

LINCOLN BOARD OF SELECTMEN
MEETING MINUTES
JANUARY 26, 2015
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

Board of Selectmen Present: O.J. Robinson, Patricia McTeague, and Tamra Ham.

Staff Present: Town Manager Burbank, Fire Chief Beard, and Recording Secretary Brook Rose.

Public Present: Paul Beaudin, Carl Sothard, Joe Conn, David Rogers, and Dave Beaudin.

I. CALL TO ORDER

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

II. MINUTES OF THE PREVIOUS MEETING

MOTION: "To approve the minutes of the January 12, 2014 Board of Selectmen's meeting as amended."

Motion: Tamra Ham

Second: Patricia McTeague All in favor.

MOTION: "To approve the non-public minutes of the January 12, 2014 Board of Selectmen's meeting."

Motion: Tamra Ham

Second: Patricia McTeague

All in favor.

III. OLD / NEW BUSINESS

Public Participation

Mr. Carl Sothard –Junk Yard Complaint

Mr. Sothard attended the meeting to discuss the large amount of scrap metal, vehicles and junk that recently became a problem when his neighbor, Ed Peterson Jr. moved out of his business location and moved all of the junk from the business into his yard. He presented photos to the Board. He stated that he is concerned about the neighborhood children getting hurt on all of the metal lying around. Town Manager Burbank stated that he has visited Mr. Peterson's property after receiving three other complaints about the property. He stated that the photos Mr. Sothard presented are an accurate depiction of the situation and that the neighbors have a legitimate complaint. The property is a mess and the junkyard is not a legal use of the property. He added that Mr. Peterson is the owner of Speed Bear Repair which has recently moved out of the Route 3 business location. Mr. Ed Peterson Jr. has placed additional junk cars from the business on his father's property as well. Mr. Burbank informed the board that he met with all of the Peterson family and they did not seem concerned about the complaints. He added that he has started the legal process and will be sending certified letters of violation. O.J. informed Mr. Sothard that any clean up action at the residence will most likely not occur immediately. He added that the Town had to initiate court action against Mr. Peterson's business, Speed Bear Repair via the property owner as the business was completely unresponsive to several notices of violation from the Town. The whole legal process took 8 months and only resulted in cleanup of the site after the business moved out. The Board thanked Mr. Sothard for meeting with them to express his concerns.

Chenard Property Junkyard

Mr. Burbank advised the board that he will be informing Mr. Chenard that legal proceedings will resume against him if no immediate action is taken to further clean up the property.

Dave Beaudin- Water Usage

Dave Beaudin clarified for the record that the 1/5/15 minutes were not completely accurate. The minutes reflect that the water tanks are back up tanks. He stated that the tanks are the Town's normal storage tanks and are not used specifically as back up tanks as they are always in service.

Paul Beaudin – Traffic Concerns / Ice Castle

O.J. read a letter submitted by Paul Beaudin to the Board regarding the Ice Castle. The letter is attached to the minutes. O.J. also read the following e-mail Paul submitted to the Board prior to the meeting. It is as follows:

OJ

I would like to register a complaint to whom ever made the decision to detour the traffic from Loon down Pollard road. This residential street and neighborhood was not designed nor has it ever been a thru street for traffic. Most of the residents who reside on Pollard back out onto it thus making it very dangerous to have alot of thru traffic on it. Not to mention there are no sidewalks on this residential road which also makes it a very hazardous situation when trying to walk on pollard road with other traffic on it. Pollard road has no shoulders on it and very little street lighting to assist pedestrian safety. I do not know who made this decision but I would like to request that you retract it in the hopes that no one gets injured and that our neighborhood community no longer has to suffer the increased traffic flow that will diminish our quality of life trying to live in a rural setting.

Paul Beaudin II

The Board was in agreement that they are not in favor of rerouting traffic down Pollard Road. O.J. asked that Town Manager Burbank speak with the Police Department to ensure that this does not happen again.

Paul stated that he would like to see the ice castle come to the Planning Board for site plan review next year.

