

**LINCOLN BOARD OF SELECTMEN'S  
MEETING MINUTES  
JULY 26, 2021 – 5:30PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

**APPROVED**

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

**Staff Present:** Town Manager Burbank, DPW Director Nate Hadaway, Police Chief Morris and Fire Chief Ron Beard

**Staff Excused:** Administrative Assistant, Jane Leslie

**Public Present via Zoom:** Paul Beaudin and Davis Jones

**Public Present:** Cynthia Lloyd, Brian Shaughnessy, Peter Mankin, and Gloria Morin

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**I. CALL TO ORDER**

Chairman Robinson called the meeting to order at 5:32 pm.

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

**MOTION: "To approve the BOS meeting minutes of June 30, 2021 as presented."**

**Motion:** Tamra Ham                      **Seconded:** Jack Daly                      **All in favor**

**MOTION: "To approve the BOS meeting minutes of July 12, 2021 as presented."**

**Motion:** Tamra Ham                      **Seconded:** Jack Daly                      **All in favor**

**MOTION: "To approve the BOS meeting minutes of July 6, 2021 as presented."**

**Motion:** Tamra Ham                      **Seconded:** Jack Daly                      **All in favor**

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**III. LADIES BATHTUB *Discussion***

Chairman Robinson opened up the discussion by explaining tonight's conversation is a continuation of some ongoing issues up at the Ladies Bathtub swimming area ("Bathtub") and the Riverfront Condos. Robinson explained that the board is available and willing to listen to the concerns of the Riverfront Condo residents, and to hopefully arrive at some resolution that is amicable to both the condo owners and the Town.

Riverfront Condo owner, Cindy Lloyd addressed the board and explained that she recently participated in a very productive discussion with Town Manager Burbank, Deputy Chief Burnham, and Fire Chief Ron Beard, and they managed to reach a tentative agreement on several historical issues concerning the management of the "Bathtub" so that it serves the needs of the community without creating unnecessary problems for the condo residents. Lloyd continued to explain that through her extensive research into the town's archived records, she found that back in 1999 there was a great deal of discussion about the "Bathtub" when the Town was trying to obtain an easement for the Pemigewasset trail, and Ladies Bathtub came up frequently during these discussions because as far back as the late 90's there were a lot of the same issues with the swimming area that continue to this day (e.g., parking, traffic, trash, site maintenance). Lloyd further explained that back in the late 90's, the then Board of Selectmen accepted the responsibility of the "Bathtub" and actually oversaw the trash removal and overall management of the swimming area, and all parties involved were pleased at that time that this was working out well for everyone involved. Lloyd continued to explain that in 2017, all of these same "issues" came back up again, and the Riverfront Condo residents met with the Town and made certain agreements at that time that

everyone tried to abide by. Lloyd noted that last year (2020) it was particularly bad concerning all of the previously noted issues, and feels that this year has not been terribly bad because the weather has been cooler than normal.

A discussion ensued on possible signage that can be displayed at the “Bathtub” (replace COVID signs with *No Overnight Parking, No Fires*). Lloyd added that the Riverfront Condos are working on their end to address other issues affecting the condo complex, however, they need the Town’s assistance and cooperation with signage and helping this process move along smoothly. Lloyd noted that one of the biggest problems remains the overabundance of trash (bags of garbage, glass, cans etc.) and they are asking the Town to take responsibility for the maintenance and trash if the Town wishes to continue utilizing this area as a public swimming hole. Lloyd feels that the Town should create a Memorandum of Understanding (MOU) similar to the Agreement that they had back in 1999 so that everyone’s needs and responsibilities are clearly defined.

