

LINCOLN BOARD OF SELECTMEN

APPROVED

MEETING MINUTES

MAY 15, 2017

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

Board of Selectmen Present: Chairman, OJ Robinson, Vice-Chairman, Tamra Ham and Selectmen - Jayne Ludwig.

Staff Present: Town Manager Burbank, Fire Chief Beard, Public Works Director Hadaway and Recording Secretary Wendy Tanner.

Public Present: Debbie Celino, Roger Harrington, Jim Walsh, Tammy Gionet Dutilly, Taylor Beaudin, Myles Moran, Patrick McCusker, Michael M. Ransmeier, Esq, James Lewis, Mike Leclerc

CALL TO ORDER at approximately 5:30 PM

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

MOUNTAIN VIEW HOMEOWNERS ASSOCIATION *Discussion with Attorney Ransmeier*

James Lewis president of the Mountain View Condominium Association and Attorney Ransmeier addressed the Select Board. Attorney Ransmeier handout a letter for the Board to read.

Attorney Ransmeier said that putting a raised sidewalk in front of the parking lot of the Mountain View Condominiums would decrease the amount of parking in the lot and not allow for larger vehicles to park there. It would also decrease the value of the condominiums. Attorney Ransmeier said that the measure of damages to the condominium owners is not simply the value of square foot it is the change in value of the parcel on which the condominiums are located.

Attorney Ransmeier thought that the sidewalk could run on the north side of Pollard Road and explained to the Board how it could work across different lots.

Attorney Ransmeier talked about damages to the value of the condominium property and possible compensation for such damages.

The Board discussed the parking and how many spaces were approved in the original plan. The Mountain View Condominium building was built before the town adopted a Planning Board so approvals of the parking were not required in 1985.

Attorney Ransmeier said that the point is that if the town puts in the raised sidewalk with the angled parking spaces, the spaces will be difficult to get in and out of for a single vehicle and utility trailers will not be able to park there at all. Attorney Ransmeier believes that the reduction in parking will also decrease the amount of rentals of the condominiums.

A long discussion ensued where the Board carefully looked over the plans and talked about the measurements of the town's right of way and where an easement would be required. Other options such as a painting the pavement or bricks on the pavement were discussed.

Town Manager Burbank said that the town assessor has told the town that in an urban setting, sidewalks usually add to the value of property. Attorney Ransmeier stated that in this case, sidewalks will make the units more difficult to rent; the reduced number of parking spaces caused by the sidewalk will cut out a significant fraction of potential recreational customers who otherwise would be interested in buying or renting the units.

Tamra Ham stated that because the Board was not aware of the content of this meeting, counsel was not contacted and the town engineer was not contacted. Ham did not want to comment at this time without first contacting the town engineer and town attorney for their comments.

James Lewis explained that the condominium association has been maintaining the current parking lot for over 30 years. Lewis thought that the Board should be able to come up with a better way to present a safety zone that would be approved by all parties.

Ham stated that in Attorney Ransmeier's letter it read that the Town of Lincoln was "entertaining" putting in a sidewalk on Pollard Road. Ham said that it is a petitioned warrant article from the residents and it passed at Town Meeting. Ham said that this is not something that the town said that they might do, this was voted in by the Town of Lincoln registered voters and by New Hampshire law the town must now install a sidewalk on Pollard Road. It is not something that the town is "entertaining," it must be done. Ham said that the petitioned article was a bond article that would be paid for over several years and not through taxation in one year.

Robinson said that it should be noted that James Walker is from White Mountain Appraisals out of Franconia, NH and that it was Mr. Walker who determined that adequate parking is part of determining the total appraisal of a condominium unit.

The Board will review Attorney Ransmeier's letter and obtain comments from both the town engineer and the town attorney before responding.

