

**LINCOLN BOARD OF SELECTMEN**

**APPROVED**

**MEETING MINUTES**

**JANUARY 28, 2018 – 5:30PM**

**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

**(MEETING VIDEO AVAILABLE AT [WWW.LINCOLNNH.ORG](http://WWW.LINCOLNNH.ORG))**

**Board of Selectmen Present:** Chairman OJ Robinson, Tamra Ham, and Jayne Ludwig

**Staff Present:** Town Manager Burbank, & Administrative Assistant, Jane Leslie.

**Public Present:** Roger Harrington, Kurt O'Connell, Dave Beaudin, Debbie Celino, and James Welch

**I. CALL TO ORDER**

Chairman Robinson called the meeting to order at 5:45 p.m.

**II. NONPUBLIC SESSION Pursuant to RSA 91-A: 3:II(d) Potential sale of town-owned property**

**MOTION: "To go into Non-Public Session pursuant to RSA 91-A: 3II (d) Potential sale of town-owned property"**

**Motion: Tamra Ham**

**Second: Jayne Ludwig**

**Motion carries.**

The Board went into non-public session at 5:46 pm.

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

**Motion: Tamra Ham**

**Second: OJ Robinson**

**Motion Carries.**

The Board came back into public session at 6:15 p.m.

**III. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING**

**MOTION: "To approve the Board of Selectmen meeting minutes of January 14, 2019 as amended."**

**Motion: Tamra Ham**

**Second: Jayne Ludwig**

**Motion carries.**

**MOTION: "To approve the Board of Selectmen Non-public meeting minutes of January 14, 2019 as presented."**

**Motion: Tamra Ham**

**Second: OJ Robinson**

**Motion carries.**

**III. WATER AND SEWER TAP FEE DISCUSSION**

The Board reviewed the Water and Sewer Tap fee schedule and Chairman Robinson recommended the fees be restructured. Robinson suggested they look at the sale and fees and enter various information relative to a single-family, multiple family and various housing units as examples, and to focus on the water and sewer fees. It was noted with an increase of Air B&B's, this is creating a greater demand and impact on the town's infrastructure.

**IV. OLD/NEW BUSINESS**

**Board of Selectmen's Annual Report**

Chairman Robinson asked the Board if they had reviewed the draft of their 2018 Annual Report. All members were in agreement that the report was fine and could be submitted for print.

## **Town Managers Report**

### **Lady's Bathtub Parking Lot**

Town Manager Burbank met with Riverfront Condo resident Cindy Lloyd to discuss the chronology of events that led to a discussion about parking at the Ladies Bathtub during a previous Select Board meeting. Lloyd submitted a written background and clarification to the Board of Selectmen in response to the previous discussion and requested her response be read into the meeting minutes (*see attached*).

Chairman Robinson also suggested the town put a sign up that states "carry-in/carry-out." There is a trashcan in the parking lot, however, the town strongly encourages the public to carry out whatever disposables they carry into the swimming area.

### **Transfer Station Scale**

Town Manager Burbank asked for clarification on whether or not the money for a scale at the transfer station will come out of this year's budget (2019) or next years. The Board wanted to see the meeting minutes from the joint Lincoln-Woodstock Budget Committee meeting to see what the joint committees decided upon. Robinson recommended this be deferred to the budget committee to determine whether or not to fund this in the 2019 budget.

### **Main Street Paving**

DPW Hadaway submitted a memo detailing two (2) DOT paving projects scheduled for the spring of 2019 as follows: (1) Route 3 beginning at NH Route 175 in Woodstock and proceeding northerly 4.9 miles to a pavement joint south of I-93 Exit 34A overpass in Lincoln. This involves a 3/4" overlay, 1 1/2" full width inlays, upgrade of sidewalk curb ramps, and the replacement of guardrail sections as needed within the project limits, and (2) Route 112 beginning at Recycle Road in Lincoln to Pollard Brook Resort entrance. This will involve a 2" mill-and-fill. DPW Hadaway will be attending the preconstruction meetings on both projects once the contract has been awarded to a bidder.

