

Town of Lyman
Select Board Regular Meeting Minutes
Monday May 15th, 2023 – Lyman Town Hall

Selectboard members present: Ralph “Rusty” Blackington (Chair), Thomas Hatch (Vice Chair), Jessica Picard, John Tibbetts, David Alves

Selectboard members absent: None

ITEM #1

SPECIAL OFFERS/ PRESENTATIONS

a. **Public Hearing regarding discontinuance of Old Kennebunk Road, or a portion of, by abandonment**

Ben McCall – States he is an attorney representing Chip Basset, owner of Map 3, Lot #84. They have no objection to the board declaring the road discontinued by abandonment, however the concerning issue would be if a public easement was not retained. Without an easement being retained, this will have detrimental consequences to property owners possibly losing their access to their property along this road.

Chris Piazzi – States a portion of the road starting from Old North Berwick Road up to the Hissong Ready Mix quarry has been maintained by the Town and property owners would believe this section is still a Town Road. As for the other section between the two gates, he understands this section has not been maintained.

Saul Feder – States people drive up and down this road all the time with regard to one section that may be closed from time to time. He doesn't think it would be wise to leave the road to the property owners to do as they wish.

Eric Boise – States the road commissioner explained to him the road would be asphalted and maintained by the Town. Abandoning the road would create issues with property values and be detrimental to the residents that live on the road.

Roz Anton – States she is real-estate agent and was able to confirm that this road is a public road.

Wendy Karen – Asks if the abutting landowners would be responsible for repairing and maintaining the road after it's abandoned.

Max Harper – States this road should continue to be a Town Road.

Brad Morin – Legal counsel for the Town of Lyman. States records indicate this road was voted by the town to be abandoned in 1993 and at that time there was evidence to support the road had not been maintained for a long time. However, in 1993 proper notices may not have been sent out making this an invalid attempt to abandon the road. More recently, the board was asked to clarify the status of the road and retain a public easement in an effort to protect property owners' access to their property. A town has the ability to declare a road abandoned if for 30 or more years it hasn't been maintained at the expense of the Town. Regardless of whether other people have been driving down the road, the Town has not been maintaining a portion of this road for a long time. If the board voted to declare the road discontinued by abandonment the board would also have to decide whether to retain a public easement which would include access by foot or motor vehicle and utilities. After the appeals timeline, this would be filed in the registry of deeds. If there is a section that has been maintained, the board would not be able to declare that section abandoned.

David Alves – Asks if the board voted to retain a public easement if there would be any obligation to contribute more on that road beyond the public easement.

Brad Morin – Explains the Town would not be obligated to maintain that section, but the public easement would ensure that other property owners could access their property. In some cases, property owners could establish their own private road association to maintain their road.

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David Alves – Asks if a subdivision were going in beyond the gates where the section has not been maintained would that not be a part of the planning board's decision for that road to continue to be a road if it were built to standards?

Brad Morin – States if that section has been abandoned, regardless of whatever decision is made by the Planning board, there's no obligation by the Town to maintain that section you're referring to.

Josh Eon – Asks if the board abandons the road and a property owner logs their property and ends up making the road impassable from damages who would be responsible for repairing any damages?

Brad Morin – States the landowners can enforce their own road maintenance agreement and create their own association.

Steve Sterns – Asks if the board maintains a public easement will the gates stay and be locked? If the gates come down, who would be responsible for any illegal dumping?

David Alves – States he doesn't believe it would be gated if there's a public easement there.

Brad Morin – States the Town wouldn't have the ability to enforce any road agreement on the property owners, but the property owners could form a statutory road association.

Josh Eon – Asks if the gate was in Alfred or Lyman?

John Tibbetts – States it's not known.

Alan Shepard – States there's a lot of private roads in Maine and people do find a way to figure it out. He would recommend a public easement be retained.

Vicky Gavel – States the Town has cleaned tons of debris out of that area from illegal dumping.

Paul Thurston – States he lives on the road in that area, and this is accurate that illegal dumping was an issue, however this was many years ago and now more recently the dumping hasn't been an issue for what he believes there is more activity and eyes on the area.

Thomas Plumber – States he lives near the gate towards the Alfred side. He sees a lot more activity on that road from pedestrians and vehicles since the gates have been opened and he hasn't seen a trash problem this year. He would like a public easement to be retained for continued public access.