WATER DISCUSSION

Water Meters

Town Manager Burbank said that Facebook has been abuzz all week that the town is going to charge for water. "For the record" the proposals to upgrade water meters is to become more efficient and monitor water usage in the town. Ham said that the town has no intention of charging for water at this time. Reading water meters will not come without a price tag as many of the meters in town are old and in need of replacement.

Nate Hadaway has been doing research on water meters and explained several different options to the Board. Hadaway discussed the fees involved with reading meters as well as the costs of the meters, software and other equipment required. The meters have a 20+ year life expectancy. The individual meters are \$232 each and would be connected to an online real time software system that would give the town up to the minute water usage using ultrasonic and LTE Cellular endpoint technologies. Hadaway explained that there is always the option to use the same technology that Woodstock uses where the meters are read by driving around town. These meters were a lesser cost at \$215 each, but only provide a single capture of a specific moment where the newer system is real time, anytime. Hadaway explained the upfront costs and the costs to retrofit the current new meters. Newly built homes in town have been required for some time to install the newest meters, but even these meters, estimated to be about 45 meters, would need to be retrofit with an upgrade for the LTE Cellular system at a cost of about \$100 per meter.

Robinson asked if it was Hadaway's recommendation that the town replace meters in phases over 3 to 5 years or that the town bond this project and put them all in at once. This sparked a long discussion about whether the overall cost would be worth the benefit of just knowing where the water usage is in town.

Town Manager Burbank thinks it is important to monitor water and does not understand why the town gave up on reading meters. Town Manager Burbank also noted that the town will not be able to continue their well search on the State land and that the covenants on the Franconia Notch State Park would not allow further research by the town. Town Manager Burbank thought going forward, the town of Lincoln should accurately monitor water where possible because the town is aware that there are establishments that abuse the system. Town Manager Burbank also thought that the water usage rules in town need to be looked and edited to include language to help stop the abuse.

Hadaway said that the city of Concord uses the Badger water meters that are being suggested and have current data all the time.

Mike Leclerc asked if the system requires the internet to work. Hadaway said that it did not and that the system is cell based and works off of the cell tower system. Hadaway said that most home meters measure by gallon but that some of the meters like in RiverWalk or Burndy are large meters that measure by cubic foot.

Robinson gave an analogy using estimated round numbers and came up with an approximate cost of \$90,000 per year to get this system up and running in the entire town. Robinson felt this was a large number to only monitor water and was not sure that the abuse found would offset this cost. Ludwig mentioned that it could be used by the Planning Board to monitor growth. Town Manager Burbank thought that finding abusers is important for the future. Today there is a good system in place, but if all the recent inquiries for future development come to fruition, the town may have a problem and may be pushing the water limits. Right now the town staff does not have any way of telling the Planning Board if the system could handle large developments, where monitoring the system will clearly show if the town can take on new large developments. Town Manager Burbank added that the town needs to plan for the one or two times per year that the town is packed. Town Manager Burbank said that it would be money spent for future planning as well as for the water budget. Ham added water conservation as another reason to know the water usage.

There was a brief discussion about how other towns monitor water usage. Hadaway said that there are two options for Lincoln, the drive around method or the cellular method. All new homes have been required to install a specific meter when built. Hadaway said that to be able to read those meters it would cost \$15,000 to \$17,000 for the software, computer and equipment required.

Robinson asked other Board members, if the town decides to spend the money on reading water meters, are water meters a first priority.

Ham said that if the town were to do this, the Water Ordinance would have to be updated.

Hadaway stated some of the problems with POR's (Privately Operated Redistribution systems). One being that valves are not kept in working order or were not engineered to isolate issues. Hadaway stated that in a recent water main break in town, it took over 4 hours to isolate and turn off the water to repair the main. There was a discussion about the one line that supplies developments across the river and the stability of that line.

Ham asked Hadaway what he felt should be the top priority. Storage and pressure would be the first thing on this list, followed by line and valve issues.

A discussion about redundant lines ensued. Hadaway added that there are two different pressure zones involved that cannot be combined because of the difference in pressure.

