

**Town of Damariscotta
Board of Selectmen's Meeting
Minutes
Wednesday, September 19, 2017**

The Board of Selectmen met on Wednesday, September 19, 2017, members present were Robin Mayer, Ronn Orenstein, George Parker, Mark Hagar, and Amy Leshure. Staff present was Town Manager-Matt Lutkus, Police Chief Jason Warlick, Officer Bellows, Fire Chief John Roberts, and Deputy Clerk- Cheryl Pinkham. Others present were LCN reporter Maia Zewert, Gina Hamilton of Wisc Newspaper, Newcastle Fire Chief Clayton Huntley, Town Attorney Jenny Villeneuve, and residents Jim Campbell, Lorraine Faherty, Ann Pinkham, Dana Orenstein (Planning Board Alternate) Jenny Begin (PB Alt.) Lou Abbotoni, Andrea Keushgerian, Sandy Day, Chris Roberts, and Karen O'Bryan also of LCTV. Nonresidents Karen-Ann Hagar, Pennington Way,

I. Pledge of Allegiance

II. Public Hearing

1. General Assistance Ordinance Amendments-

Public hearing was opened at 5:30p.m.

Lutkus reminded the BOS that the state mandates these changes, the changes in this amendment mostly reference new financial rates and reimbursement amounts.

The public hearing was closed at 5:31p.m.

III. Call to Order

Mayer opened the regular Board Meeting at 5:31p.m.

IV. Board action regarding public hearing discussion-

On motion of Mayer/Orenstein moved to approve the General Assistance Ordinance Amendments as presented.

Vote 5, 0, 0

V. Minutes-

1. September 5 meeting-

On motion of Orenstein/Parker moved to approve September 5th minutes.

**Vote 4, 0, 1 (Mayer abstained,
absent/ill from 9/5's mtg)**

VI. Financial Reports

1. Payroll Warrant #11

On motion of Mayer/Orenstein moved to approve PW#11.

Vote 5, 0, 0

2. Accounts payable warrants #12

On motion Orenstein/Parker moved to approve APW #12.

Vote 5, 0, 0

VII. Presentations-

1. Jim Hodgkin, AOS 93 Superintendent-Did not show for meeting, conflict in meeting schedules

2. Proposal for Lincoln County Fire Training Facility-

Huntley would like to build a fire training facility for Lincoln County, which would be manned by the Fire Academy. Ideally, they're looking for a piece of land about 3-5 acres to lease, or accept as a donation, or sold at a minimal sale price. Have looked for land in Newcastle, but all possible areas are outside of the hydrant district (which is a requirement). The County Commissioners agreed to potentially give 7 acres of land on Rte. 27, but again, that's outside the hydrant district.

Mayer asked what effect the training will have on traffic, how often would trainings be held, and if the facility could train other emergency personnel.

Huntley said once a month or could potentially be 2 weekends a month.

Parker asked if the cost of the facility is being provided by grant funds.

Huntley confirmed the facility would be yes, but they've also accumulated \$20,000 in fees as an organization.

Roberts pointed out that trainings cost \$75.00.

Orenstein asked about the sewer system and the amount of water used during the trainings, the town is billed for those costs.

Huntley stated if the organization couldn't secure grant funds then the organization will pay those bills, at this point though, a location is the needed.

Hagar asked if Chief Huntley had considered the land between the fire department and Hannaford grocery store, curious if Hannaford may be willing to donate land for this cause.

Huntley confirmed that approach has occurred and they (Hannaford) were not inclined to do so.

Mayer worried about the impact it may have on the roadway with the additional traffic.

Huntley believed Massasoit Drive was in fine shape to handle the extra traffic.

Roberts said there will need to have some repair to the roadway already, but if we have a lease agreement, we would ask for consideration to assist with that. Believe that a long term lease would be better for the Town.

Hagar questioned if the location could be closer to the fire station instead of the public works buildings, in case the Town needs that land for ourselves in the future.

Mayer asked if the building complied with our Town ordinances.

Roberts stated they had gone to the Planning Board the previous week, due to scheduling, and a waiver would need to be granted for the height.

Hagar asked if the Town were to lease the property for 50 years for \$1, would Damariscotta fire fighters fees be waived.

Huntley said the association was trying to get away from that practice, but can certainly ask the Chiefs Association if they are willing to do that.

Roberts clarified that the funds collected go to other areas of the training such as food, and the trucks provided for trainings. Would prefer to see maintenance fees, a certain amount, not all, waived by the association.

Hagar asked if they were not one of the 11 awarded grants, would the land just be turned back over to the Town and the lease would become null and void.

Huntley said no, they'd keep trying, and also have a training trailer. If the Association had a 'home' for their training center it would weigh heavily on future grant attempts.

Roberts pointed out that having a local police department is also a benefit to having the location here in Damariscotta.

Mayer was curious to know their time frame of trying to make all this come together.

Huntley stated this was just put together about 3 months ago, and would most likely be a couple years. But if we could get something by winter, that would be good.

Roberts added that the Planning Board also suggested an engineer report on the impact of wetlands, however, if the Association spends the money for this assessment but the BOS and Town are not in favor of this venture then it becomes money wasted. Hoping to see what the flavor of the BOS may be before hiring and engineer.

