

~Meeting Minutes~
Androscoggin County Commissioners
February 15, 2023
Regular Meeting 5:15 p.m.

I. MEETING CALLED TO ORDER – by Chair Sally Christner at 5:17 P.M.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Commissioners: Chair Sally Christner, Vice-Chair Terri Kelly, Edouard Plourde, Brian Ames, Andrew Lewis. Via Phone: Roland Poirier. Tardy: Garrett Mason.

Other: Interim County Administrator/Finance Director Clarice Proctor, Finance & HR Office Manager Hillary Nadeau, Facilities Director David Cote, Chief Deputy William Gagne, Sheriff Eric Samson, Communications Director Martin Fournier, Office Manager Michael Perry, Livermore Selectman Mark Chretien and Scott Richman, Maine Roadways Roberta Manter, Attorney Ron Guay, Christopher McHugh, Allied Engineering Tony Davis, Ganneston Construction Tim Porter, Sandy Berube, Sun Journal Steve Sherlock, citizens.

IV. MINUTES

A. Meeting Dates: January 18, 2023 and February 1, 2023.

Motion: to approve with a waiver of the reading of the January 18, 2023 minutes as presented.

Kelly-Lewis 5-0-1

Abstained: Ames

Motion: to approve with a waiver of the reading of the February 1, 2023 minutes as presented.

Kelly-Plourde 4-0-2

Abstained: Poirier, Lewis

V. WARRANTS

Motion: to approve all warrants as presented: AP Warrant JV1018, Manual Warrants JV1002, JV1014 & Payroll Warrants.

Kelly-Lewis 6-0

VI. REPORTS

A. MCCA-No report.

B. Central/Western Maine Workforce Board-No report

C. AVCOG Report-No report.

Commissioner Mason arrived at 5:30 p.m.

D. Treasurer's Report-Treasurer Proctor presented financial information.

Motion: to approve the Treasurer's report.
Lewis-Plourde 7-0

E. Administrator's Report-Interim County Administrator Proctor gave an update on current activities.

*Commissioner Lewis requested gross rental costs for the Center Street properties

*Commissioner Plourde requested quarterly or bi-annual detailed expenses for the Center Street properties

*Sheriff Samson said a report was mailed to him monthly (or every 3 months), to which the Commissioners requested to see that.

VII. COMMENTS FROM THE PUBLIC – See Livermore Road Winter Maintenance Petition.

VIII. NEW BUSINESS

A. Livermore Road Petition

Petition for appeal of municipal action pertaining to winter closing of a portion of Wyman Road in Livermore Maine

We, the undersigned voters of Livermore, Maine file this appeal, under the provisions of 23 MRS §2953 (5), and request review by the Androscoggin County Board of County Commissioners, pertaining to a November 3, 2022 vote taken by the Selectman of the Town of Livermore to award a contract for winter maintenance of Wyman Road.

As a result of the November 3, 2022 vote, a portion of Wyman Road, which has been continuously maintained by the Town for several decades, will be discontinued of winter maintenance in violation of 23 MRS §2953.

We the undersigned voters respectfully request that the Commissioners order the Town of Livermore to maintain the historical winter maintenance on Wyman Road until such time that a sufficient legal description of the road is established by survey, legal descriptions, and any other required legal process, and that such legal description of the location of the road be reviewed by the Commissioners prior to any changes to winter maintenance of Wyman Road.

*Attorney Ron Guay- Stated that the Department of Transportation (DOT) map does not show that Wyman Road is 135 feet. He defended this belief by explaining how the DOT map actually shows that the location is closer to lot 11 and does not connect to lot 10, which is what the tax map shows. He also explained how it shows at the bottom of that map that the dead end goes to the Cottage Terrace (sub) and that evidence of this is also found when the town voted to establish the road in 1946.

*Christopher McHugh- In response to a question at an earlier meeting, McHugh stated that the Livermore board approved repairs to Wyman Road in November 2017. He also

noted that the property line/pin is at his garage and he does not own the turnaround used by the town plow truck.