Ludwig asked Fire Chief Beard if there was enough water to put out fires. Beard said that some of the fire hydrants in town do not have enough pressure to support firefighting. At least one hydrant in town has a bag over it because it does not work. This hydrant is located in a private water system.

Town Manager Burbank said that DES has been contacting developments that have POR's to ensure compliance to these systems is being met.

The priority list order was determined as follows:

- Storage and pressure
- POR's – private lines
- Metering

Town Manager Burbank said that river crossings would be part of the private developments because the crossings all lead to private water systems. Robinson said that any redundant lines crossing the rivers should be low on the priority list. Town Manager Burbank agreed.

There was a discussion about the new tank that will be installed at South Peak. Most of the issues with pressure occur on the south side of the river and a new tank may solve this problem. South Peak would pay for this tank as per their development agreement. Town Manager Burbank said that increasing the size of this tank at the town's expense should be looked into.

Robinson asked if there is funding available to hire Hoyle Tanner for the engineering of the tank. Town Manager Burbank said that he did not think there is funding available but that the amount for the engineering for this next phase may be enough that the town should go out to bid on the engineering. Town Manager Burbank will check with other towns that have put water RFP's (Request for Proposal) together before drafting an RFP for Lincoln.

Drafting agreements with private systems was discussed. There are many private systems in town that need agreements to work with the town's water system. A long discussion ensued about private water systems and fire hydrants.

Updates on this discussion will continue at a future Board of Selectmen meeting.

The Board thanked Nate Hadaway and he left the meeting.

REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING

- May 8, 2017

Motion to approve the minutes of May 8, 2017 as amended.

Motion: Tamra Ham Second: Jayne Ludwig All in favor.

- May 1, 2017

Motion to approve the minutes of May 1, 2017 as presented.

Motion: Tamra Ham Second: Jayne Ludwig 2 in favor.

OJ Robinson abstained from the vote.

- April 24, 2017

Motion to approve the minutes of April 24, 2017 as amended.

Motion: OJ Robinson Second: Jayne Ludwig 2 in favor

Tamra Ham abstained from the vote.

OLD/NEW BUSINESS

Town Managers Report

Bears

Town Manager Burbank met with a Fish and Game biologist and they will be coming to Lincoln to give a presentation on the importance of bears and trash management. Restaurant managers, campground owners and waste haulers are encouraged to attend this meeting. The tentative date for this meeting will be June 7, 2017. The time of this meeting will be posted in the Board of Selectmen minutes and on the town web site once it has been confirmed.

Solid Waste Policy

Town Manager Burbank said that he has reviewed this document and changes are pending.

Community Center Revenue

The Board reviewed the current revenue sheet and noted that the Community Center is "way ahead for the year." (See attachment on May 8, 2017 minutes)

Vault at Union Bank

Diebold has been scheduled to rekey the lock. There was a brief discussion about looking at battery lighting for the vault. Town Manager Burbank will follow up.

Account Signing

The Board discussed authorized signatures on bank accounts. Town Manager Burbank said that it is recommended for a town to have a Deputy Treasurer for the occasions that the Treasurer is not available. Town Manager Burbank will check with NHMA to see if Selectmen can be listed on accounts for emergencies.

Job description – Fire Chief

There was a brief discussion about a vehicle for the Fire Chief. Currently the Fire Chief uses his personal vehicle around town. A Public Works vehicle that is due to be replaced could be used by the Fire Chief. Once the vehicle is replaced the older vehicle is scheduled to be used by the Fire Chief.

Workshop

Ham attended a NHMA workshop. Ham returned with the message that Selectmen should not be using their personal email for town business purposes and that a separate email should be set up and used for town business. Town Manager Burbank said that he encourages his employees to use their town phones for all business email and phone calls.

Ham also said that the Board of Selectmen should not have a representative on the ZBA, ever. Jayne Ludwig is currently the Selectmen's Representative on the ZBA.