Hagar recalled having a study done initially when the Fire Dept was built there.

Roberts had a copy of that report with him, but pointed out the expansion of Hannaford, additional ditching done in that area, the new dialysis center and the eye doctor have all been added to that area so there may be changes.

Lutkus believed we could wait until the annual town meeting in June to get voter approval.

Roberts informed the BOS that the Chiefs Association would need a letter of intent to get the money moving, basically an agreement to agree.

VIII. Citizen Comments & General Correspondence-

1. Pirate Rendezvous Thank you Letter-

Lutkus relayed appreciation for another successful Pirate Rendezvous, this event helps support families at the holiday season.

2. Letter from Nicholas Chasse-

Begin stated she is concerned about the 5.5' right of way for the sidewalks; does not believe the sidewalk could fit and be safe; and questioned their drainage plan

Lutkus pointed out that the Planning Board requires sidewalks, however for this project the Dollar General will be providing the funds for the sidewalk in place of installing them. A location has been identified and will be good for Biscay & Main and is separated from the State's ROW. Need to confirm with Boehler Engineering because the sidewalk would be on private property and the Town would have an easement.

IX. Town Manager Items:

1. Capital Project Updates

Lutkus updated the BOS that Egypt Rd culvert will be delivered Thursday or Friday. The Elm St. waterline project continues this week, and next week will be the sidewalk and drainage work.

2. American Legion Auxiliary "Toll Booth"-

Lutkus stated the toll booth was another success and the Legion is looking forward to next time; which Lutkus added the Police Chief has suggested a few preventative safety measures if they are allowed to hold this event next year.

3. Reminder on Recreational Marijuana Survey-

Lutkus reminded everyone to take the Marijuana Survey, if they haven't already, currently we have 169 responses and the deadline is October 6th.

4. Date for "Community Conversation" on Recreational Marijuana Ordinance-

The BOS would like to place this on their next agenda.

5. Twin Villages Business Forum-September 22

Lutkus reminded the BOS that the TVBF will be taking place this Friday, and the press has been notified that there will be multiple Select-board members there which constitutes a BOS meeting.

6. Request for Town Flag at Lincoln Academy-

Lutkus relayed a request from Lincoln Academy that the Town allow LA to create a town flag with Damariscotta crest to display at the school to represent all students from Damariscotta.

7. Gift of Jake Day Drawing-

Lutkus received and original sketch from Fran Roberts of a Jake Day drawing that was the cover of our 1971 Annual Town Report.

On motion of Mayer/Parker moved to accept the gift and thanked Roberts for the sketch.

Vote 5, 0, 0

8. Reminder on Special Election to Fill Board Vacancy-

Lutkus stated nomination papers are still available for the Board of Selectmen vacancy, and they must be returned to the Town Office by Oct. 2nd.

X. Official Action Items:

1. Development Moratorium Ordinance Petition-

Villeneuve noted that the Town has been presented with the petition, which has been validated, the next step is the BOS have the authority to decide whether or not to place the question before voters. If the BOS feels this ordinance was an illegal warrant article, meaning that it's blatantly not within the authority of the Town to do; if the ordinance was unintelligible-meaning the BOS believe that no voter could reasonably determine what the petition is trying to achieve, or the BOS believe this could pose a threat as presented, the BOS could decide not to place this before the voters. Villeneuve doesn't believe any of those high level omissions have occurred, so the BOS could reasonably present the question to the voters. There is a middle ground as well, if the BOS felt the draft had vaguity in it or parts that would be difficult to enforce, then the BOS have the opportunity to present their own version of the ordinance and have voters vote on both ordinances, (with only one being declared 'winner') Procedurally the decision tonight would be to schedule public hearings and at the close of the 2nd public hearing then decide to place the topic on the warrant; keep in mind the ordinance cannot be amended or rescinded; the ordinance is what it is and is what needs to be put forth.

Lutkus added that if the moratorium passed, the restrictions would be in place until December 4th and then the BOS can decide to extend the moratorium without having to get legislative approval or the moratorium, if approved, would automatically end after

Zewert asked if the intent was to restrict all code enforcement and planning board related action items/building permits or just retail building permits.

Lutkus said the article was very confusing, but the "WHERE AS's" clearly points to retail development, but the 2nd phrase "Now therefore" section adds 'and on any new construction expansion, or use requiring the approval of the towns zoning and land use ordinances and regulations for such Town until such effective date of necessary ordinance amendments'. The 'Where AS's' indicate retail, however, other areas of the ordinance do not indicate only retail and that can be challenged to mean any construction and not just retail.

Hagar fears this will have a large impact on our legal budget because this can be challenged by many. Mayer questioned the basis of the 3rd 'where as' of the ordinance where it states "could pose serious problem" that doesn't demonstrate serious emergency; development is not a threat. The moratorium has not demonstrated it does pose a threat to the water and sewer infrastructure. MMA legal states the moratorium has to prove threat, where *could pose* is not proof.

