

LINCOLN BOARD OF SELECTMEN'S

APPROVED

MEETING MINUTES

JUNE 21, 2021 – 5:30PM

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

(THE RECORDING OF THIS MEETING CAN BE FOUND ON YOUTUBE)

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**Board of Selectmen Present:** Chairman, OJ Robinson, Vice Chair, Tamra Ham and Selectman Jack Daly

**Staff Present via Zoom:** Town Manager Burbank, Fire Chief, Ron Beard, and Administrative Assistant, Jane Leslie

**Public Present via Zoom Video Conferencing:** Bruce McCaskell, Host Compliance (Granicus), Paul Beaudin, and Jayne Ludwig

**Public Present:** *There was no public present.*

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**I. CALL TO ORDER**

Chairman Robinson called the meeting to order at 5:30 pm.

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**II. APPROVAL OF MEETING MINUTES FROM PREVIOUS MEETING**

**MOTION: "To approve the BOS meeting minutes of June 7, 2021 as presented."**

**Motion:** Tamra Ham

**Second:** Jack Daly

**All in favor.**

**MOTION: "To approve the Non-Public BOS meeting minutes of June 7, 2021 as presented."**

**Motion:** Tamra Ham

**Second:** Jack Daly

**All in favor.**

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**III. SHORT-TERM RENTAL DISCUSSION WITH GRANICUS/HOST COMPLIANCE**

Chairman Robinson explained that Mr. Bruce McCaskell of Granicus was joining tonight's meeting to present the various short-term rental services that his organization offers to municipalities to help locate, identify, and manage the growing short-term rental market in the Town of Lincoln.

Mr. McCaskell greeted the board and explained that he conducted a poll on the Town of Lincoln earlier today in anticipation of tonight's discussion, and there are currently 773 short-term rental properties located in Lincoln that are actively renting on the various short-term rental platforms. McCaskell explained that the software program that Granicus uses works in conjunction with the town's assessing data and Google Maps to identify *only* the units located in Lincoln, and not those in surrounding communities. McCaskell went on to explain that the median nightly rate is \$225 per night, and 96% of the short-term rentals are for the rental of an entire home, and 4% are partial homes (single-room rentals in a private home). Mr. McCaskell explained that his organization also conducts compliance monitoring and sends out all registration/renewal correspondence as well as follow-up with compliant/non-compliant short-term rental operators.

Town Manager Burbank asked Mr. McCaskell how Host Compliance determines their fees. McCaskell explained that the registration fees should be established so that they cover the costs for Granicus's services. Burbank commented that the town is currently charging \$50 per parcel/per year, and McCaskell responded that this fee is way below the national average which is currently \$250-\$300 and trending upwards (this essentially creates a self-funded program for the town). Upon conclusion of their discussion, the board thanked Mr. McCaskell for his presentation.

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Selectman Ham commented that when she recently asked the Police Department how many short-term rentals were registered with the town, she was told that there are approximately 740 registered units. Town Manager Burbank responded that this is incorrect information, and there are only 337 units registered to date. Burbank responded that the Police Department must have been referencing alarms registered with the town. Ham explained that she was specifically told that there are 740 units currently registered in the Police Departments Short-Term Rental database, and noted that even if they keep the registration fee at \$50 annually, this will cover the costs for Granicus' services to at least increase the compliance rate to 90%.

Selectman Daly commented that if the Town has an ordinance on the books (*see attached*), and short-term rental operators are refusing to comply, the burden of legal costs for enforcement should *not* fall on to the taxpayers, but rather the non-compliant property owner(s) (e.g., lien property) who are making a profit and should be paying their fair share.

