

**LINCOLN BOARD OF SELECTMEN
PUBLIC HEARING MEETING MINUTES
APRIL 8, 2019 – 5:30PM**

APPROVED

**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH
(MEETING VIDEO AVAILABLE AT WWW.LINCOLNNH.ORG)**

Board of Selectmen Present: Chairman OJ Robinson and Jayne Ludwig

Excused: Tamra Ham

Staff Present: Town Manager Burbank, Chief Ron Beard, & Administrative Assistant, Jane Leslie.

Public Present: Roger Harrington, Debbie Celino, Jim Welsh, Mike Donahue Sr., Mike Donahue Jr., Kelly Philbrick, Kevin and Delia Sullivan, Mark Ehrman, Dave Beaudin, Margie & Dan Gozdiff, and Brent Druin

I. CALL TO ORDER

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

II. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING

MOTION: “To approve the meeting minutes of April 1, 2019 as presented.”

Motion: OJ Robinson

Second: Jayne Ludwig

Motion carries.

There were no Non-public Meeting Minutes

III. PUBLIC HEARING ON THE PROPOSED PURCHASE OF TOWN-OWNED LAND (2ND HEARING) PURSUANT TO RSA 41:14-A (FIRST HEARING WAS HELD ON MARCH 25, 2019)

Chairman Robinson provided a brief overview of tonight’s Public Hearing and explained that this is the second of two (2) required Public Hearings (first hearing was held on March 25th) for the proposed sale Lot No. 4 in the Industrial Business Park. There was a Planning Board review and recommendation discussion on March 13th where the Planning Board did *not* recommend the sale of this lot. Robinson explained that Selectman Ham was not available for this evenings hearing, and had requested that she be part of the deliberation process, therefore, the Selectmen would not be making a final decision this evening.

Chairman Robinson opened up the Public Hearing at 5:33 p.m. (for questions, comments, etc.) and read a letter received from Industrial Business Park residents Kevin and Delia Sullivan d/b/a Sully & Sons Holding, LLC & QL Manufacturing Company (*see attached*).

Planning Board member Mark Ehrman asked the Board if they were able to locate any of the original historical documentation that details the covenants and restrictions that are outlined in the Sullivan’s deed. Chairman Robinson explained that the town staff is currently researching town records and stored files in an effort to retrieve as much historical documentation on the Business Park as possible. Mr. Ehrman feels it would be helpful if this information could be scanned and posted on the town’s website in an effort to provide a common basis of fact(s) for the public. Town Manager Burbank added that there were numerous discussions that were not all documented or formalized in the form of a signed agreement, but rather a verbal understanding.

Delia Sullivan commented that she had delayed putting forth an offer on Lot No. 4 due to the uncertainty

of the covenants and restrictions on the Industrial Business Park lots (whether or not housing was going to be put in) and feels that once the covenants are re-established (here going forward) she should have the opportunity to bid a fair offer on the abutting Lot No. 4 to her property. Town Manager Burbank added that Town Planner, Carole Bont did conduct research on the deeds and determined that the Sullivan's and Mr. Donahue's deeds have the exact same covenants and restrictions recorded with the Grafton county Registry of Deeds.

Jim Welsh asked if it was possible for the potential purchaser of Lot No. 4 to buy another lot in the Business Park so that the town could then sell two (2) lots. Robinson said that this is certainly a possibility and a point well taken.

Brent Druin (owner of Century 21) questioned what type of business the proposed buyer was putting on Lot No.4. Chairman Robinson explained that Kurt O'Connell (O'Connell Builders) has proposed building a structure that will house his office and headquarters, as well as rental space to other similar types of contracting services (plumbing, electric etc.) that may not necessarily be working within the confines of the building all of the time. Druin questioned why the town would allow this if in fact it is in contrast to the original intent for the Business Park. Mr. Druin explained to the Board that he was one of the original Real Estate Companies that coordinated with Town Manager Ted Sutton to list the Industrial Business Park lots, and noted that there was a growing frustration with the town during this time because of the covenants and restrictions that prohibited many potential buyers from putting their businesses in the park (did not meet the criteria). A discussion ensued on the type of business Mr. O'Connell was proposing to put on Lot No. 4 (*Kurt O'Connell was not present for this meeting*).