Ludwig said that she is resigning as the Selectmen's Representative to the ZBA effective May 15, 2017 per the advice of the NHMA.

Long Range Planning – Community Center

Robinson said that over the last few years capital projects have been introduced when it was too late to incorporate them into the CIP. Ludwig inquired about the reason for meeting early. Robinson responded, to be sure that things will be placed in the CIP. Prior to the CIP process starting in September, Robinson would like to have a meeting with Tara Tower and Nate Hadaway to look at the community center and their needs to be more proactive to include them on the current year CIP list. That meeting is scheduled for June 12, 2017 at 9:00 am.

Riverfront Park

Ludwig said that in the meeting last Monday about the Riverfront Park, both Lincoln and Woodstock residents attended. Woodstock residents spoke in favor of the park and were positive toward the installation of the park. Ludwig would like the Woodstock residents to go to their Select Board to ask Woodstock to help fund the park.

Robinson said that he would like to have a concrete plan for the park before asking Woodstock to help with funding.

Ham said that the park will be included in the Recreation Department budget which is shared with the Town of Woodstock.

Ludwig said that because projects are expedited quickly once a plan is in place, she would like to be sure that Lincoln includes Woodstock in that loop before it is too late.

There was a long discussion about how to involve Woodstock in the building of the Park and at what point in the process do we ask Woodstock if they want to be involved?

Robinson said in the next step, Ray Korber is going to talk to Kevin Bell and SE Group to see what we need to do to install the Skateboard Park in 2018.

The Board of Selectmen will discuss this again after Ray Korber has reported his findings.

Public Participation

Cable Company

Tammy Gionet Dutilly asked where we are in negotiations with the cable company. Town Manager Burbank said that we have an agreement but they will not sign anything because they will not accept the taxation language for the pole assessments.

Old Fire Truck

Tammy Gionet Dutilly asked if the retired Fire Truck had been advertised. Fire Chief Beard said it is being advertised but there has been no interest.

False Emergency Call

Tammy Gionet Dutilly said that this week there was a faulty call in the Franconia Notch that both Franconia and Lincoln responded to. In this call, a moose had been hit the previous day and someone stopped to take pictures. A second person arrived and thought there had been an accident and called it in.

Dutilly's point was that if Lincoln is responding to a false call, they will not be available in town for a real emergency, and asked how this could be handled differently. Fire Chief Beard said that they occasionally receive a second call that they do not need to respond. Ham said that it is the "nature of the beast" that mistaken calls do happen.

Pollard Road Sidewalk

Roger Harrington asked about the sidewalk. There are three more agreements that need to be negotiated and/or signed.

Myles Moran asked if there is a final completed design on the sidewalk. Town Manager Burbank said, not yet.

Mountain View Condos

Different opinions were expressed about what should be done with the sidewalk passing the Mountain View Condominiums. Robinson felt that a painted or brick sidewalk could suffice for the interim to get the sidewalk finished. Ham said that she disagreed with the painted sidewalk saying that the warrant article stated that the town would build a sidewalk, not a crosswalk. Ham thought that the job could begin at the east end of Pollard Road and work toward Maple Street. Once getting closer to Maple Street the town will have a better idea on how much money will be left to work the issues in front of Mountain View Condominiums.

Debbie Celino asked if the warrant article specifically read "raised sidewalk." Robinson said, no, it only read "sidewalk." There was a discussion about the dangers of backing out or pulling out of a parking lot.

Town Manager Burbank said that there have been several alternate suggestions given to the Mountain View Condominium residents, all of which they turned down. One was a plan on Church Street derived by engineer Ray Korber that would have doubled their parking.

NON PUBLIC SESSION *Pursuant to RSA 91-A:3II (a,b,c,d,e,i,l)*

Motion to enter non-public session at 8:53 pm.

Motion: OJ Robinson Second: Tamra Ham All in favor.

Motion to come out of non-public session at 9:15 pm.