There are no further public comments. The public hearing closes at 6:36pm.

b. [Public Hearing regarding warrant articles 2-41 for Annual Town Meeting scheduled June 15th, 2023](#)

Ralph Blackington – Opens the public hearing and states if anyone has any certain questions on certain items to address the board.

Carol Baker Roux – States the board had mentioned that other Towns combine Town Clerk with Town Manager. She asks if in the HR Job study did the board find that other Towns combine the Treasurer with the Town Manager and why did they not go that route? How did the board find how other comparable Towns are structured and if those Towns also have a Road Commissioner?

Carrie Jo Sampson – States she remembers last year when there was a vacancy of the Select Board Clerk position and some of the tasks were absorbed by in-house staff, how will the board accomplish combining two full time positions and why do we need to expand the Town Hall if there will be less employees?

Don HERNON – States the board had decided to combine the Town Manager with Town Clerk, and he feels this should go to the voters at the Annual Town meeting. As a member of the Charter Commission, it was not the intent of the commission to eliminate the Town Clerk position. We voted for a Town Manager form of government to serve as a buffer between elected officials and employees because in the past there were allegations of elected members interfering with the conduct of Town business. It is his opinion that this is the reason why the Charter Commission decided to implement a Town manger position. He asks if it's reasonable to combine the two

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positions and expect one person to fulfil the duties. He asks if there has been any issue with in-person voting or absentee voting with the elections. He asks what the board would do in the interim of not having a Town Manager.

John Tibbetts – States in the HR study the board did find Towns that combined Town Clerk with Town Manager and they seemed to make it work. One thing the study revealed for him was that the Town Manager and Select Board clerk functions are somewhat similar in their nature. He agrees, some Towns combine treasurer with Town Manager, but they were graded at a higher level of pay. As it stands right now, if we leave every position as it is we will have no space to seat a Town Manager. We would also be faced with raising the salary for that position. Even with the Town Hall expansion, you're looking at a couple of years possibly down the road and the way the Charter is written, it does not provide any ramp up to establishing a Town Manager as in timelines or getting certain things in order. In this way combining the two positions gave the Town some time and the process for a Town Manager that could be started. It was a difficult problem the board had to solve.

Jessica Picard – States Waterboro is an example with a combined Town Manager, Town Clerk. The charter vote took the clerk function from elected to appointed. We have an elected official's term coming to an end which from her perspective prompted looking at combining the roles. Also, she adds it wouldn't be the Town Manager alone performing all these functions just like it's not the Town Clerk alone performing all their functions because they are able to deputize other people to assist.

Carol Baker Roux – Asks about Article 32 to see if the Town will authorize funding at last years level if this would mean that should the people vote down the salary article because they feel the Town Clerk should be included, is this article there to correct the salary line in being able to keep a separate Town Clerk position?

Jessica Picard – States if the Town voted not to approve the first salary line item and then instead voted to fund at this current year's level that doesn't mean we automatically stick with having a separate Town Clerk position. Just the same if an employee resigns, that doesn't mean we can't make adjustments to try to fill that position such as combining it with another position.

Pauline Weiss – States the board could have looked at other options and there were other members of the Budget Committee and Select Board that made recommendations. She states she doesn't think the Select Board Clerk and Town Manager positions compare to each other. She suggests to the board to keep the Town Clerk position as a separate position. The board could rescind their prior vote and change the salary total and vote again. With paying hourly positions they can get overtime and with the Town Clerk being salary that would take care of that issue. It was stated several times throughout Select Board meetings that if the Town Clerk position was kept separate then the current Town Clerk would have to apply for the job. The Town Policy currently outlines the board has the authority to hire from within without externally posting the job vacancy. Town employees shall be given maximum opportunity for advancement.

There are no further public comments. The Board closes the public hearing at 7:06pm.

The board opens into their regular meeting and discusses making a decision regarding Old Kennebunk Road.

David Alves – **Motions to declare abandonment of Old Kennebunk Road a section starting at a gate which is approximately seven tenths of a mile from Old North Berwick Road and continuing 1.88 miles more or less in a Westerly direction to the Alfred Town Line.**

John Tibbetts – **Seconds the motion. Motion passes: 5-0-0**

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David Alves – Motions to retain a public easement for the abandoned portion of Old Kennebunk Road.

John Tibbetts – Seconds the motion. Motion passes: 5-0-0

Brad Morin – Suggests the motion should also include specifications of the law.

David Alves – Motions the public easement retained will be for all purposes allowed by Maine law, foot motor vehicle and utilities.

