

**LINCOLN BOARD OF SELECTMEN**  
**MEETING MINUTES**  
**JANUARY 8, 2018 – 5:30PM**  
**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

**APPROVED**

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**Board of Selectmen Present:** Chairman O.J. Robinson and Tamra Ham

**Excused:** Selectman Jayne Ludwig

**Staff Present:** Town Manager Butch Burbank, Chief Ted Smith, Fire Chief Ron Beard & Administrative Assistant Jane Leslie.

**Public Present:** Roger Harrington, Patrick Griffin, James Welsh, Debbie Celino and Dave Beaudin

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## **I. CALL TO ORDER**

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

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## **II. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING**

**MOTION: “To approve the meeting minutes of December 18, 2017 as amended.”**

**Motion:** OJ Robinson                      **Second:** Tamra Ham                      **Motion carries.**

**MOTION: “To approve the Non-public meeting minutes of December 18, 2017 as presented.”**

**Motion:** Tamra Ham                      **Second:** OJ Robinson                      **Motion carries.**

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## **III. SB 191 – THE OPERATION OF KENO 603 GAMES IN THE TOWN OF LINCOLN DISCUSSION**

Chairman Robinson opened up the discussion explaining that Governor Sununu signed SB191 into law which established KENO as a revenue source to fund full-day kindergarten in New Hampshire. The law was written to give municipalities the option to allow KENO into the community by putting it on the election ballot, or as a warrant article for consideration by the residents at town meeting. Town Manager Burbank has spoken with a representative from the NH Lottery Commission and questioned if any requests for KENO have been received from businesses in the Town of Lincoln (21 requests received to date). Burbank also noted that if the Selectmen do not put this item in as a warrant article, a petition can be filed (25 signatures required) requesting the same. The Board does not feel this is a Board of Selectmen decision but rather should be a warrant article and town decision for the residents to vote upon. Robinson said there are two (2) options available for residents to vote on this item: [1] to be placed on the official ballot (secret ballot) where voting takes place for elected officials (voted on during the day) and the discussion would take place at the public hearing prior to being voted on, or, [2] during town meeting as an article and discussion at that time. Robinson prefers the *official ballot* and allowing residents to attend the hearing and have the opportunity to ask questions and discuss in an open forum.

Burbank asked the Board if they would like a representative from the NH Lottery Commission to address the public at the scheduled budget hearing to answer any questions that residents or the public may have. The Board thought this was a good idea as they are not certain exactly what the game KENO entails, and Selectman Ham made the following motion:

**MOTION: “To put on the ballot, to see if the town will vote to allow the operation of KENO within the town pursuant to the provisions of NH RSA 284:41 through 51.”**

**Motion:** Tamra Ham                      **Second:** OJ Robinson                      **Motion carries.**

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## IV. OLD/NEW BUSINESS

### Town Manager's Report

#### **Legislative Meeting in Concord**

Town Manager Burbank explained to the Board that a legislative committee meeting was being held in Concord tomorrow to discuss the naming of the Connector Road Bridge and if any Board members were interested in participating (although not required) they were welcome to attend.

#### **Riverfront Park**

Town Engineer, Ray Korber and Ron Guerin (Calex Environmental) would be attending a discussion with the Board of Selectmen to highlight their findings and update the Board on the proposed site for Riverfront Park on Thursday, January 11<sup>th</sup> at 4:00 pm.

#### **FEMA Grant**

The emergency FEMA grant has been approved and mandatory meetings are being scheduled around the State for town officials to attend. All pertinent information necessary to begin a claim will be reviewed and questions will be taken concerning this process.

#### **Town Report**

Jane is currently working on compiling the town report and all department heads and officials submitting reports should do so as soon as possible. The deadline is set for early February.