### **Trustees of the Trust Fund Investigation Findings**

Director Donovan of the Charitable Trust Unit of the State Attorney General's office submitted his letter of findings resulting from an investigation that focused on the management of the Town of Lincoln's Trust Funds and Capital Reserve funds. The letter is addressed to Trustee's Herbert Gardner, Lutz Wallem, and Bev Hall (*see attached*). Selectmen Ham asked if Town Manager Burbank could help the trustees locate a third party to handle the investment duties and bookkeeping obligations for the administrative aspect of their responsibilities. Burbank explained that he was told by Director Donovan that he has no fiduciary authority to intercede in any aspect of the Trust Fund Committees operations. If all of the trust fund seats become vacant, at that time the Selectmen can step in and appoint temporary trustees to fulfill the committee's responsibilities. Chairman Robinson suggested the trustees hire an auditing firm or third-party company to take over the bookkeeping operations. Robinson said he would reach out to Chairman Gardner to make this recommendation.

Chairman Robinson took a moment to read the Trust Fund committees interest report as follows: In 2015 the town earned \$229. in interest; 2016 the town earned \$8,169., in 2017 the town earned \$23,882., and in 2018 the town earned \$50,520 in interest. Robinson noted that this is quite impressive in light of the record keeping issues, and hopes that the trustees decide to use the interest earned to hire a firm to assist with all future record keeping and tax filings.

### **The Landing Bankruptcy**

The hearing for The Landing bankruptcy has been re-scheduled to March 5, 2019 at 9:30 a.m.

### **Declaration of Candidacy**

The filing period for interested candidates (residents) to fill out a Declaration of Candidacy for Board, Committee, and Trust Fund seats that are up for re-election is now open through February 1<sup>st</sup>. Interested persons may come to the Town Clerk's office at Town Hall, 148 Main Street through 5:00 p.m. on Friday, February 1<sup>st</sup>.

### **Snow Removal Operations**

Selectman Ham gave kudos to the DPW crew on their recent snow removal operations and thanked them for doing such a great job. Ham noted that a Maple Street resident reached out to her concerning a snow bank on the corner of Maple Street and Pollard Road that is causing a visual obstruction. Town Manager Burbank said he would speak with DPW Hadaway to see if there is anything he can do.

### **Budget Discussion**

Selectman Ludwig questioned whether or not they should take the water meters out of the budget and put the money back that was removed from the capital reserve and other line items. She felt that by doing this it would only create a minimal impact on taxes, and then in the future they could re-visit the water meter discussion. Ludwig noted she is receiving a lot of feedback from the community that they are *not* in favor of water meters, and feels that the town should address their water and sewer issues first and then at such time discuss implementing the water meters. Chairman Robinson explained that the proposed \$1.5 million for water meters would be paid out of a bond for \$1.5 million, and essentially would not affect this year's tax rate (because the money would be borrowed). The tax rate will be affected in future years as the bond is repaid, however, if the town begins charging for water usage, these fees will basically pay for the bond and not affect the tax rate.

### **Water Meters**

Town Manager Burbank asked the Board if the town has formally decided to charge for water. Ham explained that the Board was waiting to hear formal recommendations from the Ad Hoc Water Committee, however, each of the Selectmen has voiced their support for charging for water. Further discussion ensued concerning charging for water and educating the public. Burbank requested a formal statement or decision be made confirming the town's intent to charge for water, and the Board made the following motion:

**MOTION: "The Board of Selectmen intends on coming up with a fee schedule for charging for water once the water meters are installed."**

**Motion: OJ Robinson**

**Seconded: Tamra Ham**

**Motion carries**

***Abstained: Jayne Ludwig***

### **Town-wide Fee Schedule**

Town Manager Burbank explained that Chief Beard was searching for information on how the town can offset some of his Fire Department expenses, and found that town's such as Salem, NH have competitive fee schedules that bring in substantial revenues to the town. After a quick review of the schedule, Burbank noted that Lincoln could bring in higher revenues that would offset many of the town's costs. Burbank asked that the Board review the fee schedule to discuss at a later date.