A discussion ensued on using the short-term rental registration funds collected to date, as well as signing a contract with Granicus in the coming months, and Selectman Ham remarked that before the signing of any contract this needs to go through the Budget Committee process for a vote as well as a Town Meeting vote to maintain government transparency. Chairman Robinson agreed, and explained he is not comfortable with signing a contract for something that is not in the budget, particularly because there was a budget-cut this past Town Meeting. Robinson feels that this can certainly be discussed during the upcoming budget season, and went on to explain that the town should begin to enforce the ordinance and act now against scofflaws who are refusing to comply, as well as consider notifying the short-term rental platforms (e.g., Air B&B, VRBO, Homes Away etc.) of any units in non-compliance because they will be removed from the advertising platform(s). Burbank noted that a letter was recently mailed out to a property owner that is refusing to register with the town, and in ten (10) days another letter will be sent out with the appropriate fee assessed at that time (letter mailed certified/regular mail) and this process will continue until compliance is achieved. Chief Beard commented that many of the HOA board members (Homeowner Associations) are operating short-term rentals themselves and are not interested in regulations or restrictive covenants within their community, and will most-likely *not* support the town's efforts to enforce compliance. Selectman Daly questioned if letters were sent out to the Presidents of the HOA's requesting their assistance in identifying short-term rentals within their community as discussed during a previous board meeting? Town Manager Burbank responded that letters were sent out to them and the Property Management Companies that handle the complaints, however, there appears to be no interest in the short-term rental industry. Robinson commented that he is surprised to hear this, as he thought they would support the town's efforts and welcome the reinforcement due to the many parking and nuisance complaints that they receive.

Robinson reiterated the town's intent when creating this Short-Term Rental Ordinance: (1) was to obtain contact information for communication and to effectively address complaints, and (2) to look at the life-safety issues (verify bedroom/bathroom compliance with information listed on the assessment cards).

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#### **IV. SOLID WASTE MANAGEMENT PLAN *Discussion cont'd from June 7, 2021***

*This item was addressed after the June 7<sup>th</sup> discussion and Public Works will be paving the road to the transfer station.*

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#### **V. BOARD OF SELECTMEN'S BI-ANNUAL BUDGET REVIEW**

The board reviewed the budget thru June 30<sup>th</sup> and noted most budgets are at/around 50%. Burbank

explained that Chief Morris recently shared with him that the Police Department's *overtime budget* is taking a hit because he has an officer out on medical leave, vacant positions, and other contributing factors.

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## **VI. OLD/NEW BUSINESS**

### **Town Manager's Report**

#### **West Street Project**

Town Manager Burbank updated the board that the contractors are beginning to mobilize equipment in preparation for the upcoming project scheduled to begin on July 15th.

#### **Building Committee Request – I-93 Emergency Access**

Town Manager Burbank updated the board that he has drafted a letter (per Building Committee's request) to DOT District One requesting permission to implement an I-93 (Northbound) Emergency access point over near Mansion Hill Road (Old Airport) with a gate that would be controlled by Police and Fire for the future Safety Services Building (Police & Fire).

#### **Welcome to Lincoln Sign (near Lincoln Woods)**

Town Manager Burbank informed the board that the town seal on the *Welcome to Lincoln* sign near Lincoln Woods was stolen. Burbank explained that Roy Whitaker of Lincoln Sign was driving by Lincoln Woods and noticed something seemed off with the sign, and upon further investigation he discovered that the seal was missing (Police Dept. was notified). Burbank noted that it will cost \$550 to replace.

#### **Community Center Parking Lot**

Jeff Bird of NHEC met today with Tom Sabourn (Sabourn Electric) and DPW Director, Nate Hadaway at the Community Center to evaluate the removal of the pole that is in the middle of the parking lot. Burbank noted that the Electric Co-Op is eager to remove this pole and move the transformers up the street.

#### **Solar at the Kanc**

Rec Director, Tara Tower is working with PAREI (non-profit group out of Plymouth) on this project, and their electrician (Larry Mauchly) discovered some wires on the inside of the Kanc's main building that should be in a conduit, but are not. He will be conducting the necessary work to repair these issues in early July.

#### **Community Center Stove**

The Rotary (Senior Citizen Fund) has agreed to replace the stove at the Community Center for up to \$5,000. Tara is working with Pete's Restaurant Equipment in Conway to purchase a stove, and White Mountain Oil & Propane will be connecting the new appliance once it's ready for pick-up (waiting for Rotary check to arrive).