Motion: Tamra Ham Second: Jayne Ludwig All in favor.

ADJOURNMENT

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

MOTION: "To adjourn."

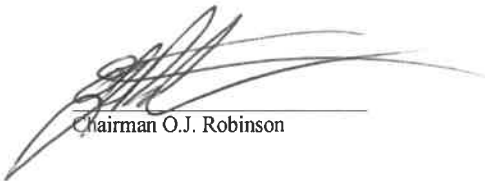
Motion: OJ Robinson Second: Jayne Ludwig All in favor.

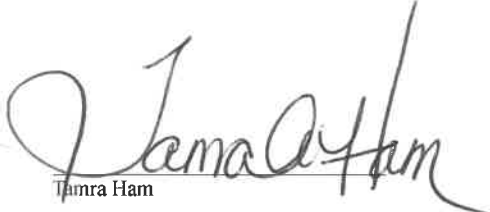
The meeting adjourned at **9:16 pm.**

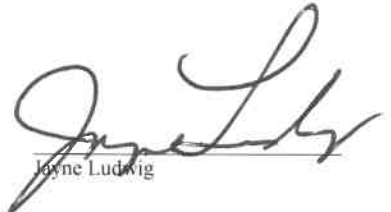
Respectfully Submitted,

Wendy Tanner

Approval Date: May 22, 2017


Chairman O.J. Robinson


Tamra Ham


Jayne Ludwig

LAW OFFICE OF
MICHAEL M. RANSMEIER, P.C.

ATTORNEYS AT LAW

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May 15, 2017

Board of Selectmen
Town of Lincoln
P.O. Box 25
Lincoln, NH 03251-0025

Re: Mountain View Condominium
153 Pollard Road, Lincoln

Dear Board of Selectmen:

This office represents the Mountain View Condominium Homeowners' Association. The Condominium was established in 1985. Its primary structure, containing sixteen (16) units, is located at 153 Pollard Road in Lincoln (the "Pollard Road building"). It is also identified as Parcel 19 on Lincoln Tax Map 114. There is a smaller structure with eight (8) additional units situated on Church Street. The total assessed value of the sixteen (16) units in the Pollard Road building is \$1,764,600.00. The most recent unit sale was for \$125,000.00.

The parcel upon which the Pollard Road building is located has 227.70 feet of frontage on the south side of that street. There is unencumbered access from the pavement across a parking area, which has always been paved and maintained at the Condominium's expense, to the unit entryways at the front of the building. The Town Tax Map indicates that the right-of-way for Pollard Road is about 27.5 feet wide where it passes in front of the building.

The unencumbered access from the parking area onto the road has allowed unit owners and renters who own snowmobiles, four-wheelers, or motorcycles to back the trailers for those vehicles in against the building and park them. Clearing the parking area of snow in the winter has been facilitated by its open access onto the road. As a result, snow removal expenses have remained reasonable, and snow clearing has not conflicted with the Town's street plowing.

Several months ago, unit owners in the Condominium were advised that the Town of Lincoln is considering the installation of a raised, curbed sidewalk along the south side of Pollard Road in front of the building. Normally such a sidewalk would be about five (5) feet wide, with curbing raising the walkway about five (5) inches above any adjacent street or parking surface. A representative of the Town informed the unit owners that the Town contemplates leaving curb cuts at each end of the parking area to allow vehicles to enter and exit, but that direct access into the parking area along its full frontage along Pollard Road would be eliminated.

Town Tax Map No. 114 indicates that there are two parcels directly across the street from the Pollard Road building: Parcel 62, a .22 acre lot and residence assessed for \$219,700.00; and Parcel 63, a .39 acre open lot assessed for \$57,200.00. There is a third lot, Parcel 61, immediately to the west of Parcels 62 and 63, a .13 acre parcel with a residence assessed at \$103,000.00.