John Tibbetts – Seconds the motion. Motion passes: 5-0-0

Brad Morin – States he can prepare findings of evidence supporting that section of the road has not been maintained by the Town and will summarize them in writing. He'll get a certificate the board can sign and record in the registry of deeds.

ITEM #2

HEARING OF DELEGATIONS / PUBLIC INPUT

- a. *Public Input – Public in attendance will have up to 5 minutes to address the Board. Please use the podium to address the board.*

Vicky Gavel – States she was asked to do some work for the Cemetery committee to help clean up some brush and was told she would have to fill out paperwork for insurance requirements and she feels this is tedious and overreaching.

Don Hernon – Reads a statement to the Select Board regarding the subject of bias. He was present at the last Select Board meeting and David Alves made a statement that I had a personal bias or animosity toward him. Don states this is untrue. He discusses David Alves prior site plan review applications, and he believes as a planning board member he evaluated these plans fairly. If anyone should believe there is a conflict of interest or bias, they need to address the planning board in accordance with the Planning Board bylaws. He asks if the Select board has their own code of ethics or bylaws pertaining to conflict of interest or bias and what is the process for a Lyman resident to challenge a select board member with a perceived conflict of interest or bias issue?

- b. Mail
c. Complaints

ITEM #3

MINUTES

- a. *Review / Approve meeting minutes 5/1/2023.*

David Alves – Motions to approve. Jessica Picard seconds the motion. Motion passes: 5-0-0

ITEM #4

SIGN WARRANTS

- a. *Payroll Warrant #49 in the amount of \$24,070.09*

David Alves – Motions to approve. Thomas Hatch seconds the motion. Motion passes: 5-0-0

- b. *Accounts Payable Warrant #48 (FY2023) in the amount of \$77,006.19*

Thomas Hatch – Motions to approve. Jessica Picard seconds the motion. Motion passes: 5-0-0

ITEM #5

UNFINISHED BUSINESS

- a. *Stagecoach Road, discussion from last meeting, Updates from second opinion, land use attorney.*

Lindsay Gagne – Explains Town Council had verified this road was voted abandoned by Town Warrant in 1921 and there was no public easement retained. Town Council also verified there are no deeds necessary, and the property reverts back to the abutters to the centerline of the road. Essentially this becomes private property now and each property owner would have the right to either bar access through their property or allow others to pass. On the second opinion given regarding issuing building permits, we spoke with a land use attorney who advised that the CEO could issue a building permit provided that the property met all the dimensional requirements in the

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zoning ordinance, however the CEO or the Town could not do anything with the access issue. That would be a separate issue the property owner would have to take up with their neighbor. If the road was in such disrepair, the CEO could make a judgment based off the definition of “road” in the zoning ordinance. If they felt the road did not meet the definition outlined in the zoning ordinance, then the CEO could deny a building permit until the road was brought up to current standards. These aren’t easy answers to help the CEO in dealing with these issues, although, in some cases, such as what was recently brought to the board, if a property owner on one side of the road were to allow access on their property, it may be a worthwhile venture for someone looking for access to their lot to talk to that property owner and see if they’d be willing to grant them a wider right of way to get vehicles through. Otherwise, there can be civil issues between abutting landowners and the attorney advised the Town not to get involved in access issues as the Town wouldn’t have any authority of enforcement.

b. [RFP – IT Remote Managed Services – Review RFPs, tabled from last meeting](#)

Ralph Blackington – Suggest sticking with either company based out of Maine.

David Alves – States the board figured with Burgess there was a potential the added fees for other services may cost more than Bean Data

Jessica Picard – **Motions to award the bid to Bean Data**

John Tibbetts – **Seconds the motion. Motion passes: 5-0-0**

c. [Review quotes for Town Audit. Current contract expires June, 2023](#)

Jessica Picard – **Motions to award the auditing services contract to Maine Municipal Audit Services from June 30th, 2024 to June 30th, 2028.**

John Tibbetts – **Seconds the motion.**

Thomas Hatch – **Verifies the price quoted was the same as last year.**
Motion passes: 5-0-0

d. [Review Quotes for Propane 1-year contract. Current contract expires 4/2023, extended to May.](#)

Jessica Picard – Confirms the Town owns the tanks, and this doesn’t require having to change out anything.