Delia Sullivan commented on what she feels is a common thread amongst the Planning Board and Board of Selectmen's discussions on the Industrial Business Park, which is the implementation of an *Overlay District* to create residential housing within the park. Sullivan feels that Mr. O'Connell's true intent is to create multi-family housing units in the Business Park. A discussion ensued on workforce housing.

Dan Gozdiff asked why the Selectmen were pressing forward if the Planning Board did *not* recommend the sale of this lot. Chairman Robinson explained that by law, the Board of Selectmen cannot sell this lot or any other town-owned property until they have taken the proper legal steps as outlined in NH RSA 41:14-a (Proposed sale must go before the Planning Board for recommendation, and then two (2) Public Hearings must be held).

Resident Jim Welsh asked if there was anything written in the covenants that restricted storage buildings/units within the Business Park. Chairman Robinson read the following item from the covenants and restrictions: "*any commercial or light industrial use of this lot or the structures thereupon must be of the type expected to require regular on-site staff supervision and employment. No use primarily intended for storage or other unattended purposes will be allowed.*" Delia Sullivan commented that she is open to the lots being used for businesses that may not operate 100% on-site however, she would request that her deed reflect the same and that she be given the opportunity to purchase Lot No. 4.

Dave Beaudin commented that he remembers when the idea of a business park originally came to light, and it was with the intent of helping the small "mom & pop" businesses in town by providing a place to operate so that they were not running their business in a residential neighborhood. Beaudin added that he has a neighbor who is currently running a business out of their backyard, and constantly has a flow of dump trucks coming and going with material. Beaudin feels that residential neighborhoods are not the place for small businesses to operate and it should not make a difference if a business owner stores their equipment or materials in the business park because they are still operating a business. Beaudin feels

that the town should sell Mr. O'Connell Lot No. 4 as the assessed value of the lots is relative to what the other lot owner paid for their property.

Margie Gozdiff asked what the process will be from here going forward, and when a decision will be made. Chairman Robinson explained that typically the public hearing would close and the three Selectmen would make a decision at this time, however, Selectman Ham was unable to be here this evening and requested the Board postpone any decision until next week (so that she can be part of the deliberative process). This decision will be made during the public session at the April 15th Board of Selectmen's meeting, and Robinson feels that this will allow adequate time for the Selectmen to review any new information that town staff is able to locate. Mrs. Gozdiff asked if the Sullivan's were notified when the potential buyer made an offer on Lot No. 4, and that they would not be employing at least three (3) employees (full-time, on-site). Chairman Robinson responded that discussion(s) with Mr. O'Connell have all taken place during public session, and Robinson noted that the restrictions were clear as far as Mr. O'Connell not being able to operate storage rental units. The fine line during this discussion was, (1) how often Mr. O'Connell worked at the site, and, (2) how much business activity would occur here.

Chairman Robinson explained that these discussions are why Public Hearings are held in the first place, and the Selectmen are here to listen to everyone's comments, thoughts, and concerns in an effort to make the right decision. Mr. Gozdiff asked if the Selectmen make potential bids for town-owned land public information so that others may have an opportunity to bid as well; and questioned if the Selectmen would be accepting multiple bids for this particular lot. Chairman Robinson responded that the Board does disclose the dollar amount of potential bids for land, however, there is a well-defined legal process that must be adhered to according to state statute. Once the Board accepts an offer (which they have done) they must follow the statutory steps, and if they decide not to sell the property after the second (2nd) hearing has taken place, they can then go back and review any other offers that may have been made. Selectman Ludwig noted that the Selectmen do have the right to sell the land. A discussion ensued on the criteria for selling land in the Industrial Park and future best practices here going forward. Robinson reminded everyone that the Board of Selectmen have tasked the Planning Board with creating a list of criteria (covenants and restrictions) for selling lots in the Business Park.