Brian Shaughnessy, Vice President of the Riverfront Condo Board explained that the issue that they had recently brought to Town Manager Burbank’s attention is that the Town is operating a public beach available to the community, however, nobody is overseeing it; the town does not have a budget for it, and is not paying for it. Shaughnessy explained that the last thing the Condo Board wants to see is the swimming area closed off to the town residents, but rather for the Board of Selectmen to return it’s use to the *original intent*. Shaughnessy requested the original sub-division meeting approval be made available to him, as he is certain that there were restrictions put on this sub-division that carved out the Ladies Bathtub (e.g., swimming area available to Lincoln and Woodstock residents only). Shaughnessy further explained that if you look at the license plates in the parking lot these days, most of them are out-of-state vehicles.

Shaughnessy continued to explain that the Town does not currently have an access easement for the “Bathtub”, and the Riverfront Condos are willing to provide that easement in exchange for measures of control over this swimming area. Shaughnessy further explained that if the condo owners continue to have problems with the “Bathtub”, they can then use this *easement issue* against the Town for operating a public beach in the middle of their condo complex, and not properly funding it.

Selectman Ham commented that the only resolution she can see is putting the burden on to the taxpayers and hiring additional full-time staff specific to policing the “Bathtub.” Chairman Robinson explained that he sees several different issues at hand, and he would like to clarify them so that everyone is in agreement and on the same page: (1) signage, (2) trash, (3) make the “Bathtub” for residents *only*; residents and taxpayers *only*, or the general public? (4) “Bathtub” patrol. A discussion ensued on guests of local residents using the “Bathtub” and Short-Term Rental properties. Selectman Daly suggested possibly reaching out to the Interact Club or local Boy Scouts troop to volunteer picking up trash at the “Bathtub.” Chief Morris commented that there is a lot going on in and around Lincoln, and he does not have the law enforcement staff to dedicate to the “Bathtub” when there is so much more going on during this time of the year.

Robinson suggested that the signage be changed at the “Bathtub” (remove the COVID restrictions sign) and “No Overnight Parking” and “No Open Flames/campfires/grilling” be posted. The Board discussed where the signs would be posted, and Director Hadaway commented that he would take care of the signage and post according to tonight’s discussion. Mr. Shaughnessy asked if the Town could also post signage reinforcing the Riverfront Condo’ sign(s) that state vehicles will be towed at the owners’ expense if they park in residential condo parking spots (the Town has 16-parking spots designated for the swimming area). Robinson commented that if everyone can agree on the *new* proposed signage, the larger remaining issue is who can park there, and how they will go about managing that. Robinson feels that if they can limit the

“Bathtub’s” use to residents and/or taxpayers by utilizing a sticker system, the trash issue and the patrolling issue will most likely dissipate. Robinson also noted that the town should begin advertising/promoting the “Old Hole” swimming area (the Town controls one entire side of the river) which is 10-20 times the size of the “Bathtub”. Selectman Ham questioned an access path to the Old Hole, as she does not want to promote something that does not have a legitimate access point/path. Ham also questioned whether there was funding to create the access path, and who would be putting it in (Department of Public Works or someone else)?

Cindy Lloyd commented that if they restrict the parking to Lincoln-Woodstock residents only, she feels that this will resolve the current parking and trash issues at the “Bathtub.” Selectman Daly feels there could potentially be a legal issue concerning when the easement was turned over to the Town, and whether or not it precluded any people (specifically state that the only people who could access the “Bathtub” are Lincoln and Woodstock residents). Mr. Shaughnessy commented that the Town does not currently have an easement over West Branch (nobody does) and therefore, nobody can just walk over the private property as they wish (would require a public access). Shaughnessy further explained that this is a landlocked parcel that was done because back in 1984 when the Town said *we will not accept the deed*, and the Developer had already conveyed everything around the “Bathtub” to the Riverfront Condos, retaining an access *only* to the Riverfront Property Owners Association which includes Lincoln Station (they are the only two (2) entities with easements into this property via the Riverfront Condo land.

Chairman Robinson responded that he does not want to get into the legal easement issues, but rather focus on resolving the existing problem(s), and whether or not to restrict the “Bathtub” to Lincoln and Woodstock residents and/or taxpayers (and if so) then have a discussion about the pros and cons of doing the same, as well as a legal opinion(s) and then take it from there.