Concerning the matter of the backup of traffic to the ice castle during the Martin Luther King holiday weekend, Town Manager Burbank stated that he received multiple calls regarding the traffic on that Saturday. He stated that the Ice Castle business reported that nationally, that was the largest turn out they have ever had at one of their castles on one given day. The turnout was completely unexpected which was why the traffic was so terrible. There were also several other events going on in town at the same time. Mr. Burbank stated that he spent several hours that day on the phone with the Police Department and the Ice Castle management. Ice Castle management responded immediately to the traffic situation. All agreed that they have been excellent to work with. Since that Saturday, a new traffic plan similar to the one used for the Highland Games can and will be enacted as needed. Cars will be parked at Clark's and Whale's Tale and visitors will be transported to the Ice Castle by bus. Mr. Burbank added that the Saturday after MLK weekend had an even larger turnout and traffic was not an issue. Thus, the new traffic plan is working quite well. An additional 200 parking places were also added on site; traffic control is in place and offsite parking will be enacted when needed. All of these changes made a significant improvement in traffic flow. O.J. stated that he would like to see the shuttle

busses use the back entrance to the site as well as additional signage on I-93 pointing traffic to exit 33. Town Manager Burbank will follow up with the State on signage. All agreed that the Ice Castle should go to the Planning Board for site plan review next year. Paul Beaudin noted that offsite parking in itself triggers the requirement for site plan review.

Tamra Ham stated that a majority of the visitors to the ice castle are traveling from hours away just to see the ice castle and they are dining and staying in town. All agreed that Lincoln as a destination for the ice castle is an awesome attraction for the Town.

David Rogers – Complaint re Ice Castle

At this time, Mr. David Rogers came into the meeting. He stated that he lost \$15-20,000 over MLK weekend and that he lost money this past weekend as well. He stated that the loss in business is due to the high volume of traffic to the ice castle blocking the access to his ski shop. He stated that many Main Street businesses are saying they've lost money because of the traffic on MLK weekend. O.J. questioned whether Mr. Rogers had any recommendations about how to handle the situation. Mr. Rogers suggested bussing everyone to the ice castle site. The Board informed him that they had discussed this matter earlier in the meeting and a new traffic management plan was in place to direct traffic to exit 33. This should help to alleviate some of the traffic blocking access to his business.

West Street

Joe Conn requested that the Board find a way to remove West Street from the GPS networks as GPS directs traffic down West Street as though it were a through street. Often times, semi-trucks and RV's get stuck because they cannot turn around at the end of the street. After a brief discussion, it was decided that Town staff will order additional signage discouraging the use of West Street as it is a dead end road.

Paul Beaudin- Matter of the Levee

At this time, Paul Beaudin submitted a letter to the Board regarding the matter of the levee. The letter has been attached to the meeting minutes. O.J. stated that he will briefly address each of Paul's questions but any discussion should take place at the bond hearing. O.J.'s responses to the attached questions are as follows:

1. There are numerous owners of the land. The condo associations and the private homeowners along Bunker Lane as well as the owner of The Rapids.
2. The 1960 agreement stipulated the Town would obtain easements however there is no proof the Town ever did. The Town has had new easements drawn up. It is correct that the tax map shows current land owners own to the river thread.
3. Because of the 1960 agreement. It wouldn't make the agreement void however it would make the Town in violation of the agreement. The agreement remains perpetually active unless Congress votes to disband it.
4. That is a key question. There was a statement in prior deeds that it was the responsibility of the property owners to maintain that dike did exist. However it did not appear in any sequential deeds. This is the question the Town is asking the court to make a decision on.
5. The USACE maintained for years that they were the authority over the levee until three weeks before last year's annual town meeting; at which time NHDES stepped in and said they had jurisdiction over the levee. The USACE has concurred as NHDES standards are much higher.
6. The Town is obligated by the 1960 contract. The Town is unaware of what NHDES will decide going forward.