Selectman Ludwig explained that she had read in an RSA that there is an *intent* when it comes to the sale of public land, and the town is not in the business of making a profit (primary monetary gain) when selling town-owned land. Ludwig wants to ensure that the Selectmen have all of the paperwork on the Industrial Park to review prior to making any final decisions.

Kevin Sullivan commented that his primary concern is the *jobs issue*, and asked the Board what recourse they have if the lot is sold to Mr. O'Connell and he puts up a building but fails to have employees on-site (*can the town take back the land?*). Chairman Robinson explained that there could be legal action if the lot does not conform to the covenants and restrictions.

Chairman Robinson reiterated that this information has all been extremely helpful for the Board as they are stewards of the Town's land and they want to make the right decision (the Board will publicly deliberate and make their decision next week). Kevin Sullivan asked if this hearing can be continued until next week (April 15th)? Dave Beaudin thought it would be a good idea to continue the hearing so that the Board would have a chance to review any new documentation that may come to light as a result of the town's research. Town Manager Burbank added that town staff are almost done with their research and will email the Board with all of the information for them to review. It was also noted that next Monday (April 15th) is the joint Lincoln-Woodstock Board of Selectmen's meeting which begins at 5:30 p.m. and will be covering numerous topics, so the continued hearing will not begin until at least

7:00 p.m. Chairman Robinson agreed to continue the public hearing and made the following motion:

MOTION: “To continue the Public Hearing until next Monday, April 15th at 7:00 p.m.”

Motion: OJ Robinson

Second: Jayne Ludwig

Motion carries

Chairman Robinson closed the public hearing at 6:20 p.m.

IV. OLD/NEW BUSINESS

Town Managers Report

ISO Update

Town Manager Burbank and Chief Beard met with an ISO Representative on Wednesday and provided him with the Hoyle, Tanner *Fire Flow Assessment Report*. ISO is not an insurance company but rather a data collections agency that compiles and evaluates information from towns and cities for various insurance underwriters (provides potential risk factors to insurance companies). ISO will be following up with Chief Beard after they have completed a thorough analysis of all of the information they have been provided. Town Manager Burbank explained that the town was due for a revaluation this coming fall 2019, and ISO made the determination to come and visit sooner as a result of questions Chief Beard/BOS had concerning how the town can be proactive and protect its ISO rating.

Water Study

Town Manager Burbank signed the Hoyle, Tanner agreement for the upcoming Water Study which will provide solutions based on the information yielded from the Fire Flow Assessment Report. This report will work in conjunction with the ISO recommendations. Hoyle, Tanner has thirty (30) days to provide a preliminary report and will then schedule a date to present the report (after May 3rd) which will be done in the context of a public hearing event.

Trustees of the Trust Funds

Town Manager Burbank explained to the Board that the Trustees held their first meeting with their newest member, Jeanne Beaudin on April 4, 2019 and the meeting went well (this can be viewed on the Town’s Website (www.lincolnnh.org)). The Board signed a letter of authorization for Jeanne Beaudin to act in the capacity as a Trustee for the Citizens Bank accounts.

Northern Borders Grant Writer

Town Manager Burbank has secured the services of Grant Writer, Diane Lane who has been in contact with North Country Council who administers the Northern Borders Regional Commission Grant (*Economic & Infrastructure Development Investment Program*) and it is not clear if water meters meet the criteria of the grant program. Ms. Lane will be doing further research before beginning the grant writing process to determine whether or not it is feasible to apply for this particular grant, and she will then turn her attention to applying for the grant for the water storage tank (*must be submitted by May 10th*).

Joe Chenard Junkyard Litigation

The scheduled mediation for the Joe Chenard litigation has been cancelled and the town’s attorney is drafting next steps going forward (return to court).

Bear Proof Dumpsters

Selectman Ludwig commented that the bears are up and around and questioned if Chief Beard is actively checking dumpster to make sure they are being properly secured with bear-proof lids. Town

Manager Burbank said the Police Department and Chief Beard have been getting the word out and will keep on top of it.