Selectman Ham asked Chief Morris how he feels about policing the swimming area? Morris responded that they would have to break down each issue, and anything that has an ordinance supporting it would be enforceable and not a problem for the Police Department. However, things such as open camp fires/grilling would fall under Chief Beard’s purview; and kicking people off of public land that walked in and do not have a vehicle parked in the area (is this enforceable?) raises other questions. Morris feels that there are a variety of issues that need to be individually discussed. A discussion ensued on implementing a sticker system, and how/if this is enforceable, and would this overburden an already busy police department.

Selectman Daly commented that Mr. Shaughnessy should communicate with Town Attorney, Peter Malia directly to attempt to come up with some agreement that is palatable to both sides. Selectman Ham noted that Town Manager Burbank should *initially* reach out to Attorney Malia to discuss some of these issues brought up tonight (can “Bathtub” be limited to Lincoln-Woodstock taxpayers only? Who has the right to enforce such an ordinance?). Robinson suggested that Town Manager Burbank be the person to initially have Attorney Malia weigh in on “stickers” for residents of Lincoln and Woodstock and taxpayers *only* to be allowed to park at the “Bathtub.”

Selectman Ham questioned if the town proceeds with building an access/path to the Old Hole swimming area and advertises this information on Google and other platforms, could this issue partially resolve itself without having to spend a ton of money? Robinson responded that this should go hand-in-hand with restrictions on who can/cannot park at the “Bathtub.” Ham responded that she disagrees with the taxpayers and residents *only* using the “Bathtub” because she feels that this will be a nightmare to enforce for the Police Department with their limited staff. Robinson disagreed, and commented that he feels it would be easier to enforce if it were residents/taxpayers only and not the general public.

Mr. Shaughnessy thanked the Board of Selectmen for their time and a thorough discussion on these prevailing issues, and suggested he send a proposal to the Town's attorney. Town Manager Burbank asked Mr. Shaughnessy if tonight's discussion had been discussed with the other Riverfront Condo residents at a homeowners meeting, or just amongst the three who have joined tonight's discussion? Shaughnessy responded that it has not, and they do not need all of the residents to weigh in on this discussion. Cindy Lloyd asked the board if there is anything that the Town can do now to help with the ongoing trash issues? Robinson responded that he feels if the "Bathtub" is limited to residents/taxpayers this problem will go away. Burbank commented that he will begin working on this immediately, and the Board thanked the Riverfront Condo residents for participating in tonight's discussion.

*The Board of Selectmen took a 2-minute break at 6:36pm.*

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### **III. PROPOSAL TO STOCK LOON POND WITH BROOK TROUT**

Chairman Robinson explained that the Town received a request from David Boyle for permission to stock the Loon Pond with Fingerling Brook Trout which the Board discussed during their last meeting (7/12/21). Robinson noted that DPW Director Hadaway had reached out to NH Fish & Game and spoke with the Region 2 Biologist, and they are now both in agreement that stocking Loon Pond is *not* a good idea.

DPW Director Hadaway explained that the state biologist feels that stocking the Loon Pond will be too much risk for the costs associated with stocking the pond with trout for the following reasons: (1) David Boyle would like the stocking rules for the pond to be changed to fly fishing only, and the state biologist responded that there is no chance that Fish & Game will ever change the rules for Loon Pond to anything but General Rules (which is what the current rules are). Hadaway further explained that General Regulations allow for fishing year-round with bait, lures, etc., and the biologist did not feel that spending license holders' money on fish for a pond that would have regulated access by Loon Mountain Recreation Corp. was appropriate or fair to the people who purchase state fishing licenses. (2) the biologist was concerned with the risk involved as the pond does *not* have a tributary that feeds it (pond is fed by run-off and spring activity underneath the pond) and similar to what happened last year, when evaporation occurs and there is not a lot of rain, the pond recedes, and when this happens the fish no longer have any food available to them (food is around the shallows and edge of the pond) and they will die from the natural evaporation. (3) the current PH of the pond at the present time is fine and able to sustain life, however, ponds need a buffer for when the spring melt occurs, and due to Loon Mountain having an abundance of natural and man-made snow, when this all begins to melt at once and fills the pond, the PH is higher in that run-off (then it currently is in the pond) and without that buffer of a natural tributary flowing in and flowing out, it will change the PH abruptly and kill off any life. Hadaway noted that the State Biologist felt in general that there was too much risk involved with stocking Loon Pond. Hadaway explained that after having this conversation, his biggest concern with stocking the pond is when the seasonal visitors come to town and see the general rules for fishing the pond, and it will attract a large number of visitors and present a greater risk for lead contamination (lead lures) and cross contamination from other water bodies (bacteria) because this pond is utilized for drinking water.