#### **Riverfront Park**

Ray Korber is preparing a letter requesting a 2-year extension for the LWCF (Land Water Conservation Fund) Grant for the Riverfront Park.

#### **Planning Board Meeting June 23, 2021**

Town Manager Burbank reminded the board that the Planning Board will be meeting this Wednesday to discuss Ray Korber's *Wastewater Capacity Assessment* as well as impact fees. Town Engineer Ray Korber will also be participating in this meeting and reminded the board that if they want to participate, the meeting begins at 6PM.

### **Email from Town Attorney, Peter Malia regarding a request from Attorney, Chris Boldt**

Town Manager Burbank explained that Attorney Chris Boldt represents homeowners up at 196 Black Mountain Road (M/L 130-095) who currently have an attached garage section of the home encroaching into the 25-foot front setback (by and between 5 and 7 feet due to angle of the street and the house). Mr. Boldt's client would like to create an additional bedroom by "going up" over the garage so that there would be a new living space within the plane of that non-conforming space. Boldt cited Article III.C.3 which states:

"A non-conforming use may not be expanded, except upon a finding by the Board of Selectmen or their designee that (a) the expansion reflects the nature and purpose of the existing non-conforming use so as not to constitute a different use, and (b) the expansion will not have a different or detrimental impact on the neighborhood in which the use is located."

Attorney Boldt is suggesting that the LUPO requires that his clients go to the Board of Selectmen for approval of this expansion based on these two (2) stated criteria rather than to the ZBA under the normal statutory criteria for a Variance. Attorney Malia feels that if this is the case, he suggests that the provisions of RSA 43:1 be applied (this statute is entitled "Hearings by Selectmen" Boldt thought it was a good idea for Burbank to bring this to the Select board's attention tonight to see if they have an opinion on this matter.

Chairman Robinson understands that this is what is stated in the town's ordinance, however, he feels that even though this is under the Selectmen's realm, abutter's notices should still be sent out (at the Town's expense) and the ZBA should be officially notified once a date for a meeting is established. Robinson added that the Planning Board should also be made aware of this and have the opportunity to change the ordinance if they so choose.

Paul Beaudin commented that he agrees with everything the board has discussed, and added that he would suggest that the Selectmen follow the ZBA's format with sending out abutter's notices. Robinson responded that he would also make the Planning Board aware of this ordinance and let them decide if they want to move on it or not. In the meantime, Robinson would like to have Chris Boldt propose a date to meet with the Board of Selectmen during one of their scheduled board meetings, and the town will send out the abutters notices accordingly. Burbank thought it would be a good idea to officially notify the ZBA of their plans to hear this case when the abutters notices are mailed out.

### **Kirby McBride (South Peak property owner) Email**

Chairman Robinson read the following email received from South Peak property owner, Kirby McBride:

*Hi Butch,*

*I trust you are well. It's been over 6 months since our LUP application was submitted, and we still do not have a resolution on this water issue. I have been in close contact with David Yager who has been trying to work out an equitable resolution, but in recent communications he stated that we still have not found one. I believe you have all of the information about the property. It is a lot part of SPR Phase #1, and I purchased it from an individual (not the developer) who had planned to build on it, but with her husband dying she decided to sell it. I purchased it with the confirmation that the lot would qualify for a LUP and now I'm an owner of an unbuildable lot which I cannot develop, or sell. I understand there are bigger issues at play with the developer etc. which I have no details on but feel that I am somehow caught up in that issue, with no real understanding of why. What I ask is your assistance to expedite a resolution in this manner in any way you can, so we can move forward with our project. I would be happy to schedule and attend a meeting with the key stakeholders if you think this would be valuable to gain a consensus on the best way forward. Also, feel free to call me anytime to discuss. -Kirby McBride*

Chairman Robinson commented that this email was received one (1) week ago, however, due to the board's summer meeting schedule, this is the first Selectmen's meeting since receipt of this email.