Jessica Picard – **Makes a motion to go with the Down East Energy Quote**

Thomas Hatch – **Suggests we contact them to verify the season term.**
Motion passes: 5-0-0

e. [Franchise Agreement – Update from Tony Vigue](#)

Lindsay Gagne – States Tony suggested putting together a draft ordinance and gave two examples from two different towns, one being less restrictive and the other being more restrictive and suggested we try to come up with something in the Middle. The board can schedule a workshop with Tony to start discussions on drafting an ordinance.

Jessica Picard – Asks if this should go to the Ordinance Review Committee to work out.

Lindsay Gagne – States the Board was reviewing this because under state statute the Select Board has the authority to pass a Franchise Ordinance without it going to Town Vote.

A workshop is scheduled for May 22nd, 2023 at 6:00pm.

ITEM #6

DEPARTMENT AND COMMITTEE REPORTS

a. [Road Commissioner](#) –

Brad Nikel – States from recent storms, there has been some damage at the snowplow turnaround section on Oscar Littlefield Road. This has been cleaned up and taken care of. There is also a tree down on Clarks Woods Road that he has scheduled clean up for that site, as well as, that side of the road will be trimmed out for trees hanging over the edge of the road.

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- b. **Fire Chief –**
Matt Duross – States GMFR is back to full staff. MX 207 has cooperated with the requests made by the Planning Board and so far, he’s seen a decrease in calls out to that area.
- c. **CEO – none**
- d. **Parks & Recs – Request for approval to collect donations to purchase new playground equipment.**
Jessica Picard – **Makes a motion to approve Parks and Recs request to create an expendable trust fund as outlined in the letter.**
Thomas Hatch – **Seconds the motion. Motion passes: 5-0-0**
- e. **Tax Clerk – April 2023 Monthly Report** – Report submitted in agenda packet.
- f. **Treasurer – Expense Report May 11th, 2023** - Report submitted in agenda packet.
- g. **Town Hall Expansion Committee –**
David Alves – States the land survey was completed and he will get a copy for the board.
- h. **Other - none**

ITEM #7

NEW BUSINESS

- a. **Review/ approve added Warrant Article 42 & 43 for Annual Town Meeting June 15th, 2023**
Schedule public hearing
Lindsay Gagne – Explains GMFR sold some equipment and wants to move money received into the reserve accounts.
David Alves – **Makes a motion to add article 42 and 43 to the warrant as written.**
Thomas Hatch – **Seconds the motion.**
Jessica Picard – **states this is the Lyman portion of the money that a certain amount will be put into the vehicle reserve account and another portion will be put into the facility capital fund.**
The board will hold a public hearing to go over the two added articles on June 5th, 2023 at 6:00pm.
- b. **Brian Dulong – Discussion regarding snowmobile club lease, see email**
Brian Dulong – Asks the board to take a vote to renew the lease with the Lyman Snowmobile Club. Currently we do not have a formal written lease, we have a tenancy at will which the board could evict us at any time. The club doesn’t feel comfortable putting money into something they could lose tomorrow.
David Alves – States the board is trying to complete a land study in conjunction with the comprehensive plan and at least give the Town the information and ability to determine what actions to take. He’s hoping the Lyman Snowmobile Club can become a formal entity, but the land study would have to come first. The Town voted to give the Club a lease, but at this time the lease has expired which is why the Club has a tenancy at will.
Ralph Blackington – Asks what the club would look for on timelines or a compromise for a lease.
Brian Dulong – States the Club had 5-year increments in the last lease. He would like to see 10-year increments.
David Alves – States the compromise is the tenancy at will and no one is going to just vote them out.
John Tibbetts – doesn’t believe the comprehensive plan deals specifically with Town-Owned land. We’re also a couple years away from revamping the comprehensive plan or any ordinances.
Lindsay Gagne – States there are legal requirements even for tenancy at will that proper notice is given to the tenant.
David Alves – States he doesn’t think it’s right to tie up a property for five years when we’re in the process of figuring out what to do with all these land parcels. He asks if the club is a private or a public club, if Brian Dulong was appointed or elected as the president, how are they welcoming the community in the club and what community activities does the club contribute to?

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Brian Dulong – States he was elected as president. People can join to be a club member. The club has offered the historical society the opportunity to use the building, however they had some requirements for climate control. He would like to see the boy scouts have a camp there. Meetings are posted on the club's Facebook page.

Thomas Hatch – States he agrees with completing the land study. Even if there may be potential to sell or divide that land, these trails are all over private land and can be lost at any time.

Jessica Picard – States because we are looking into the land study she would suggest a compromise on the lease agreement, such as maybe a 1-year term. She suggests looking into options for a lease.

