibility to pay if the district defaulted on the bonds. If the Town wished to assume the debt, it could, but if the Town did not want to assume the debt, it would not have to. Mr. Levy went on to say that in his years of experience, he has only dealt with two or three defaults, and all worked out okay. In no instance, did the lending institutions go after the municipality.

Regarding appointing or electing trustees, Paul Lippman, Chairman of the Water Resources Committee, commented that the trustees would be from the district. Committee members were mindful that some folks couldn't afford to tie in, and the consensus was that they wouldn't have to tie in as an abutter, or benefited party.

Bradford Payne asked after the initial appointment, are subsequent trustees voted by district voting members. Mr. Levy read the pertinent section of law addressing that issue; it is a district election, not a Town election. Mr. Payne asked who would conduct the election. Mr. Levy responded that the District could have an annual meeting of district members to elect a trustee, or the district could do it in conjunction with another Town election, but that would be more complicated. Mr. Payne then asked why the boundaries were constructed the way they are; what about Ducktrap? Mr. Levy responded it would be difficult to set up district boundaries for one or two users. Data from the last five years showed a demonstrated problem within the selected vicinity, but also said there was some degree of arbitrariness in determining the boundary lines. However, he went on to say that in the future, depending on funding, district boundaries could be expanded beyond the current lines.

Tom Crowley questioned why the wording of the actual referendum question did not include “water” as part of the question. Mr. Levy explained the current focus is on sewer, but the legislation grants authority to expand to water, if need be; the Water Resources Committee felt it prudent to include water in the legislation. Mr. Crowley also expressed his overall concerns about the location, size, and maintenance of a new sewer facility, as well as the debt service. Mr. Levy explained that to move forward with funding, a district will have to be certain of the number of residents who and will not be hooking into the sewer; any lending institution would also want to know.

Ann Mills questioned if anyone has found out how many people need potable water versus how many people need sewer. Town Administrator Kinney responded that peoples’ needs change over time; it’s a moving target. Ms. Mills voiced her opinion that it would be a good idea to address the water issue and give that as much attention to water as the sewer issue.

Paul Crowley, who said he did not reside within the proposed district boundaries, was supportive of this referendum, felt the Beach is currently just getting by, and sewer needs will only increase. He went on to say the boundaries of the district are either “ridiculously large” if the focus is the Beach area or “ridiculously small” if focusing on a larger area. He asked if seasonal residents can vote; Mr. Levy responded that only registered voters can vote, so no. Paul Crowley then asked what happens if only a portion of your property falls within the district boundaries, but not the portion with the house/septic system. Mr. Levy answered that if a portion of the property falls within the district and the owner resides somewhere on the property, it is within the district. Mr. Crowley also expressed his view that people are being asked to vote on the district before knowing what abutter fees might be.

Jay Foster questioned what power of eminent domain and to take and hold property the district would have. Mr. Levy said Title 38, Section 1153 addresses the procedure, which would be very similar to the Town’s eminent domain authority, but only within the district.

Steven Levy summarized by saying this is enabling legislation, allowing the community to “get off the dime” and deal with its sewer and water issues; sewer and water problems are serious situations that don’t get better on their own. If approved, this will be a long-term process. If amendments are needed down the road, we can go back to the Legislature.

**Motion by Plausse, second by Parra, to close the public hearing concerning the referendum election for the proposed Lincolnville Sewer District. Vote 4-0.**

Town Administrator Kinney stated the referendum voting will take place at the Town Office on August 26, 2010, from 9 a.m. to 8 p.m. Absentee ballots are available at the Town Office.

*Chairman Gerry announced there would be a four minute recess before addressing the next item on the agenda. During the recess, Land Use Chairman spoke with Town Administrator Kinney about the Selectmen and Town Attorney (if available) meeting with the Land Use Committee at their next meeting on August 30<sup>th</sup> at Lincolnville Central School, since tonight's Land Use Committee meeting had ended. Board members were agreeable to attending the Land Use Committee on the 30<sup>th</sup>.*

*After the recess, the next item to be discussed was the Gateway 1 Interlocal Agreement Presentation and Q & A.*

**14. 7 PM (+/-) Gateway 1 Interlocal Agreement Presentation and Q & A:**

Chris Osgood, member of the Gateway 1 Interim Steering Committee, introduced consultants Stacy Benjamin and Evan Richert. Consultant Richert addressed the Board and audience, explaining the purpose of the Gateway 1 Interlocal Agreement draft is not to ask for a decision in signing the Agreement, but to ask for the Board's comments on the draft. The Interim Steering Committee would like to have comments back from the various town selectboards by early September, the comments will then be reviewed and incorporated into the draft, and a revised draft will be sent back to the selectboards for their review by late October. It will take 12 communities signing the Agreement for it to become effective. The draft Agreement had been reviewed by two other municipal attorneys, as well as State agency attorneys.