Robinson further explained that the board cannot meet outside of a Selectmen's meeting and discuss this, or any issue or vote until such time that they are meeting collectively as a board during a public session. Robinson went on to explain that this house is located in the area of the South Peak Resort that was designated a high-pressure zone to be serviced by the booster pump station until a new water tank was built, however, at the present time, the new water tank has *not* been built and the town's position is that this house was *not* built according to the way it was designed or approved, and the town cannot physically provide water to this lot.

Burbank also explained that Mr. McBride's basement elevation is a little over 1,000-feet, and a gravity system at best will only supply up to 950-feet (no gravity water can get to his property).

Robinson remarked that the board is open and willing to meet with the key stakeholders, and acknowledged that generous cooperative solutions to this entire issue have been proposed to the stakeholders that are beneficial to the entire subdivision and the town at a significant savings to all of the those involved. Robinson explained that these generous offers have been met with an obstinate refusal, and Robinson welcomes anyone who can arrange for a meeting of all involved stakeholders.

There was a brief discussion about utilizing wells as an alternative solution to booster pumps, and Chief Beard explained that originally South Peak had explored this option, however, NH-DES preferred the booster pump stations to the wells due to the size of some of the lots until such time that the water tank is installed.

#### **Ladies Bathtub Update**

Town Manager Burbank explained that he had a meeting with the Riverfront Condo owners, Board Member Cynthia Lloyd, and Attorney Brian Shaughnessy (condo owner) this past Friday (6/18/21) to discuss the summer parking situation at Ladies Bathtub swimming hole, along with a list of requests/demands for the town. Burbank summarized the discussion and explained that the Riverfront Condos Board of Directors would like to manage and oversee who comes into the swimming area (but not own it) and they would like to see a town-wide parking sticker system implemented for Lincoln and Woodstock residents only. The Board of Directors would also like to see town assistance with security protocols at the Riverfront Condos as well as the Ladies Bathtub to address the issues as they arise. There was a brief discussion about the Riverfront Condos proposed regulations and requests, and Selectman Ham responded that she does not want second-homeowners preventing folks from going to town-owned swimming holes, which is the reason that the town owns this historic swimming area.

Chairman Robinson commented that he understands Selectman Ham's point of view, but he also understands the unique challenges that the Riverfront Condo owners are experiencing due to the Ladies Bathtub swimming hole. Robinson agrees that people have a right to use this swimming hole, however, the parking spaces are the real problem at hand (the town has 15 parking spaces at the Ladies Bathtub) and they should be available to the Lincoln residents. Robinson further explained that this is not about kicking people out of Ladies Bathtub, but rather limiting *who* can park in the 15 parking spaces. Burbank added that there was also discussion about turning the management of Ladies Bathtub over to the Riverfront Condos (the town still owns the property) and the town would be responsible for the overall area.

Robinson noted that several years ago the town settled a major lawsuit, and as part of this process the town gained a parking area; a path, and the rights to a section of the levee to use. At that time, the town did not have any plans or funds to do any work to the parking lot, or to reconstruct the trail down to the swimming area, and questioned whether or not now is the time to do it. There was a brief discussion about whether

or not this project could be done in-house (Public Works Dept.) or contracted out. Burbank responded that Public Works could absolutely do this work, however, the issue is whether or not they have the time this year. Robinson responded that if they could make this swimming area accessible to the public, it could potentially alleviate the traffic and issues up at Ladies Bathtub, and suggested obtaining an estimate on costs in preparation for next summer.

Paul Beaudin thanked Selectman Daly for approaching Loon and trying to get them to open up one of their access points to the river, and feels that part of this problem is because Loon has closed-off both of the river access points.

#### **NEW BUSINESS:**

##### **2021 Abatement Request – Y-Birch Kids, LLC (Map & Lot# 121-039)**

Chairman Robinson explained that per the assessment settlement agreement signed April 15, 2021 with Y-Birch Kids LLC, the value of the above-mentioned property was to go from \$1,979,700 to the revised amount of \$1,556,300. In error this revision for assessment reduction was missed, and therefore an abatement of \$3,273 is being requested for the difference in taxes per this revised assessment.