7. The Town's goal is to have this levee reactivated by the USACE. The USACE requires that the levee be built only to 1960's standards. Prior to last year's town meeting, the USACE informed the Town that they would recertify the levee if the Town built it back to 1960's standards. As it is now a year later, the Board doesn't know if the USACE will stand by their statement.
8. The Town's insurance carrier says no. The Town is currently suing the insurer.
9. The Town sought coverage by their property liability insurer but was denied. The Town appealed through all levels of the appeal process offered by the insurer and the insurance company still denied coverage. The Town is suing the insurance company as they have also denied coverage for litigation costs for a former town manager.
10. The original design by Dubois & King was based on a set of assumptions they made to come up with a project design to present to the USACE. However the original design did not meet the USACE criteria. The NHDES made the Town extend the levee another 400 feet which increased the cost. The original design was a draft proposal and with the changes mandated by USACE and NHDES, the design costs went up. Two years of inflation is also calculated into the estimate.
11. The 1.3 million dollars was the last hard estimate from Dubois and King. The Board's goal is to put something on the warrant for this March; however the Board does not have enough information to move the project forward at this time. The Board's goal is to put the levee on the warrant and as there is not enough information to vote on the article, Town Meeting will be recessed until later in the year when further information has been presented to the Town. The 1.6 million dollar article is an educated estimate.

Weekly E-mail Correspondence

O.J. read the following e-mails into the meeting minutes.

I am an older long time snowmobiler who always wondered how someone could possibly get stuck in a railroad track switch. Well, on Friday 1/16, it happened to me on the tracks next to the recycle center. I had a ski jammed under the switch. I couldn't move. First, a young gentleman named James stopped. We couldn't move it either. James went over to the recycle center. Out came Jim Conn with a pry bar. He worked hard at prying the ski out for well over a half hour. Finally, after pulling, prying and tugging, the three of us got me unstuck. I want to apologize for taking your town employee away from his job, but without his help, I would have never gotten unstuck. He wouldn't take any money because he was a town employee. It is obvious that he is a dedicated employee. I just wanted to give a shout out of thanks and let you know how lucky you are to have Jim as an employee.

*Thanks,
Norm DEWOLFE
Ashland, NH*

The Board thanked Jim Conn for going above and beyond to help a resident.

*Oj,
At your budget meeting Selectmen Ham had a problem with the line item on burials, we as trustee's have to gross budget for our expenditures, its not only the law, but it keeps the process clean. If Selectmen Ham doesn't understand the budget process I will gladly debate it with her she can contact me at 603-348-6595. While I'm on the subject of budgets I'd like to know why we're budgeting to buy an ATV to go the Loon Pond to check the pond when we've always had a good working relationship with Loon Mt. on getting to the pond? Also, the Town of Lincoln celebrates a birthday every 50 years why does the board support spending money to have a 251st birthday when they weren't in support of the 4th of July*

activities?

I am requesting that this be read at tonight's BOS meeting (1/26/15) and put into the minutes.

Thank you,

Bill Conn

Tamra Ham replied to the allegation stated in the email. She said that concerning burials, her issue is not with the Cemetery Trustees' budgeting, it is with adding \$7,000 to the Town's overall budget. O.J. stated that the Trustees do not intend to do anything different from what they have done in the past. He explained that they are taking the burial expenses previously allocated in the public works budget and placing it as a line item in the cemetery budget to more accurately reflect the cemetery budget. There will be offsetting revenue that will equal this expense item.

Town Manager Burbank addressed the rationale for the ATV. He stated that the Public Works Department will be traveling up the mountain a great deal this summer to repair the Loon Pond dam. While Loon Mountain Resort has been more than gracious to accommodate the Town, it is obvious that the Town should be on site more often to check on the water supply. He added that being up there more often with the town trucks isn't good for the truck, Loon Mountain's road, or the water bars. The ATV will be kept at the water plant. Town staff did look at leasing an ATV for the duration of the reconstruction of the dam however Town Manager Burbank thought it would be more cost effective for the department to purchase an ATV. The Budget Committee has already reviewed and approved this expense.

In response to Mr. Conn's question regarding a 251st birthday, Tamra Ham stated that the Town is not having a 251st birthday celebration. There is a \$4,000 line item in the patriotic purposes budget for a community event. The 250th event was so successful last year, that all agreed that hosting some sort of an annual community event would be a good idea. She added that for many decades the Town has not hosted the July 4th activities but has always supported it by paying for the fireworks. It was the Friends of Recreation that ran the festivities and it is now the school that runs the games.