Chairman Robinson asked Hadaway if the Board voted to approve stocking the pond tonight, in his opinion does he think the state will stock the pond? Hadaway responded "no" and he feels at this point it is more risk than benefit.

Selectman Daly commented that he had spoken to Mr. Boyle and told him that the Board was waiting for Director Hadaway to confer with the State Biologist before making any decisions. Daly feels that it appears that everyone involved is in agreement that they are *not* in favor of stocking the pond and made

the following motion:

**MOTION: “To not support the stocking of Loon Pond by way of the State Fish and Game.”**

**Motion: Jack Daly**

**Seconded: Tamra Ham**

**All in favor**

Selectman Daly thanked Director Hadaway for his work for the town and others who need his assistance, in particular the broken water main that he assisted with earlier in the week. The Board agreed and thanked Director Hadaway for being an asset to the Town of Lincoln.

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#### **IV. OLD/NEW BUSINESS**

##### **OLD BUSINESS:**

##### **West Street Repair Project:**

Director Hadaway updated the Board on the West Street project and said the job is progressing well and they are averaging three (3) sticks of piping per day. Hadaway explained that they are currently tying the houses in to the service tee's which goes to the edge of the pavement, and they have connected to one (1) manhole and preparing to connect to a second manhole which averages from 15-17 feet in deep. Hadaway explained the process to the Board on how the sewer work is being done.

##### **Lower Black Mountain Road:**

Director Hadaway updated the Board on his preparations for beginning work on lower Black Mt. Road.

##### **Kanc Snow-making Line Replacement:**

Hadaway explained that they just finished replacing the snow-making line at the Kanc, and the ground has been seeded and hay has been laid out. Hadaway added that they also put culvert piping around each of the hydrants so that they are accessible in the winter time for maintenance. Hadaway publicly thanked Lincoln Trucking and Loon Mountain (allowed the town to use their skidder) and explained that he would not have been able to do this job without the skidder. Hadaway added that Caulder Construction also showed up to hammer rock out of the ditch and billed the town way below the actual cost of the job, and everyone worked well together. The Board was pleased to hear this.

##### **RRFB's (*Rectangular Rapid Flashing Beacon*):**

Hadaway updated the Board that the last two (2) RRFB's have been installed and they appear to be working well.

##### **Old Hole Path:**

Chairman Robinson asked Director Hadaway if creating an access and path down to Old Hole would be a practical job that could be done in-house? Hadaway responded that he believes that he and his crew can, but he would have to rent an excavator and it could not be done this year.

##### **Levee:**

Selectman Ham asked how the mowing and re-chinking was coming along at the levee. Hadaway responded that they still have a little more re-chinking to do, and it has already been mowed twice this year. Hadaway noted that he has an inspection scheduled on Wednesday, July 28<sup>th</sup> with the Army Corp. of Engineers.