*Attorney Guay continued to explain that the entire road has historically been plowed down to lot 99 for 60 years. He pointed out that the town must use the legal process for a discontinuance of a road and can't use a tax map to do so, and that the partial discontinuance of Wyman Road (by not maintaining it down to lot 99) is improper.

*Commissioner Kelly asked if they had confirmation of the DOT's determined length.

*Livermore Selectman Mark Chretien responded that there were no lengths on those (the DOT) maps.

*Chair Christner affirmed that the length was taken from the tax maps and Mr. Chretien concurred.

*Commissioners continued to discuss the Wyman road situation.

*Roberta Manter-Founder of Maine Roadways, Ms. Manter described how she located part of the subdivision plan at the Registry of Deeds. By taking the description of the Johnson's lot from the Deed, she came out with a line in exactly the same shape as the edge of the road-as laid out in the subdivision plan. However, she noted that it does not match the tax map and based on her research, she believes the tax map is incorrect.

*Conversations continued...

*Commissioner Mason asked both parties when Christopher McHugh was notified about the status of the road.

*Attorney Guay replied that the town met on September 29, 2022 and took no action to discontinue Wyman Road. Christopher McHugh was not sent a letter/notice and did not have a visitation at that time, but notice was posted on Facebook some time in September.

*Commissioner Mason asked the Livermore Selectmen if there was a length on the state survey.

*Livermore Selectman Mark Chretien responded that there were no lengths on the state survey.

*Commissioner Mason noted that he thought they would see something different on the state survey that would clarify the situation, then he asked the Livermore selectmen when they started the process of decommissioning the road.

*Livermore Selectman Mark Chretien responded that they (himself and Mr. McHugh) were there with the highway foreman on July 21, 2022. At that point in time, Selectman Chretien told Mr. McHugh that they felt that the road stopped there (at 135ft) and that Mr. McHugh was responsible for it from the white line down to his house and that was based on the tax map.

*When asked if he potentially knew it was going to happen, Mr. McHugh stated, "I knew that something was going to happen but I also knew, because I talked to Paul in the assessor's office, that aerial photos and assessor surveys did not succeed town deeds. So I didn't want to get into an argument with them at that point in time."

*Commissioner Mason explained that "Given the history and stuff, I think that there is a precedent in the town maintaining some of that road. Right now I don't know that I would side with the town because feel like there should have been some more advanced notice, especially in this situation."

*When asked if they met the October 1st state statute deadline in notifying Mr. McHugh, Selectman Mark Chretien responded that they met in October and Mr. Guay said that his property owner couldn't cross the town road if we closed it to winter maintenance so we didn't vote on it that night.

*Livermore Selectman Scott Richman added, "We're maintaining that we are maintaining our portion of the road, we never have voted to close the road to winter maintenance. That's our side."

*Chair Christner stated that she narrowed it down to three issues. First, the timing (to notify Mr. McHugh) was supposed to be October 1st according to state statute, but the (town) vote was taken on October 11th. Second, is the ongoing issue of plowing. The state roadmap did not clear this issue up and although the assessments and tax maps can be wrong, they are the next position of authority that Commissioners have to go on. The third issue relates to a topic brought up by Roberta regarding easement of prescription. In relation to this, Chair Christner asked Roberta Manter if she found any case law that talked about a reasonable expectation of service.

* Roberta Manter replied that there were two very old cases, one which says, "If a town has treated the road as public and has maintained it for a certain number of years, they officially acquire not only the right to maintain it, but the obligation to maintain it." Not able to remember the details of the second case, Ms. Manter continued to note that, "The elements of prescription, whether it be a piece of land, a road, a picnic area, boat landing or whatever, if a piece of land is used by someone who does not own it, and is used in a manner as if that person or party owned it, uninterruptedly for 20 years or more with the acquiesce of the owner of the land, but without his actual permission or if it's used in a manner so openly notorious and unobstructed that acquiesce that it would be presumed...Obviously, they were plowing it, and plowing it without permission, they were doing it openly and notoriously and unobstructedly for well over twenty years, it was sixty years." Ms. Manter continued to discuss other circumstances and the possible outcomes and/or compensations for housing market value loss due to the discontinuance of a road.