David Alves – States after the land study there wouldn't be any reason not to consider doing a lease. He recommends staying with the tenancy at will until the land study is done.

c. [Michelle Felicitti – Discussion regarding RFP for ARPA funded projects](#)

Michelle Felicitti – States she looked at the RFPs that were posted for the ARPA projects. She understands Bunganut Lakeside RFP hasn't been completed yet, but she had some questions about the field side of Bunganut. She asks if there is a well on the field side and if there is well on the lake side. The ARPA committee recommended a well on the field side but if there was money left over. She also asks about the concession stand and if this was part of the ARPA recommendations.

Ralph Blackington – States there is no well on the field side but there is a well on the lake side. He based his RFPs off of the list that the ARPA committee gave the board which included a well on the field side. He has to price out these things to determine how much money it might cost before the board can determine what projects are worth getting into.

Michelle Felicitti – Asks how these things being put in the park will pay for themselves. Rather than installing a well could there just be a water fountain installed. She asks about the building owned by the Boy scouts if there is anything going on with that.

Thomas Hatch – States he is still looking into the boy scouts building.

d. [Davis Road Lease exp 6/2023, request to renew, see email.](#)

David Alves – Suggests we do a tenancy-at-will until a land study is completed before considering drawing up a lease.

David Alves - **Makes a motion to extend the land lease agreement at Davis Road (the pit) to Steel Nickel for a month to basis as a tenancy at will.**

Thomas Hatch – **Seconds the motion. Motion passes: 5-0-0**

e. [Rustic Dreams Catering Application Renewal, review/approve.](#)

Jessica Picard – **Makes a motion to approve Rustic Dreams Catering application.**

John Tibbetts – **Seconds the motion.**

Jessica Picard – **States they've been a good addition to the town.**

Motion passes: 5-0-0

f. [Appointment, review/approve committee application for Bunganut Committee](#)

•William Single •Michelle Felicitti •Karen Kane •Holly Hart •Kevin Veilleux

David Alves – **Makes a motion to approve Michelle Felicitti, Holly Hart, Karen Kane, and Kevin Veilleux for the Bunganut Committee and the IT committee appoint William Single and Nigel Sampson**

Jessica Picard – **Seconds the motion.**

David Alves – **States he spoke with the applicants about his suggestion of appointment.**

Jessica Picard – **States there are open seats on the IT committee so this will not just consist of two members.**

Motion Passes: 5-0-0

g. [Appointment, review/approve committee application for IT Committee](#)

•William Single •Michelle Felicitti •Nigel Sampson

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See Item #7, (f)

h. [Resignation from Board of Assessment Review, Charles Harrison.](#)

Jessica Picard – Makes a motion to accept the resignation of Charles Harrison on the Board of Assessment Review.

John Tibbetts – Seconds the motion. Motion passes: 5-0-0

i. [Appointment, review/approve deputy treasurer.](#)

David Alves – Makes a motion to appoint Lindsay Gagne as deputy treasurer.

Thomas Hatch – Seconds the motion. Motion passes: 5-0-0

OTHER

David Alves – Asks the board if any of them would agree to amend the warrant article question as recommended by the Town Clerk.

Members of the board, Jessica Picard, John Tibbetts, Thomas Hatch and Ralph Blackington all state they do not agree with the amendment.

EXECUTIVE SESSION

[1.M.R.S.A §405 \(A\) Personnel Matters](#)

Thomas Hatch – Makes a motion to go into executive session for M.R.S.A 405 (A) Personnel Matters

Jessica Picard – Seconds the motion. Motion Passes: 5-0-0

Jessica Picard – Makes a motion to come out of executive session.

John Tibbetts – Seconds the motion. Motion passes: 5-0-0

Jessica Picard – Makes a motion to accept the resignations dated May 12th 2023 and May 15th 2023

John Tibbetts – Seconds the motion. Motion passes: 5-0-0

ADJOURN

Jessica Picard – Makes a motion to adjourn. David Alves seconds the motion. Motion Passes: 5-0-0

Ralph “Ralph” Blackington (Chair)

David Alves

Thomas Hatch (Vice Chair)

Jessica Picard

John Tibbetts

I, Lindsay Gagne, Clerk to the Select Board of the Town of Lyman, Maine, do hereby certify that the foregoing document consisting of 8 pages are the original minutes of the Board of Selectmen Regular Meeting dated May 15th 2023

Lindsay Gagne