### **Public Participation**

Roger Harrington told the Board that last Thursday during the rain storm, the Maple Street extension culvert backed-up with ice and caused extensive flooding to the roadway. Chairman Robinson asked Butch to speak with DPW Hadaway to see if there is any way to prevent this from happening in the future (possibly bucket-load the snow out). Harrington also noted that down at the other end of Pollard Road the town installed a drywell to catch heavy rain waters, and it appears to have frozen up and caused damaging flooding. Robinson suggested DPW Hadaway take a look at the drywell to see if there is any mitigating that can be done prior to the water freezing.

### **Levee Repair Project (Sewer Lagoons)**

Jim Welsh asked what was going on with the levee at the sewer lagoons. Burbank responded that the project recently went out to bid and inquiries are starting to come in.

### **Culvert outside resident Debbie Celino's home**

Debbie Celino explained that there is a culvert in front of her house that goes under her driveway and out under the state highway fence, and every time there is rain it puddles up. During the winter months these puddles freeze up and create a hazard. Burbank said he would speak with DPW Hadaway and see what can be done in the spring when everything thaws out.

### **Budget Committee at Town Meeting**

Chairman Robinson asked Selectman Ludwig if she asked the Budget Committee whether or not they were interested in sitting up front and speaking at Town Meeting. Ludwig did speak with the committee and they decided that they did not want to do so.

### **Vachon Clukay Certified Public Accountants**

The Board reviewed the Vachon Clukay contract to audit the town's financial statements and made the following motion:

**MOTION: "To sign the new Vachon & Clukay Auditors Contract for the 2018 Audit."**

**Motion: Tamra Ham**

**Seconded: OJ Robinson**

**Motion carries**

## **V. 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: Jayne Ludwig**

**Motion Carries.**

The meeting adjourned at 7:40 p.m.

Respectfully Submitted,  
Jane Leslie

Approval Date 2 /04 / 2019

Chairman OJ Robinson

Selectman Tamra Ham

Selectman Jayne Ludwig



## Background and Clarification of Lady's Bath Discussions

In response to some Riverfront resident concerns regarding the Lady's Bath, on September 6, 2017, Cindy Lloyd met on site with the Town Manager Butch Burbank and Police Captain Jeff Burnham to determine the extent of the recreational area with respect to the river and to agree on how to resolve on any problems which might come up with its visitors and use.

It was agreed that areas within the high water mark of the river, even those that fall within our property line, are also open to public use.

It was agreed that residents can contact the police to resolve the following within the above and the established Bath area:

- Excessive noise
- Obscene behavior
- Activity which poses risk to themselves or others (fights, fireworks, etc.)

Trash removal continues to be a problem. It was agreed that the Town would additionally post the Bath Rules, including "Carry In/ Carry Out", at the head of the stairs to the Bath. This would reinforce the sign posted in the parking lot.

It was agreed that during the active season the police would patrol the Bath a couple of times a day to assure that people are following the posted Bath rules (no glass, dogs under control, etc.).

Parking which has been a difficult issue was also discussed. With the advent of the internet and recommendations by local hotels, the Bath has become an increasingly popular spot. On weekends, we have security at our own expense to manage the traffic flow. There are a limited number parking spaces at the Bath. Parking in resident areas is not allowed (posted) as many condos are occupied in the summer. Until last year, parking was allowed along the sides of West Branch Rd. However, it was determined that these areas need to be kept open and marked as fire lanes (posted) to assure that emergency vehicles can access all buildings (safety issue). That leaves the only available parking in the circle at the Bath.