Paving of Route 112 – Main Street

The Board reviewed a letter received from the NHDOT concerning the upcoming summer resurfacing project on Route 112. Under this project, NHDOT has funding available for minor work involving relocating or eliminating crosswalks. Town Manger Burbank explained that there are three (3) crosswalks that the state is going to request the town relocate: (1) crosswalk at Dunking Donuts, (2) crosswalk at the Gypsy Café, and, (3) crosswalk at the Depot Plaza. In addition to relocating the Depot Plaza crosswalk, it will also have to be lit, and the speed limit will be increased to 40 m.p.h. The following are additional proposed crosswalk changes: (1) Church Street will be left as is, and lighted; (2) Coolidge Street will be eliminated, (3) School Street will be relocated and lighted, (4) Pleasant Street will be relocated and lighted, (5) Lincoln Center North will be lighted, (6) West of Labrecque Street will be moved, and, (7) West Street will be eliminated. Town Manger Burbank will be meeting with the Police Department and DPW Hadaway to review the NHDOT letter and proposed changes for input.

Selectman Ludwig feels the town has ordinances that are not being enforced (flags, banners etc.) and questions why we would invest money in flashing lights when we don't enforce other town regulations. Chief Beard responded that the state (DOT) is requesting the town have adequate lighting for its crosswalks, and the only other option would be to remove the crosswalk(s) altogether. Chairman Robinson responded that when someone sees that an ordinance is not being enforced, it must be brought to the proper authority's attention.

Public Participation

Roger Harrington asked if the contractor for the new roof at the Community Center has come to look at the leak and questioned if there was a warrantee. Town Manager Burbank responded that the contractors have not come to look at the roof yet and once they do it will be determined if the leak is covered under their warrantee.

Jim Welsh asked if there was any news on West Street yet. Chairman Robinson explained there has been not progress at this point to report.

V. NONPUBLIC SESSION Pursuant to RSA 91-A: 3:II (d,e) Potential Real Estate Transaction & Litigation.

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

Motion: O.J. Robinson Second: Jayne Ludwig Motion carries.

The Board went into non-public session at 7:00 pm.

MOTION: "To re-enter public session."

Motion: OJ Robinson Second: Jayne Ludwig Motion Carries.

The Board came back into public session at 7:10 p.m.

V. ADJOURNMENT

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

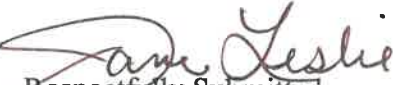
MOTION: "To adjourn."

Motion: OJ Robinson

Second: Jayne Ludwig

Motion Carries.

The meeting adjourned at 7:15 p.m.


Respectfully Submitted,
Jane Leslie

Approval Date 4 /15 / 2019


Chairman OJ Robinson

Selectman Tamra Ham


Selectman Jayne Ludwig

SULLY AND SONS HOLDING LLC &
QL MANUFACTURING COMPANY
PO Box 665
21 Arthur Salem Way
Lincoln, NH 03251
TEL: 603-745-7008
FAX: 603-745-7009
WWW.QUIKLOC.COM

April 5, 2019

Town of Lincoln
Board of Selectmen and Planning Board
PO Box 39
Lincoln, NH 03251

Dear Town of Lincoln,

We purchased land from the Town of Lincoln, in the Industrial Park, in October, 2012. We were told by the representatives of the town, that the Industrial Park Zone, which was also in a NH Economic Revitalization Zone, was zoned for light industrial business. We were also told that our business would have to bring new full time year round employees to town, at least three. This was listed in real estate brochures and advertisement.

Our business, QuikLoc Company, was located in New Bedford Massachusetts, and we decided as a family to relocate to Lincoln. We purchased this land and moved our business and sold our family residence and moved into our second home in Lincoln full time. We have been happy and the business is thriving here. One reason we made the purchase in the Lincoln Industrial Park was because our old shop in New Bedford was in a residential area and we did not want that type of neighborhood going forward. We hoped with our sons joining the business (now 4 total employees) we would grow. It was stated that the jobs needed to be on site and supervised, which ours are.

