REVISED
MINUTES OF MEETING

August 14, 2014

Board of Selectmen

Town of Long Island, Maine

Present: Tom Hohn, Chair, John Condon, Selectman, Marie Harmon, Selectman, and Brian Dudley, Town Administrator

Tom Hohn convened the meeting at 4:45 PM. A quorum was present.

Selectmen reviewed the weekly Town Warrants.

There was general discussion on some post storm issues with respect to some washed out roads. Todd Rich will ask that a Selectmen look at some drainage and road work near his property. Joe Novak reported some culvert blockage which has been cleaned out.

A meeting on the island with Sea Breeze will be scheduled soon to review roadway maintenance needs.

Dave Singo and Rod Jacobs updated the Board of Selectmen on the upcoming hunting season. A meeting was held on August 6th with nine people in attendance to discuss the 2014-2015 season. It was noted that there have been no complaints regarding the archery program and that the two bait stations do not interfere. The shotgun season extending through February seems too long. It is recommended by the Deer Committee that the season end on December 31st.

There was also some discussion on extending the hunting hours from ½ an hour after sunset until later into the night when the deer population is at its most active stage. If so, this would be for bow hunting only. There would be limited locations on the island, three of which are: 1) the Transfer Station area; 2) the Jordan's property on the East End; and 3) Wreck Cove. Tree stands would be used and the maximum shot would be about 40 feet. The State of Maine must approve the evening hour extension.

Dave Singo also mentioned the need for consideration of accommodating more golf carts down front perhaps by re-striping with smaller spaces.

Katie Norton and Melissa Brown addressed the Selectmen on the plans for furniture and equipment storage during the CCRP construction. Brian Dudley will check with Pine Tree Waste and then Lynn Lamontagne about moving the storage pod from their property to a town location for this purpose. There are sufficient funds within the recreation department budget to offset this expense.

The Board re-confirmed its earlier decision to increase the capacity of the municipal IP Hosting plan per the recommendation of IT Administrator, Curt Murley.

The Board reviewed two quotes from Mike Lingley to perform arborist services at the VFW Hall and also on the Wreck Cove path. The latter being recommended by the Oceanside Conservation Trust.

Following the discussion, it was Moved (John Condon), Seconded (Tom Hohn) and Voted to approve an expense of $275 for the VFW work and a not to exceed cost of $600 ($60 per hour at maximum of 10 hours) for the Wreck Cove path. (Motion passed 3-0).

A Motion was made (Hohn), Seconded (Harmon) and Voted to approve the minutes of the August 7, 2014 Selectmen's meeting. (Motion passed 2-0).

Brian Dudley informed the Board that the hazardous materials pick up from the Transfer Station is scheduled for Thursday, September the 11th.

The Board reviewed current committee and board openings. The following openings need to be filled:

1) Zoning Bard of Appeals: 1 regular member and 2 Alternates for three year terms;
2) Planning Board: 1 regular member;
3) Recreation Committee: 3 regular members with 1 year terms;
4) Finance Committee: 1 opening with an indefinite term;
5) Year Round Housing Application & Selection Committee: 3 regular members with staggered terms.

It was Moved (Harmon), Seconded (Hohn) and Voted to go into Executive Session at 6:50 PM under M.R.S.A Title 1, Section 405, Sub-Section 6-A to discuss Personnel Matters. (Motion passed 3-0).

It was Moved (Hohn), Seconded (Condon) and Voted to end the Executive Session at 7:05 PM under M.R.S.A Title 1, Section 405, Sub-Section 6-A to discuss Personnel Matters. (Motion passed 3-0).

It was Moved (Hohn), Seconded (Condon) and Voted to dismiss the pending lawsuit against Coleman Clarke with prejudice. (Motion passed 2-0; one (1) abstention, Harmon).

Tom Hohn read the following statement regarding the closing of the litigation:

In our consideration of the resolution of the Coleman Clarke matter, I think it would be helpful to review the history and background so that the citizens of the town understand what happened and why the town was forced to go to litigation to protect its interests and comply with the law. I want to be very clear that if Mr. Clarke had cooperated with the town, and done what he promised to do in June 2013, none of this would have been necessary, and the town would not have been required to spend a single dime on attorney fees.