Town Manager's Report

Time Capsule

Town Manager Burbank stated that the time capsule is now in place in the Town Hall meeting room. The capsule is built into the wall with a display window so it can be seen. It will not be opened for another fifty years.

Loon Pond Dam

The replacement of Loon Pond Dam will be going out to bid in February. This placement is mandated by NHDES and the design has been completed.

Water Treatment Plant Filter Addition

The contract with PENTA was signed this week.

White Mt. Snowmobile Club

After discussions with Snowmobile Club representatives Rick Caston and Jarrett Ham, it was determined that the Club would like to re-negotiate their current annual lease amount of \$1,200 to instead cover the costs of the building maintenance, repairs, and upgrades. The costs of taking care of this town building exceed the annual lease amount. All agreed that renegotiating the lease would be acceptable as long as the rent amount was changed to \$1 and the Club provided a copy of their expenditures to the Town annually.

Sign Ordinance Enforcement

All respondents have come forward with the exception of Doug Hayward, owner of Nachos and MacKenzie Outfitters/Gear. The Planning Board will be setting a time-frame to review the sandwich board sign issue.

Andy Nicoll

The Board congratulated Andy Nicoll for his successful completion of the Primex Supervisors Academy.

NHEC Evaluation

Town Manager Burbank is working with NHEC to have them conduct a free energy savings evaluation of the Public Works facility and Water Treatment Plant. There is also a matching grant that is part of this program. Mr. Burbank is considering the same evaluation for the Town Hall and the Community Center.

Solar Energy Tax Credit

Town Manager Burbank has scheduled a meeting with town assessor Phil Bodwell and a representative from a solar energy company to discuss the advantages and credits offered to town residents that use solar panels. The town doesn't currently offer any tax credits. O.J. Robinson will attend the meeting on behalf of the Board. Paul Beaudin stated he is working on a petition for a tax credit rebate for solar energy to be put on the warrant. The State provides the tax incentive and most towns now offer tax credits for the use of solar energy.

Public Works Facility Furnace

The furnace replacement at the highway garage is currently underway.

South Peak Water System

Town Manager Burbank, the Fire Chief, Public Works Director, and two members of the Planning Board met with Ed Wendler and his counsel this past week to discuss upgrades to the pumps and water system at South Peak. Some issues were clarified but there are as many unanswered questions. The

Town is obligated to move the pumps however it has not yet been determined whose responsibility it is to build the pump house as nothing was ever put in writing and it seems past decisions could have been made on a handshake. The Planning Board determined that the developer needs to come back before the Planning Board.

Local Association Meetings

Town Manager Burbank attended the Beechwood Two and Riverglade Association meetings this past weekend. He stated that he is going to spread the word that he would be happy to attend any association meetings as requested.

CopSync Grant

Town Manager Burbank informed the Board that the CopSync Program is moving forward. The Superintendent was surprised to know that the process was halted as there were some issues in the School's IT Department. The Superintendent is the one that suggested the program and wants to see it move forward. The Board asked that Mr. Burbank follow up with the SAU office and Police Chief Smith.

Budget Committee

The Budget Committee meeting scheduled for last week was postponed due to the snowstorm. It has been rescheduled for Thursday evening. Town Manager Burbank informed the Board that it is likely that the Town is going to come in narrowly under budget for 2014.

2014 Encumbrances

MOTION: "To encumber a total of \$68,952 from the 2014 budget to be rolled over to the 2015 budget to cover expenses that have been budgeted but unspent for capital appropriations, the water plant, the levee, and a court ordered junk yard cleanup.

Motion: Patricia McTeague Second: Tamra Ham All in favor.

CNP Annual Contracts

The Board signed the 2015 contracts for the data verification services and general assessing services with Commeford Neider Perkins Appraisal Services.

Abatement

MOTION: "To grant an abatement to Patricia Gagne for property located at 476 US Route 3, tax map 105-029 due to an error in the property descriptions. The assessment will be revised from \$344,000 to \$339,000.

Motion: Patricia McTeague Second: Tamra Ham All in favor.

IV. ADJOURNMENT

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

MOTION: "To adjourn."

Motion: O.J. Robinson Second: Tamra Ham All in favor.

The meeting adjourned at 8:05pm.