Business has been successful in the new location. We have been thinking of expanding the building and business into the land known as Lot 4. However, we were under the impression, by the BOS that we would have to add 3 more jobs if we purchased this lot. We are interested in adding more employees, however, we are not sure of time frame and it may be just one at a time. Also, with all the talk of an overlay district for Residential and Work Force housing we were hesitant to make this offer. We do now have an offer in to the BOS for Lot 4 also. We do not feel that this land should be used for contractor storage, and we are under the impression that the land was to be sold to companies that can bring new higher paying, non seasonal jobs into the area, which we have done.

My husband, myself and younger son, volunteer here in town for New England Disabled Sports. I am on the parish council at St. Joseph's Church and a member of the Zoning Board of Adjustment. I also volunteer and run a support group at the Lincoln library for NAMI (National Association of Mental Illness). My older son is also on Ski Patrol at Loon, an EMT for Lin-Wood Ambulance and also a volunteer fire fighter for the Town of Lincoln. Suffice to say, we have assimilated well here in Lincoln, and do try to give back to the community in various ways.

We would appreciate the town to uphold the covenants that we agreed to and not allow the sale of Lot 4 to the contractor that wants to put his shop and storage on that lot. Our interests will be harmed if this sale goes through as well as the interests of the town.

The covenants on the deed are as follows:

- A. The conveyed lot can only be used for light industrial and commercial purposes which conform in all ways to the applicable state and local ordinances provided that any particular use must also be approved by the Town of Lincoln which approval shall not be unreasonably withheld.
- B. Any commercial or light industrial use of this lot or the structures thereupon must be of the type expected to require regular on-site staff supervision and employment. No use primarily intended for storage or other unattended purposes will be allowed.
- C. Any change of business type utilizing the herein conveyed property will require the prior, written approval of the Town of Lincoln.
- D. Outside storage of materials will be limited to those storage uses approved by the Town of Lincoln with approval shall not be unreasonably withheld.
- E. Maintenance of the grounds and structure will be subject to the intermittent review and approval of the Town of Lincoln and its representative.
- F. Grantee, its successors and assigns will provide a site plan reflecting the expected construction and use of the property deeded herein to the Town of Lincoln for approval within one (1) year of the property's transfer to grantee.

I also request a copy of the original deed from the Roman Catholic Bishop of Manchester to the Town of Lincoln dated July 23, 1970.

Sully and Sons Holdings respectfully requests that the Town of Lincoln, uphold the covenants that were agreed to and not allow the sale of Lot 4 to the contractor that wants to put his shop there and rent storage space to other contractors on that Lot. We also respectfully request that the zoning in the Industrial Park remain in effect.

Best Regards,



Delia Sullivan
Sully and Sons Holdings
QuikLoc Company
Lincoln Town Resident

enc. Sully and Son QuitClaim Deed



3926-0018

10/22/2012 1:20 PM Page: 3
REGISTER OF DEEDS, GRAFTON COUNTY

Handwritten signature



OK

QUITCLAIM DEED

THE TOWN OF LINCOLN, a municipal corporation, located at Grafton County, New Hampshire, for consideration paid, **GRANTS to SULLY & SONS HOLDINGS LLC**, a New Hampshire limited liability company with a place of business in Lincoln, New Hampshire and a mailing address of P.O. Box 665, Lincoln, New Hampshire 03251, with **QUITCLAIM COVENANTS**, the following described premises:

The land situated in Lincoln, County of Grafton, and State of New Hampshire, shown as Lot 6 on a plan entitled "Subdivision of Lincoln Industrial Park in the Town of Lincoln, N.H., surveyed January 1993 - July 2006, by Sabourn Surveying, Inc.," said plan having been recorded as Plan # 12580 in the Grafton County Registry of Deeds. Reference to said plan is made for a more complete description of the herein conveyed lot, being a portion of tax lot 15-32 and further shown on said plan to contain 0.37 acres.