In June of 2013 the select board asked Mr. Clarke to return town records and files he had acquired during his tenure as Road Commissioner and Solid Waste Director, and which the town was required to keep and maintain under Maine law. Mr. Clarke initially agreed in writing to do so, but then failed to return the records, despite repeated requests that he do so.

Accordingly, in an attempt to obtain and preserve the records Mr. Clarke refused to return, in <u>August</u> 2013 the select board asked for the return of the town-owned Laptop computer Mr. Clarke requested for town work in 2011, which Mr. Clarke used in his town positions. We asked for the laptop so that the select board could preserve the town's records. Despite this, Mr. Clarke refused the select board's multiple reasonable requests to return of town documents and town owned lap top computer.

In November 2013, more than three months after he had been ordered to return the laptop, and more than five months after he had promised to return the town records in his possession, Mr. Clarke returned the town owned laptop knowing that the original hard drive, which belonged to the town, had been removed and replaced with a blank hard drive so that that no town records existed on the computer. Over the next several months, the select board repeatedly asked Mr. Clarke to return its records and its hard-drive. Mr. Clarke refused to do so. The town, in

order to comply with its legal obligations to maintain and preserve records, and faced with Mr. Clarke's refusal to return town records, was therefore forced to file a lawsuit against Mr. Clarke in order to obtain the records and the hard drive. On March 20, 2014, , the Maine State Superior Court issued a temporary restraining order against Mr. Clarke in order to protect and retrieve the town records and town owned property.

Faced with an order from the court, and beginning on March 31, 2014, Mr. Clarke then produced to the town thousands of emails, records, documents, photos, as well as copies of electronic files that Mr. Clarke had moved from the town owned laptop to his own personal lap top prior to the destruction of the Town's hard drive. These were the very records that the town had asked for in June 2013, and which Mr. Clarke had agreed at that time to provide. Although we still do not know if we have a complete copy of all of the town records – because the original town hard drive was never returned -- this was a necessary step to ensure that the town retrieved records it was required to keep by law and needed to proceed with its business. On June 6, 2014, Mr. Clarke was deposed by town counsel in an effort to ascertain the location of the original hard drive, to ensure completeness in Mr. Clarke's responses, and to answer other questions in regards to his activities as an appointed town official and his custody of town records. In this public document, Mr. Clarke testified that Chris Papkee was responsible for the removal of the original hard drive from the town owned laptop.

In July, 2014 select board met with Chris Papkee and he stated that he did remove the hard drive from the computer as a favor to a friend. Chris Papkee stated that he believed the computer did belong to Mr. Clarke when he removed the hard drive. The select board understands Chris Papkee's confusion as it was not until Mr. Clarke's June deposition that he admitted under oath the computer was purchased by the Town for the sole purpose of separating his town work from his personal information. Mr. Clarke also admitted under oath that after his personal computer broke, he gave up on that intended purpose and used the town computer for both personal and town business.

The location of the original hard drive in question remains unknown. At deposition Mr. Clarke testified that it was destroyed and also that it was lost in a bag in transit. Chris Papkee stated to the select board that it was lost in a bag in transit. The select board does not feel at this time that it will attain more useful knowledge of town records and pursuing the whereabouts of the original hard drive would only add to the over $30,000 in legal expense the town has incurred in the past 13 months due to Mr. Clarke's failure to cooperate with the Town's initial request back in 2013

when the select board made simple and reasonable requests for Mr. Clarke to return of town records and property.

Just to be clear, Mr. Clarke had town records, the select board asked that he return them on multiple occasions, he refused, and we had to file a lawsuit against Mr. Clarke and only then in response to a court order did he finally turn over what belongs to the Town. If Mr. Clarke had just cooperated to begin with these legal fees would have been avoided.

At this time the select board has voted to dismiss the lawsuit against Coleman Clarke with prejudice.

The meeting adjourned at 7:30 PM. The next meeting of the Board of Selectmen is scheduled for Thursday, August 21, 2014.

Submitted By: Brian L. Dudley, Town Administrator