## **NEW BUSINESS:**

### **Castlebury Fair Special Event Application:**

Chairman Robinson read the following from an email received from Terry Mullen of Castleberry Fairs:

*We attended the Lin-Wood School Committee meeting this evening and we were granted permission to host the 28th Annual Lincoln Summer Craft Festival on the front field of the Lin-Wood School August 14 & 15, 2021 with a set up date 8/13/21. The School Committee will decide if we can return to host the October event, after the August event has ended. Attached find the new Special Event Permit Application for the 28th Annual Lincoln Summer Craft Festival on August 14 & 15, 2021 with a set up date 8/13/21. Time is of the essence, since our August event is in 24 days. Please let me know ASAP if this Permit Application is approved and I will have my insurance broker create a new COI and provide you all necessary documentation. Thank you again for all your help.*

Robinson reviewed the special event application with the board and noted that parking will be available at Lin-Wood School, the Great American Ski Shop, and Jeans Playhouse (municipal parking as well). Selectman Ham made the following motion:

**MOTION: “To approve the special event application pending the application fee being received and Castleberry Fairs having an agreement with Lincoln Police Department for Officers.”**

**Motion: Tamra Ham**

**Seconded: Jack Daly with discussion**

Chief Morris commented that he likes the venue and the fact that they can get a lot of the parking in at the school, and he feels that August will be less busy than October as far as traffic goes, however, Morris is concerned with the 4-way intersection, the two (2) RRFB's and traffic control, and feels that several Officers would be required in that location. Selectman Ham noted that the motion states “pending an agreement with Lincoln Police Department” and if Chief Morris is not satisfied after speaking with Ms. Mullen, the permit will be no good. There was a brief discussion about creating some right-turns only for the 4-way intersection (coming out of the Mill and the school).

Selectman Ham asked Town Manager Burbank if they approve this motion, would he be able to reach out to Ms. Mullen tomorrow to notify her that she needs to speak with Chief Morris as part of the conditions of her permit approval.

**MOTION: “To approve the special event application pending the application fee being received and Castleberry Fairs having an agreement with Lincoln Police Department for Officers.”**

**Motion: Tamra Ham**

**Seconded: Jack Daly**

**All in favor**

### **Abatement Requests:**

Chairman Robinson reviewed the following abatement requests submitted by the Town Clerk/Tax Collector:

**2020 Tax Year Abatement Request – Thomas Zukowski & Lisa Gillingham, 28 Loonwood Drive, #1 (M/L 130-061-000-03-0000E).**

Due to a printing error, December 2020 tax bill in the amount of \$2,543 was undeliverable to Thomas Zukowski & Lisa Gillingham, owner of the property stated above. They are requesting the costs and interest charged be waived, as it was an error on the Town's behalf. The amount she is requested to be

abated is \$48 in fees, and \$131.87 in interest for a total of \$179.87. Due to the property already going to lien, the abatement will have to be applied as \$10 in cost, and \$169.87 in principle. Robinson noted that the tax bill was originally mailed to the wrong address in New York.

**MOTION: “To grant the abatement request”**

**Motion: Jack Daly**

**Seconded: Tamra Ham**

**All in favor**

**2020 Tax Year Abatement Request – Picked Rock, LLC, 6 Blue Ox Lane (M/L 126-022-000-05-000C6).**

Due to an electronic file/application error, the December 2020 tax bill in the amount of \$4,176 was paid by CoreLogic. The property owner had attempted to pay, but as it was shown as already being paid, we returned his check to him with a statement showing a zero balance. As they had made an effort to pay on time, I am requesting the costs be waived as it was an error on the Town’s behalf. The amount I am requesting to be abated is \$48 in fees. Because the property has already gone to lien, the abatement will have to be applied as \$10 in cost, and \$38 in principle.

**MOTION: “To grant the abatement request”**

**Motion: Jack Daly**

**Seconded: Tamra Ham**

**All in favor**

**196 Black Mountain Road Request for expansion of a non-conforming use**

Selectman Ham noted that the property owner(s) attorney has requested that this property be put on the Selectmen’s August 9<sup>th</sup> agenda.