#### **LSMP (Lincoln South Mountain Partners) Lawsuit**

Chairman Robinson explained that the town has settled its lawsuit with Lincoln South Mountain Partners (LSMP) several months ago, and read the following statement: *"The Town of Lincoln has reached a settlement agreement with Lincoln South Mountain Partners (LSMP), putting an end to the legal dispute between the parties. The Town signed an agreement with the US Army Corps of Engineers (USACE) in 1960 to maintain the levee built by the USACE. LSMP filed suit in Grafton County Superior Court in August 2014 claiming that the Town was negligent in their responsibility to maintain the levee on the East Branch and thereby caused LSMP to suffer damages related to the loss of money and property. The suit was filed following a vote of the Town, for the second time at annual Town Meetings, defeating appropriation articles to repair the levee. This lawsuit filing occurred nearby three (3) years after Hurricane Irene caused damage to the levee.*

*In the settlement, the Town maintains that they were not negligent and did not cause damages. However, based on advice from the Town's attorneys, and comments we heard during the mediation process, the Board of Selectmen agreed it would be most prudent to settle the case. This avoids continued legal expenses and potentially a much larger settlement cost. The initial claim in this case exceeded \$3.5M.*

*Following numerous settlement negotiations, the Town of Lincoln has agreed to pay \$450,000 to LSMP. \$50,000 of this will come from Primex, the Town's insurer. \$400,000 will come from the Town's unexpended fund balance. In addition, LSMP will be given a credit of \$125,000 with the Town to be used toward any future development fees related to the property,*

*As part of this settlement, the Town has been granted a permanent recreation easement over a portion of the LSMP property. This easement will include a small parking area along Route 112 adjacent to the NHEC sub-station, a walking path from the parking area to the river, and use of the "Old Hole" swimming area including land on both sides of the river at the upstream end of the levee.*

*We are pleased that this legal matter is now over and are extremely excited that the Town now has permanent legal access to this popular swimming hole. This swimming hole has been used for decades and is now preserved in perpetuity for future generations to enjoy.*” Robinson noted, although not happy this cost a significant amount of money and he is pleased this lawsuit has come to a conclusion and the Town now has a permanent easement to the Old Hole swimming area.

#### **Union Contract (Police Dept.)**

Chairman Robinson explained that the 2018 budget increase of \$42,000, and 2019 budget increase of \$37,000 represent wage and benefit increases as a result of the new Police Department Union Contract. There will be a warrant article (pending vote this evening) for funding of the additional money at Town Meeting. Town Manager Burbank expressed thanks to the bargaining team (Chief Smith, Selectman Ludwig, Town Manager Burbank and the Union/membership) for all of their hard work, and for being part of this difficult process that yielded a fair and equitable agreement. Selectman Ham made the following motion:

**MOTION: “To accept the Union Contract and recommend adding a warrant article to approve \$42,876.36 for 2018/2019 budget, and \$37,552.43 for the 2019/2020 budget.”**

Motion: Tamra Ham

Seconded: OJ Robinson

Motion carries.

#### **Intent to Cut**

The Board reviewed and signed two (2) Intents to Cut (Map 117, Lots 121 & 123) and (Map 118, Lots 003, 007, and 009) for John Brown and Sons.

#### **Commerford, Nieder, & Perkins, LLC Contract**

The Board reviewed and signed the 2017 Data Verification Contract, and the 2018 Contract for General Assessing Services for the Town of Lincoln.

#### **Town Clerk’s Revenue Report**

Town Clerk Johnna Hart submitted two (2) reports to the Board, (1) the monthly motor vehicle Town revenue through December 31, 2017 is \$357,775.98. The month of December is down by \$13,104.96 from December, 2016. (2) as of January 8, 2018 the Town has received \$479,193.39 on prepayments and credit memos for 2018 property taxes. Tax Collector Hart noted the following: (a) the Town voted in March, 2017 to accept prepayments on property taxes for one (1) year. (b) this does not mean the property owner’s account is paid in full for 2018, (c) there may be an adjustment needed in the fall when the new tax rate is set and, (d) prepayments may *not* be tax deductible, and the property owner may want to contact their accountant/tax preparer regarding deductions.