**MOTION: “To approve the abatement request for Y-Birch Kids, LLC in the amount of \$3,273.”**

**Motion: OJ Robinson**

**Second: Jack Daly**

**All in favor**

Chairman Robinson publicly apologized as this revised assessment amount was agreed upon by all parties, and this was an unintentional oversight.

##### **Town Clerk’s Request**

Chairman Robinson explained that he received a request from the Town Clerk regarding waiving interest charges for a tax bill that was mailed out to the wrong address, and may have been a system error. The taxpayer is seeking to have the interest on the December 2020 tax bill abated:

**MOTION: “To waive the interest fees for the property of Lisa Gillingham, 28 Loonwood Drive, Unit 1 (M/L 130-061000-03-0000E) due to the December 2020 tax bill being mailed to the wrong address.”**

**Motion: OJ Robinson**

**Second: Tamra Ham**

**All in favor**

##### **PA-28 Assessment Form**

Chairman Robinson explained that the board must make a motion every year that the town will not be using the PA-28 Assessment Form for 2022.

**MOTION: “To not use the PA-28 Assessment Form for 2022.”**

**Motion: OJ Robinson**

**Second: Jack Daly**

**All in favor**

#### **OLD BUSINESS:**

##### **Driveway Sign Outside Lincoln Post Office**

Selectmen Ham followed up on a discussion during their last Board of Selectmen’s meeting (6/7/21) when Jayne Ludwig questioned if the town had purchased the “Entrance Only” sign for the driveway outside the Post Office. Ham noted that the town did *not* purchase a new sign, and the existing signage is still there, however, there were previously two (2) signs (*Wrong Way* & *Exit Only*), but the Wrong Way sign was faded and barely visible, and the Exit Only sign was fine, and it appears the faded sign was removed.

## **Public Participation**

Paul Beaudin asked if the town received any follow-up from Mr. Correale on Goodbout Road because the ZBA had met and refused his request. Town Manager Burbank responded that Mr. Correale came into Town Hall shortly after the ZBA meeting to file the appropriate paperwork to shorten the length of his garage and expand it upwards. Paul clarified that Mr. Correale will *not* be appealing the ZBA decision and removing the portion of the structure that is in the setbacks and Town's right-of-way. Paul asked that once the town confirms Mr. Correale's plans, to notify the abutter of the same because he was unable to attend tonight's meeting.

Paul Beaudin asked how he could find out how much land the town actually owns on both sides of the Loon Mountain Bridge and the parking lot. Town Manager Burbank responded that this information is all recorded at Grafton County Registry of Deeds.

Jayne Ludwig commented that she thought it was great that Cindy Lloyd and the board are looking into the issues at Lady's Bathtub because it is only fair to the residents that they have a place to park when they go to use the swimming hole. Ludwig clarified that she never said that "other" people should not be able to use the swimming spot, but rather the residents should be able to park there when they go to use it. Ludwig also questioned Town Manager Burbank on why he would say the town purchased a sign for the Post Office driveway entrance, when this did not happen. Burbank responded that he said this in error because this had been part of a previous discussion.

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## **VII. NON-PUBLIC Session Pursuant to RSA 91-A:3:(III) (c,e) Personnel Issue and potential legal issues.**

**MOTION: "To go into Non-public session pursuant to RSA 91-A:3 (III) (c,e)."**

**Motion: OJ Robinson**

**Second: Jack Daly**

**All in favor.**

The BOS went into Non-public session at 7:57 p.m.

**MOTION: "To re-enter public session."**

**Motion: OJ Robinson**

**Second: Jack Daly**

**All in favor.**

The Board reconvened public session at 8:54 p.m.