Consultant Richert continued to explain that the Gateway 1 corridor comprises 100 miles from Brunswick to Stockton Springs, and with these corridor towns working in partnership, more can be accomplished than towns working separately. He said Article 3, Section 3.2 of the draft Agreement spells out the shared functions. Pages 7 through 14 detail the Maine Department of Transportation's shared budgeting authority with participating municipalities, which, Mr. Richert stated, is an unprecedented step for the MDOT. Pages 11 and 12 address the standards towns would agree to incorporate into their land use ordinances, if they sign the final Agreement. Pages 13 and 14 state that towns are not obligating any funds without agreement. He further explained that towns do not need to adopt the Agreement prior to joining the Coalition; a town can adopt a non-binding resolution, but must adopt the Agreement within 24 months. If a community adopts the Agreement and then changes its mind, it can withdraw with a one-year notice. Mr. Richert said this is a heavily incentive-based plan, with unprecedented shared budgeting authority with MDOT, available technical assistance, and other incentives already embedded in the State transportation policy.

Chairman Plausse asked how this would affect the Town's Comprehensive Plan and how much autonomy would Lincolnville lose in determining where businesses go? Consultant Richert explained the transportation section of the Plan would become the transportation section of Lincolnville's Comprehensive Plan, which would provide future land use guidelines and principals of growth areas, but it does not mandate where the growth areas would be; that determination would be Lincolnville's.

Selectwoman Hardy questioned if the Coalition would be comprised of the people currently on the Interim Steering Committee. Mr. Richert said not necessarily; the Board of Selectmen would appoint one voting member and one alternate, to serve three-year terms, with a three-term maximum. She later asked what the frequency of the meetings might be. Mr. Richert guessed there would be monthly meetings initially, and then less frequent meetings after the initial formation. The Executive Committee of the Coalition would have housekeeping functions only, but would not make policy. Selectwoman Hardy also asked if the participating municipalities would decide what their subregions would be; Mr. Richert responded that they would.

Chairman Gerry asked for public comments; none were offered.

Town Administrator Kinney said various Lincolnville boards/commissions had received copies of the draft Agreement for review and should have any comments into the Board prior to their August 23<sup>rd</sup> meeting. Board members did not feel further legal review/input was necessary.

During discussion of the next item on the Stephens property, Jay Foster asked what would happen if 12 communities adopted the Agreement and then one community opted out. The consultants had left at that point, so no answer was readily available.

**8. Stephens Property Follow-up:** *(Discussion on this item resumed after the Public Hearing.)*

Karin Womer addressed the Board, saying she also went on the hike to the Stephens property. She found the property to be charming and unique, but the structures need much attention and she was concerned what those repairs might cost the Town. She suggested there might be endowments available or perhaps volunteers could be enlisted, but she felt the Board should carefully consider what strings might be attached to accepting this gift. She suggested local contractors might be willing to give estimates as to what repairs might cost the Town.

Lois Lyman expressed her concern about there being no-public access, other than going over Bald Rock.

Paul Crowley said he couldn't imagine turning this gift down and urged the Board to think well into the future, perhaps 50 years from now. He felt the property was potentially worth more than \$55,000, and also felt the access issue could be worked out with research, consent from other property owners, and/or eminent domain. He felt the liability issues were not

insurmountable; everything the Town does has some liability. He urged the Board to accept this gift.

**Motion by Plausse, second by Hardy, to table this item until the next regularly scheduled meeting. Vote 4-0.**

In the meantime, Selectwoman Hardy would be interested in hearing verbal input from several local contractors about repair costs of structures on the property, as well as hearing if property owners would be willing to open up access to the property. Town Administrator Kinney will contact the Stephens family to let them know their offer is still being discussed by the Board and will be on the next meeting agenda.

**9. Announcement of Waldo County 911 Sign Program – TRIAD:**

Town Administrator Kinney explained that Waldo County TRIAD received a grant to assist Waldo County residents who are 70 years and older in obtaining two-sided reflective house number signs and posts, at no cost (installation included). Applications are at the Town Office. Funds are limited, so interested Lincolnville residents should complete an application as soon as possible.

**10. Appoint Election Warden for August 26, 2010:**

**Motion by Parra, second by Plausse, to appoint David Kinney as Election Warden for the August 26, 2010 Lincolnville Sewer District Referendum Election. Vote 4-0.**

**11. Update to Policy on Tax Payments:**

**Motion by Parra, second by Plausse, pursuant to Title 36 MRSA, Section 906, that the Board approve the Order of the Board of Selectmen concerning tax payments as prepared by the Town Attorney. Vote 4-0.**

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

**Motion by Hardy, second by Parra, to approve the Treasurer's Warrant and the Payroll Warrant, as presented. Vote 4-0.**

*Items 13 & 14 had been discussed out of order.*

**15. Adjourn**

**Motion by Hardy, second by Parra, to adjourn the meeting (8:20 p.m.). Vote 4-0.**

Respectfully submitted,

Diane Bacon  
Administrative Assistant