Consequently, many visitors (most out of state) have been unhappy about not being able to park in the area when the Bath lot is full. Some have expressed that to residents. In reality, access to the Bath itself is not restricted. People can always walk in. Many do. In our meeting, we also discussed the possibility of expanding the Bath parking. It should be made very clear that this was not a request from Riverfront Condominium Association. It was just a suggestion should the Town want to consider it. (We also discussed this in a later CIP meeting.) It seemed easy in discussion, but needs further analysis. If the Town moves forward, the expansion should only be to our established property line with appropriate buffer.

Whether or not there is expansion, it was agreed that should cars be parked illegally within Riverfront, residents should call the police to resolve. With the one owner exception noted in prior BOS minutes, Riverfront Condominium Association has not had to tow with respect to Bath in prior years.

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD  
ATTORNEY GENERAL



JANE E. YOUNG  
DEPUTY ATTORNEY GENERAL

January 17, 2019

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Lutz Wallem  
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Re: Town of Lincoln Trustees of Trust Funds

Dear Trustees:

This letter follows up on the Charitable Trust Unit's investigation meeting held pursuant to RSA 7:24 and 25 in the Lincoln Town Hall on November 30, 2018. Our investigation focused on the management of the Town of Lincoln's trust funds and capital reserve funds held in your custody as the Trustees of Trust Funds. The total amount involved exceeds \$3 million.

The investigation revealed numerous errors in the accounting of the funds and in other matters. Withdrawals and transfers had been made from the wrong sub-accounts, one sub-account (for solid waste facility) had improperly been closed, requests for information had not been addressed, and the location of some trustee documents was not known. In addition, \$64,000 could not be located from the closed solid waste facility sub-account.

Ms. Hall, the trustee assigned to be the bookkeeper, took full responsibility for the accounting errors, although she had not yet resolved them. The other two trustees admitted they had no oversight whatsoever of the accounting. Mr. Wallem and Mr. Gardner have devoted their efforts instead to locating banks that offer deposit accounts paying higher rates of interest.

As a result of the meeting, Johnna Hart, town finance director, contacted a representative of Citizens Bank, the institution holding the accounts at issue. A Bank employee offered to visit Lincoln, and spent much of December 5, 2018 working with Ms. Hall and Ms. Hart. That effort

<http://doj.nh.gov/charitable-trusts/>

Telephone 603-271-3658 • FAX 603-271-2110 • TDD Access: Relay NH 1-800-735-2964

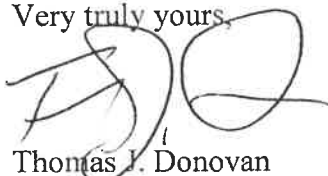
resulted in resolution of the errors, reversal of the improper transfers between sub-accounts, and the discovery of the missing \$64,000. All of the funds have now been fully accounted for, as we understand it.

Through the intervention of others, the errors made in the accounts entrusted to the Lincoln Trustees of Trust Funds have been corrected. But this episode has shown that the Trustees did not properly exercise their fiduciary duty of care to oversee the funds entrusted to them. Trustees are held to the highest standard of care with respect to Town trust and capital reserve funds and each of you have not lived up to that standard. All three of you are jointly and severally held to this duty even though Ms. Hall serves as the trustee bookkeeper.

In light of this, you each should consider whether to continue serving Lincoln as a Trustee of Trust Funds. This is a decision for you and also for the voters of Lincoln to make. Should you remain as Trustees, you should then consider whether to retain paid professional banking or brokerage assistance. This assistance is permitted both for trust funds and for capital reserve funds. RSA 31:38-a and 35:9-a. The arrangement may include both expert investment and bookkeeping services.

With this letter, we are closing our investigation. Feel free to contact us should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'TJ Donovan', written over a circular stamp or seal.

Thomas J. Donovan  
Director of Charitable Trusts  
(603) 271-3591  
tom.donovan@doj.nh.gov

TJD/d  
cc: Alfred Burbank, Town Manager