The Tax Map, as well as the Site Plan for the Condominium ("Parcel A Site Plan Lands of Condos East Corp. in Lincoln, N.H." surveyed April 9, 1984 by Roy A. Sabourn, LLS, recorded in Grafton County Registry of Deeds on July 17, 1985 as Plan #2905) confirm that there is no room in the Town's right-of-way to install a sidewalk along the south side of Pollard Road without taking some of the Condominium's parking area. Installing a raised sidewalk would, however, significantly reduce the unit owners' access to the parking area, particularly their ability to park, drop off, and pick up recreational vehicle trailers and wider vehicles, in addition to reducing the size of the parking area itself. It would encumber the ability of delivery trucks and vans to provide services to the building. The reduction of, and interference with, the parking facilities for the building would be exacerbated in the winter, when plowing and snow removal in the parking area would be complicated by the presence of the raised and curbed sidewalk. The simple function of parking a sedan or a pickup truck would become substantially more difficult, even in non-winter months.

I have checked with James Walker, of White Mountain Appraisals, who has worked in the Lincoln-Franconia area for more than thirty (30) years, and he has confirmed to me that adequacy of parking is a component of value that is normally taken into account in determining the value of condominium units. In this case, while Lincoln may be most visibly focused on skiing, a substantial portion of New Hampshire's recreational economy, including winter recreational activity in the Lincoln area, is dependent on snowmobiling and other power sports. Many of the unit owners rent their units during the winter. The introduction of a raised sidewalk that would make it impossible, or substantially more difficult, to park a snowmobile or other recreational sport trailer in the Condominium's parking area would deprive owners of a significant fraction of the potential market for their units when they attempted to rent or sell. Condominiums are residential in nature, and individuals looking to purchase or rent a condominium are looking for residential rather than mere motel parking facilities.

In short, the interference with, and reduction of, the Condominium's parking facilities that would result from the Town's installation of the proposed sidewalk along the southerly side of Pollard Road would result in a loss in fair market value to all sixteen (16) of the unit owners in the Pollard Road building. The severance damages to the units would go far beyond the value of the land taken from the parking area, see *O. K. Fairbanks Company v. The State of New Hampshire*, 108 N.H. 248 (1967). See also *State of New Hampshire v. Shanahan*, 118 N.H. 525 (1978), in which the New Hampshire Supreme Court considered the claim of the owner of a lot, the access to which became restricted after street side curbing was installed, and held that the property owner was entitled to compensation if he could show that the value of his property was substantially diminished by the limitation of access. The Town should not imagine that the unit owners at the Condominium would allow such a taking to occur without exercising their statutory right to obtain full compensation for their loss.

Finally, it is within the Town's power to accomplish its objective of installing a sidewalk along Pollard Road without inflicting a loss of access and parking facilities on the unit owners of the Pollard Road building, either by delineating the sidewalk by red paint on the pavement of the parking area, or by moving the sidewalk across the street. The latter option would require the creation of a cross-walk, but having a sidewalk switch from one side of the street to the other is not uncommon. The sidewalk would run on the south side of the street across Parcel 20 to its boundary with Parcel 19. A cross-walk could then be laid out from the west end of Parcel 19 to a resumption of the sidewalk on Parcel 62, running from to the east of that property's driveway and continuing easterly across Parcel 63, which has no structures upon it. A second cross-walk could then run back across Pollard Road to connect with the sidewalk running up Maple Street. While this approach would oblige the Town to purchase or condemn portions of Parcels 62 and 63, the value of the property rights taken would be far less than those that would be taken from the sixteen (16) unit owners in the Pollard Road building if the curbed sidewalk were to be installed along the southern side of the street.

The Town should also recognize that if it were to pursue a course of action that resulted in a reduction in value to the Pollard Road building units, that reduction would diminish the assessed values of those units, with a resulting reduction in the tax revenues which they would generate for the Town, for years to come.

Very truly yours,



Michael M. Ransmeier

MMR/sjm

cc: James Lewis