Villeneuve stated from a risk perspective of being challenged, there could be challenge to the BOS not placing the question to the legislative body, there are cases that have led to litigation due to a Select Board denying the right to have it placed before voters, without the extenuating circumstances referenced.

Hagar is displeased with the fact that an attorney, who has made it very clear his feelings on this, is the one who drafted this ordinance, and Hagar is concerned that if the Board goes down this road, it will ultimately cost the tax payers a bunch of money in legal fees.

Villeneuve believed Hagar's concern was a legitimate concern.

On motion of Mayer/Orenstein moved the Board enter into executive session under 1MRSA§ 405(6)(e) at 7:17p.m.

Vote 5, 0, 0

On motion of Mayer/Leshure moved the Board exit executive session at 7:37p.m.

Vote 5, 0, 0

On motion of Mayer/Leshure moved to schedule a Special Town Meeting and referendum vote to occur concurrent with the November 7th election and ask Planning Board to schedule their public hearing as well.

**Vote 4, 1, 0
(Hagar opposed)**

2. Purchase of Police Patrol Vehicle-

Warlick stated he has received bids from Quirk Ford, Wiscasset Ford, and Rockland Ford and Quirk offered the best price of \$28,096.00, as well as the vehicle's on the already on their lot. The Town would use Banana Banners and Coastal Communications to outfit the vehicle with Police Dept decals as well as radio/computer etc.

On motion of Mayer/Hagar moved to approve purchase of new police cruiser from Quirk Ford for \$28,096.00 and installation of equipment and decals not to exceed \$8,600. Vote 5, 0, 0

3. Disposal of Police Department Truck-

Warlick believed the Town would receive considerable more money by selling the vehicle outright through sealed bids, with a minimum bid amount, than what we were offered as a trade in.

On motion of Orenstein/Parker moved to approve the disposal of the Police Department truck through sealed bids with a minimum amount declared. Vote 5, 0, 0

4. Review of Board of Selectmen's Regular Meeting Day-

On motion of Parker/Hagar moved to have the BOS meetings revert back to every 1st & 3rd Wednesday at 5:30, beginning November 1st. Vote 5, 0, 0

5. Use of Town Right of Ways during Pumpkinfest-

Lutkus recommended the BOS close Theater and Water Streets as they have in the past; prohibit parking spaces along Main St during the same hours as they did last year with the exception of the handicap space in front of the post office for Saturday, Oct. 7th.

On motion of Leshure/Hagar moved to close Theater & Water Streets and prohibit parking on Main St with the exception of the handicap space in front of the Post Office. Vote 5, 0, 0

Lutkus added that the businesses downtown would be able to utilize the spaces in front of their buildings as they have in previous years to sell their products/services.

6. Action on Donation of Pickup Truck from Massasoit Engine Co -

On motion of Mayer/Parker moved to accept the truck from Massasoit Eng. Co. Vote 5, 0, 0

XI. Selectmen's Discussion Items-

Hagar stated with tonight's discussion he would like to stress that we are a service center and hope that people really get involved with this process, and look at the way this ordinance is written.

1. Update on Planning Advisory Committee-

Mayer updated the BOS that the Planning Advisory Committee has been diligently working on combining current ordinances together. Bob Faunce, Lincoln County Planner will be at the next PAC meeting. Looking at a possible development of an additional C-3 zone. Shari Sage has resigned.

Day questioned the apparent conflict of interest with a Planning Board member and an alternate member of the Planning Board circulating the moratorium petitions.

Mayer agreed there could be a conflict and that member or members should recuse themselves from planning board consideration on all retail.

*definitions
of
(item)*

Lutkus echoed the same is for alternate members on the Planning Board. They are charged with looking at individual applications without bias and making a decision based on each individual project without bias. This could be questioned whether these members are able to do that duty.

XII. Executive session for two items (1) Regarding negotiations for a possible land acquisition and (2) Regarding consideration of a proposal for a possible land sale, as authorized under 1MRSA 405(6)(c)

On motion of Mayer/Orenstein moved to enter executive session under 1MRSA 405 (6)(c) at 8:11p.m. Vote 5, 0, 0

On motion of Mayer/Orenstein moved to exit executive session at 8:51p.m. Vote 5, 0, 0

No action was taken after executive session.

XIII. Adjournment-

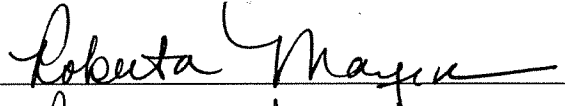
On motion of Orenstein/Parker moved to adjourn meeting at 8:53 p.m.


Vote 5, 0, 0

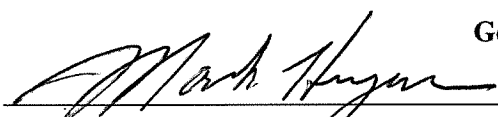
Respectfully submitted,


Cheryl M. Pinkham, Deputy Clerk

We, the undersigned, do hereby approve as written, or with corrections as noted, the minutes of the above-designated Board of Selectmen meeting.


Roberta Mayer


Ronn Orenstein


George Parker


Mark Hagar


Amy Leshure

Town of Damariscotta, Board of Selectmen, Signed this date 10/3/17