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## **VIII. ADJOURNMENT**

After reviewing the weekly payables and with no further business to attend to, the Board made the following motion:

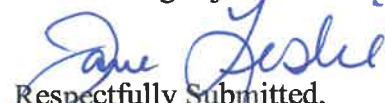
**MOTION: "To adjourn."**

**Motion: OJ Robinson**

**Second: Tamra Ham**

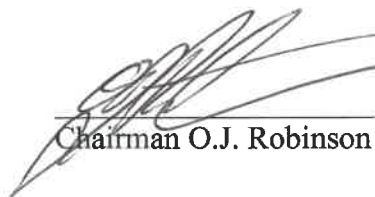
**All in favor.**

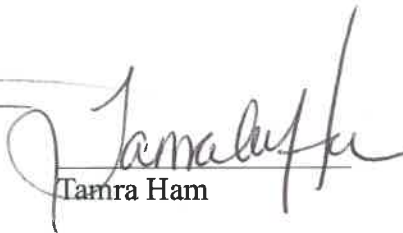
The meeting adjourned at 8:55 p.m.

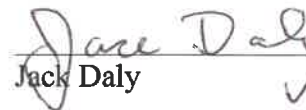
  
Respectfully Submitted,  
Jane Leslie

*Dan Leslie*

Approval Date: July 12, 2021

  
Chairman O.J. Robinson

  
Tamra Ham

  
Jack Daly



**TOWN OF LINCOLN, NEW HAMPSHIRE**  
**Regulations Relative to Permits for Short Term Rentals**  
**Adopted July 13, 2020**  
***Amended November 16, 2020***

The Town of Lincoln will allow Short Term rentals but wants to ensure the safety of occupants, minimize neighborhood disruption, and maintain fairness related to paying for Town services.

A “Short-Term Rental” or “Vacation Rental” unit is defined as any individually or collectively owned single family house or dwelling unit or any unit or group of units in a condominium, cooperative, or timeshare, or owner-occupied residential home, that is offered for a fee for less than 30 consecutive days per RSA 48-A:1.

The following are NOT considered “Short Term Rentals” and are NOT subject to the registration of Short-Term Rentals with the Town of Lincoln:

1. Any hotel or motel business where all units are owned and operated by the same entity.
2. Any condo-hotel that operates in a fashion similar to a hotel where all units that are made available for rent by the public are managed by an exclusive, on-site management company, with no units being offered to the public by individual unit owners.

Any hotel or motel that fits the above exclusions are asked to notify the Town in writing that they are not subject to the registration requirement.

On or before January 1, 2021, all Short-Term Rental units must be registered with the Town. A registration form is available online at [www.lincolnnh.org](http://www.lincolnnh.org) or at the Town office. Upon registration, a Short Term Rental permit shall be issued.

There is a \$50 annual fee to register Short-Term Rental units per tax parcel.

The owner of any unregistered Short-Term Rental unit will be fined as follows starting April 1, 2021:

First offense from unit owner that was not sent a notice of this ordinance by the Town: written warning

First offense from unit owner that was sent a notice of this ordinance by the Town: \$100

Second offense, after allowing 10 days for registration since first offense: \$500

Additional offenses, after allowing 10 days for registration since second offense: \$1,000 each.

The Town has the right to revoke a permit for any Short-Term Rental unit that becomes a nuisance. This action will require a minimum of three incidents within one year, validated by the Lincoln Police Department or NH State Police, where the contact person was notified of problematic occupant actions. Any unit owner found to be operating as a Short Term Rental after revocation will be fined \$1,000 per 10-day period.

If a permit is revoked, the owner may appeal the decision to the Board of Selectmen within 30 days of the date of revocation, and the Selectmen shall hold a hearing on the appeal within 45 days and either affirm the revocation or overturn the revocation. If the revocation is overturned, the Selectmen can impose conditions upon the reinstatement of the permit.

The signers of this document agree that electronic signatures, faxed signatures, scanned signatures, and/or copied signatures have the same binding effect as original signatures. This document can be signed in multiple parts and be considered a single signed document.

Any comments or complaints related to Short Term Rentals can be submitted online at [www.lincolnnh.org](http://www.lincolnnh.org) or at the Town Office.

Approved by the Town of Lincoln Board of Selectmen on July 13th, 2020.  
Amended November 16, 2020

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O.J. Robinson

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Jayne Ludwig

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Tamra Ham