#### **Public Participation**

Roger Harrington asked for clarification on the levee contracting (bid process) and the additional \$400,000 costs. Chairman Robinson explained that the contract between the town and the construction company was for specific repairs, and there were two (2) issues: (1) the bedrock that was being keystoned was thought to be 4-5 feet deep which is what the company bid on (and if it was more there would be additional costs) and it ended up being 12 feet (Old Hole) which was unknown until the river was diverted and the granite blocks were moved. (2) the design and contract had to be changed and approved by the ACE (Army Corp. of Engineers) and DES, and subsequently resulted in a substantial increase in repair costs.

Harrington asked if the contractor was going to help with any of these additional costs, and could not understand why the town bore the sole responsibility for these damages. Town Manager Burbank publically apologized for a misunderstanding with Mr. Harrington at the previous Board meeting, and explained the town could sue the engineers, however, feels they acted on the information they had been provided, and this would only result in another costly litigation for the town. Burbank reminded the board/audience that the town is awaiting word from FEMA granting financial relief to assist with damages sustained as a result of the storm event in late October, 2017. A discussion ensued concerning the events going on at the levee, and possible costs associated with the ongoing construction. Dave Beaudin asked if the ACE had come to look at the damages. Burbank said no, however, when the project is completed and the ACE inspects and approves the levee, they may consider putting the dam back on the *active* list, and if they don't, the town will own the levee forever. Robinson noted that if the ACE arbitrarily denies putting the dam back on the active list after successfully repaired, the town would then have the opportunity to engage our state representatives (senators and congressmen) and possibly sue all responsible parties.

Robinson noted that there was a second legal issue surrounding the levee with DES (official ownership of the levee) and the town's position is that Lincoln is *not* the official owner of the levee, but rather under obligation to maintain the levee. After going to court on this issue (the town lost) the court rendered its decision stating the town is the owner of the levee structure (not the land it sits on). The town has appealed this ruling and currently awaiting a response from the NH Supreme Court. If the appeal process is unsuccessful, the town will be designated the owner of the levee.

Jim Welsh asked if there was any way to dredge the river so that it could flow more freely. Burbank did not think this would be possible because of DES rules and regulations. Robinson added that the view of DES is that nature can change the river, man cannot, and although this makes sense, it is strictly prohibited by DES.

Roger Harrington asked if the town was going to be re-valuated this year. Burbank responded that the assessors have begun the five (5) year re-valuation process of the entire Town of Lincoln.

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## **V. NON PUBLIC SESSION *Pursuant to RSA 91-A:3:II***

**MOTION: "To go into Non-Public Session pursuant to RSA 91-A: 3II (e)"**

**Motion: OJ Robinson      Second: Tamra Ham      Motion carries.**

The Board went into non-public session at 6:25 pm.

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

**Motion: Tamra Ham      Second: OJ Robinson      Motion Carries.**

The Board came back into public session at 6:40 p.m.

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## **VII. ADJOURNMENT**

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

**MOTION: "To adjourn."**

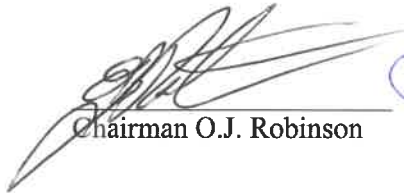
**Motion: OJ Robinson      Second: Tamra Ham      Motion Carries.**

The meeting adjourned at 6:45 p.m.



Respectfully Submitted,  
Jane Leslie

Approval Date 1 / 29 / 2018

  
Chairman O.J. Robinson  
Selectman Tamra Ham

**January 8, 2018**  
**Board of Selectmen's Meeting**  
**Please PRINT Legibly**

*Patricia J. Grifflin*

(Print Name)

*Roger Harrington*

*Jim Welsh*

*Debbie Celino*

*[Signature]*

(Sign Name)

*Roger Harrington*

*Jim Welsh*

*Debbie Celino*