**Assistant Town Clerk Position Available**

Selectman Ham commented that the Town Clerk is actively seeking applications for a Deputy/Assistant Town Clerk. Ham noted that Brook Rose has taken on another position that was beneficial to herself and family.

**Board of Selectmen’s Training Session**

Chairman Robinson noted that the Selectmen will be attending a training session tomorrow morning (7/27) at 9am at Town Hall with Tom Hayes regarding short-term rental identification methods. Robinson explained that this is not a board meeting; no decisions will be made, and there will be no discussions, the intent is for training purposes only. Robinson added that Town Manager Burbank, Chief Beard, Planner Carole Bont, and Lisa Peluso, Planning Assistant.

**Public Participation:**

**Selectman Ham read the following email from Mr. Ivan Strickon**

*First let me say that Carol Bont is doing a spectacular job for the Town of Lincoln under trying conditions. After reading the Planning Board Minutes of April 14th I am appalled at the disrespect that Paul Beaudin has shown toward her. This power-hungry individual must be reined in and spoken to by the Select Board and the Town Manager. If he is unhappy with the efficiency of the town staff let us remember the cutbacks, he and his group have imposed on this town in the amount of \$500,000.00 over the past few years. He needs to grow up and realize that he cannot stop the progress of this community during its growth cycle. As a taxpayer I am more than satisfied with how this town operates and the hard work that the staff do. Let’s show a little respect for them as employees and human beings. Respectfully, Ivan Strickon*

The Board of Selectmen noted that they did not wish to comment on this email.



Gloria Morin asked the Board why Lincoln and Woodstock could not come to an agreement on road maintenance (paving) for the Lincoln-Woodstock Solid Waste facility? The Board responded that there is an agreement between both towns to pave Recycle Road, however, Director Hadaway is going to schedule the paving this summer when other town roads are scheduled to be paved so that it can all be done at once.

Ms. Morin asked Chief Beard why it was taking so long to get a holder for a past fireman and a flag to be put on this person's grave. Chief Beard responded that the holder was ordered, however, some items are on backorder, and once received, he will deliver them to Ms. Morin's home. Ms. Morin also asked the board why the town does not have American Flags lining Main Street? Selectman Daly thought this would be a great project for the American Legion.

Paul Beaudin asked if the town was still asking for voluntary water conservation in light of the recent rains. Robinson responded that this is something that the Board has not really discussed, however, they would check into it and notify the public if anything changes.

Paul Beaudin asked Chairman Robinson about the Planning Board having a non-meeting with the Board of Selectmen and Town Counsel concerning South Peak, and noted that Robinson did not mention anything about this. Robinson responded that he did not intend on discussing this matter tonight, as now is not the time.

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**NON-PUBLIC Session Pursuant to RSA 91-A:3:(III) (c,e) CRVI South Peak issue, and (2) personnel issues.**

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

**Motion: OJ Robinson**

**Seconded: Tamra Ham**

**All in favor**

The Board of Selectmen went into Non-public session at 7:20

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

**Motion: OJ Robinson**

**Seconded: Tamra Ham**

**All in favor**

The Board of Selectmen came out of Non-public session at 8:25

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## **V. ADJOURNMENT**

With no further business to attend to, the Board made the following motion:

**MOTION: "To adjourn."**

**Motion: Jack Daly**

**Second: Tamra Ham**

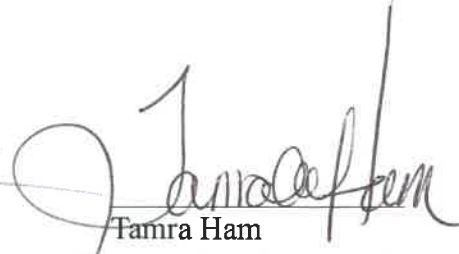
**All in favor.**

The meeting adjourned at 8:30 p.m.

  
Respectfully Submitted,  
Jane Leslie

Approval Date: August 9, 2021

  
Chairman O.J. Robinson

  
Tamra Ham

  
Jack Daly