Respectfully Submitted,

Brook Rose

Approval Date ____/____/____

Chairman O.J. Robinson

Tamra Ham

Patricia McTeague

1/24/2015

Lincoln Board of Selectman
Po Box 25 Main Street
Lincoln NH 03251

Dear Lincoln Select Board:

I would like my letter read into tonight's meeting. I am deeply disappointed in the Lack of appropriate planning that resulted in Saturday 1/17/2015 traffic incident that stopped the flow of traffic on Main Street. I realize that there were several other events that were in the process of happening however the main issue was at the entrance to the new ice castle.

The ice castle is a change of use in my opinion and should have had Site Plan and Review. Just as the Mother ship had to go thru when it was turned into a moose tour. I realize that the current tourist attraction the Hobo Railroad has a maintenance operation that does go year around. However they are not open to the public year around and this should have triggered a sight plan and review process. Not to mention Section H #2 of the Land Use Plan Ordinance states "shared parking and off-site parking shall be allowed but only after review by the Planning Board". Had the Town of Lincoln done Site Plan and review the following issues would have been taken into consideration.

- 1) Abutters would have had a chance to speak about any concerns they might have had.
 - 2) Town services such as water and sewer would have been looked at.
 - 3) Traffic concerns and mitigated measures could have been discussed.
 - 4) Signage and lighting for the attraction would have been addressed.
 - 5) The hours of operation would have been set, unlike the comment on face book that the Ice Castle would stay open until all that had traveled to it had a chance to go through it.
 - 6) The issue of Public Safety and health to handle an estimated 12,000 guest would have been addressed. "If you compare this to Loon let's say, Loon has 4 base lodges, 1 mid mountain Lodge, 1 summit building and 5 parking lots to handle their crowd of an estimated 6000 plus guest". This allows for proper bathroom facilities for the guest.
- There is also the concern for public safety and access for Fire, Police, and Ambulance to be able to help in the case of an emergency.

I believe the Ice Castle is a great venue to have in Lincoln. However appropriate planning and review should take place to ensure that all necessary concerns have been addressed. This will help to ensure the success of the attraction.

Respectfully submitted:


Paul Beaudin II Taxpayer

Questions on levee for Lincoln Board of Selectman to be read in to
Tonight's minutes and answers to be read into minutes.

- 1) Who owns land levee is on?
- 2) Does Town of Lincoln Own or possess easements or rights of way in order to maintain Levee? (original 1960 agreement stated that Town of Lincoln would own Land, for easements and rights of way) Current Tax map shows current land owners own to river thread.
- 3) If Lincoln does not own property and no easements or rights of way then why are we involved in repairs? Would appear prior Selectman who signed 1960 agreement did not fulfill obligations of agreement thus making it void?
- 4) When property was sold by Franconia investments to CMB in 9/1987 it was stipulated that there were possible obligations to maintain the flood control dike on the northerly bank of the East Branch of the Pemigewasset River. This never appeared on any other property transfer after this why?
- 5) Who had authority over Levee repairs and maintenance and or replacement (NHDES or USACE)?
- 6) If Town makes repairs who is responsible for future liabilities?
- 7) What would be the design criteria used to make repairs to Levee? Would the original 1960 design criteria of 24,200 CFS be used or would it be like Tropical storm Irene which was at 29,300 CFS? Would the Town be responsible for the increase CFS design and construction?
- 8) Does the Town of Lincoln have property liability insurance on the Levee? If not why?
- 9) Is the Town using their property liability insurance to assist in defense of the current litigation? If not why?
- 10) In January 2012 DuBois and King provided the Town with an estimate of \$785,000 and in December 2014 DuBois and King provided and update estimate of \$1,315,000 why the \$529,600 or 67% increase in just 2 years?
- 11) In 2013 at Town meeting the Town requested a Bond for \$1,200,000 with an engineer's estimate of \$785,000 now in 2014 why is the Town going to request \$1,600,00 with an engineer's estimate of \$1,300,000 this represents a 33% increase in just 2 years? Also why is the Town requesting approximately \$300,000 more than the Engineers estimate?
- 12) How much will we have paid for engineering to date on the Levee Project?