The above lot is conveyed subject to the following covenants and restrictions which shall run with the land and be enforceable in equity by the grantor. Where authorization or approval of the Town of Lincoln is required, the Lincoln Board of Selectmen will constitute sufficient authority to act on behalf of the Town:

- a. the conveyed lot can only be used for light industrial and commercial purposes which conform in all ways to the applicable state and local ordinances provided that any particular use must also be approved by the Town of Lincoln which approval shall not be unreasonably withheld.
- b. any commercial or light industrial use of this lot or the structures thereupon must be of the type expected to require regular on-site staff supervision and employment. No use primarily intended for storage or other unattended purposes will be allowed;
- c. any change of business type utilizing the herein conveyed property will require the prior, written approval of the Town of Lincoln;
- d. outside storage of materials will be limited to those storage uses approved by the Town of Lincoln which approval shall not be unreasonably withheld;
- e. maintenance of the grounds and structures will be subject to the intermittent review and approval of the Town of Lincoln or its representative;
- f. grantee, its successors and assigns will provide a site plan reflecting the expected construction and use of the property deeded herein to the Town of Lincoln for approval within one (1) year of the property's transfer to grantee;

- g. grantee, its successors and assigns will complete that construction and development detailed in the approved site plan within eighteen (18) months of site plan approval by the Town of Lincoln; and,
- h. no storage of materials deemed to be hazardous waste by the New Hampshire Environmental Protection Bureau and the United States Department of Environmental Protection shall be allowed.

Meaning and intending to convey a portion of that property conveyed by Warranty Deed from the Roman Catholic Bishop of Manchester, a corporation sole, with a principal place of business in Manchester, County of Hillsborough, State of New Hampshire, to the Town of Lincoln, a municipal corporation with a principal place of business in Lincoln, County of Grafton, State of New Hampshire, dated July 23, 1970 and recorded in the Grafton County Registry of Deeds at Book 1131, Page 490.

Witness the hand of the Board of Selectmen of the Town of Lincoln, thereunto duly authorized this ____ day of October, 2012.

Nelson Jones
Witness

Nelson Jones
Witness

Nelson Jones
Witness

Town of Lincoln, Board of Selectmen
By:

O.J. Robinson
O.J. Robinson, Chairman

Patricia McTeague
Patricia McTeague, Member

Tamra Ham
Tamra Ham, Member

STATE OF NEW HAMPSHIRE
GRAFTON, SS.

October 19, 2012

Personally appeared the above named O.J. Robinson, Chairman of the Board of Selectmen of the said Town of Lincoln, a municipal corporation, and acknowledged the foregoing instrument to be his free act and deed, acting in his said capacity, and the free act and deed of the said Town of Lincoln.

Before me,

Brook J. Rose
Notary Public

Print or Type Name of Notary:

Brook J. Rose

My Commission Expires:

June 25, 2013

STATE OF NEW HAMPSHIRE
GRAFTON, SS.

October 19, 2012

Personally appeared the above named Patricia McTeague, Member of the Board of Selectmen of the said Town of Lincoln, a municipal corporation, and acknowledged the foregoing instrument to be her free act and deed, acting in her said capacity, and the free act and deed of the said Town of Lincoln.

Before me,

Print or Type Name of Notary:

My Commission Expires:

Brook J Rose
Notary Public

Brook J Rose

June 25, 2013

STATE OF NEW HAMPSHIRE
GRAFTON, SS.

October 19, 2012

Personally appeared the above named Tamra Ham, Member of the Board of Selectmen of the said Town of Lincoln, a municipal corporation, and acknowledged the foregoing instrument to be her free act and deed, acting in her said capacity, and the free act and deed of the said Town of Lincoln.

Before me,

Print or Type Name of Notary:

My Commission Expires:

Brook J Rose
Notary Public

Brook J Rose

June 25, 2013