* Discussions continued regarding road access and the turnaround.

* Commissioner Mason asked what the question before the Commissioners was.

* Commissioner Ames responded that it was to have the city plow the full length as they have for the last 60 years.

* Attorney Guay referred the Commissioners to the petition (see above for petition wording).

Commissioners continued to discuss the details on where the truck plowed and the question of whose property the turnaround is on.

* Commissioner Plourde suggested they either continue this or have a motion to have the road maintained until the next step, to continue the process whether the town really wants to accept it or just discontinue.

* Commissioner Mason agreed and pointed out that the town was 11 days too short (for notification) and the survey did not show that the town road was 135 feet and that the remainder was Mr. McHugh's responsibility.

Motion: to require Livermore to maintain Wyman Road according to the historical precedent.

Lewis-Plourde (no vote)

Motion: to call the question.

Mason-Lewis (no vote)

Motion: to require Livermore to maintain Wyman Road according to the historical precedent.

Lewis-Plourde (no vote)

Motion withdrawn

Discussion

Motion: to grant the petition.

Mason-Ames 5-1-1

Opposed: Christner (due to O'Donnell)

Abstained: Poirier

B. Sheriff Office – Vehicle Purchase

Motion: to rescind my previous motion (*Previous 01/04/23 motion rescinded: to approve the purchase of three 2023 Chevrolet Tahoe PPV cruisers from Quirk Auto Group in the amount of \$137,963.*) and to approve the purchase of three 2023 Chevrolet Tahoe PPV cruisers from Colonial Municipal Group (\$41,925.90 per vehicle) in the amount of \$125,777.77.

Ames-Kelly (no vote)

Motion: to call the question.

Lewis-Plourde (no vote)

Motion: to rescind my previous motion (*Previous 01/04/23 motion rescinded: to approve the purchase of three 2023 Chevrolet Tahoe PPV cruisers from Quirk Auto Group in the amount of \$137,963.*) and to approve the purchase of three 2023 Chevrolet Tahoe PPV cruisers from Colonial Municipal Group (\$41,925.90 per vehicle) in the amount of \$125,777.77.

Ames-Kelly 7-0

C. Sheriff Office – Asset Forfeiture Funds Approval

Motion: to accept forfeited assets in the amount of \$8,272.50.

Ames-Kelly 6-1

Lewis: Opposed

D. Sheriff Office – PSAP/911 Rates Discussion

Motion: to set the out of county PSAP rate at \$4.50.

Ames-Mason (no vote)

Amendment to Motion: to set the out of county PSAP rate at \$4.50 for fiscal year 2023.

Ames-Mason 7-0

E. HVAC Bids Update

Motion: to reject the bid from Ganneston Construction Corp for a sum of \$8,044,392.00.

Ames-Kelly (no vote)

Facilities Director David Cote, Allied Engineering-Tony Davis, and Ganneston Construction-Tim Porter discussed the HVAC project.

Amendment to motion: Motion: to reject the bid from Ganneston Construction Corp for a sum of \$8,044,392.00 and move forward with “value” engineering.

Ames-Kelly (6-0-1)

Abstained: Mason

IX. DISCUSSION ITEMS

Possible “value” engineering outcomes along with ARPA requirements.

X. FUTURE AGENDA ITEMS

Commissioner Ames-ARPA pending items in two meetings (March 15th)

XI. EXECUTIVE SESSION

A. Executive Session-Pursuant to Title 1 MRSA Sec 405(6) Subsection (A)

Discussion of Personnel Issues.

Motion: to enter into Executive Session-Pursuant to Title 1 MRSA Sec 405(6) Subsection (A) Discussion of Personnel Issues.

Kelly-Ames 7-0

Motion: to enter into public session.

Ames-Garrett 7-0

XII. ADJOURN

Motion: to adjourn.

Ames-Garrett 7-0

Clarice Proctor, Interim Administrator