

LINCOLN BOARD OF SELECTMEN

APPROVED

MEETING MINUTES

FEBRUARY 3, 2020 – 5:30PM

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

(MEETING VIDEO AVAILABLE AT WWW.LINCOLNNH.ORG)

Select Board Present: Chairman OJ Robinson, Tamra Ham, and Jayne Ludwig.

Staff Present: Town Manager Burbank, Police Chief Chad Morris, Fire Chief Ron Beard, and Administrative Assistant, Jane Leslie

Public Present: Cinda D'Amante, Mary Conn, Roger Harrington, Dave Larsen, Cindy Lloyd, Paul Beaudin, Kim Pickering, Tom Tremblay, Delia Sullivan, Dave Beaudin, Susan Chenard, Taylor Beaudin, Sarah Umberyur, Bob McLaughlin, Sharon O'Brien, Michael O'Brien and Amy Cleveland

I. CALL TO ORDER

Chairman Robinson called the meeting to order at 5:31 p.m.

II. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING

MOTION: "To approve the meeting minutes of January 27, 2020 as presented."

Motion: Tamra Ham **Second:** Jayne Ludwig **Motion carries.**

MOTION: "To approve the Non-public meeting minutes of January 27, 2020 as presented."

Motion: Tamra Ham **Second:** Jayne Ludwig **Motion carries.**

MOTION: "To approve the second Non-public meeting minutes of January 27, 2020 as presented."

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

MOTION: "To approve the amended joint Board of Selectmen's meeting minutes of November 18, 2019 under Charging Kanc Rec/Community Center for Solid Waste Disposal from ...*It was agreed that the Transfer Station will track and bill to track and record these organizations.*"

Motion: Tamra Ham **Second:** Jayne Ludwig **Motion carries.**

III. PUBLIC HEARING: SHORT-TERM RENTAL REGULATIONS *First Public Hearing*

Chairman Robinson welcomed the public and reminded them that this meeting is being recorded for the public, and then read the draft ordinance related to Short-Term Rentals (*see attached*).

MOTION: "To open public hearing on the proposed Short-Term Rental Regulations."

Motion: Tamra Ham **Second:** Jayne Ludwig **Motion carries.**

Cindy Lloyd asked if the town will require the owner of a short-term rental(s) to provide a NH State License (Room & Meals License) number when registering with the town. Selectman Ham responded yes, as the State of New Hampshire requires this *Meals and Rooms Rental License* (certificate). Tom Tremblay asked how the town planned on policing these short-term rental businesses. Chairman Robinson explained that the town could hire a third-party agency to do the oversight, or rely on the business owners to come forward and provide this information to the town. Ludwig mentioned not to require room and meals tax

license number on the application so it does not to interfere with applicants applying for the sole purpose of safety. Town Manager Burbank commented that first and foremost are the life safety issues, as many of these rentals are housing 18+ people which could cause major implications in the event of a fire or police emergency. Selectman Ham added that the town is not doing this to police who is/isn't paying their meals and room tax, but rather to make sure that all of the owners and guests are aware of town parking, trash disposal and nuisance rules and ensure that they are being followed. A discussion ensued on unit inspections and the application process (questions to ask).

Bob McLaughlin, a representative of the Forest Ridge Unit Owners Association (FRUOA) submitted a document titled, *Comments of Forest Ridge Unit Owners' Association on Regulations Relative to Permits for Short Term Rental Proposed by the Town of Lincoln (see attached)*. McLaughlin had some questions and suggestions concerning the town's regulation on short-term rentals and reiterated that FRUOA fully supports the town's efforts, and agrees with the town's attempt to enforce life-safety issues surrounding short-term rentals. McLaughlin feels it would be very helpful to the Homeowner Associations if the list of short-term rentals was made public.

There was a brief discussion concerning nuisance complaints and other issues that condo/homeowner associations are confronted with (parking, trash, noise complaints etc.). Chairman Robinson commented that the town is not seeking to resolve nor enforce a homeowner associations' rules and regulations, and can only enforce the towns' regulations.

Delia Sullivan asked if the \$50 registration fee was a one-time fee, or something that would be done on an annual basis. Town Manager Burbank responded that this would be an annual fee. Tom Tremblay feels the town should definitely hire a third-part entity to oversee the process of tracking short-term rentals, as this requires a lot of work, time, and manpower. Burbank agreed that he definitely does not have the staffing required for this type of oversight.

Chairman Robinson thanked everyone for their valuable input and feedback and reminded the audience that there will be a second public hearing next Monday, February 10th as required by law. With no further comments or questions, the following motion was made:

MOTION: "To close the public hearing on the proposed Short-Term Rental Regulations."

Motion: Tamra Ham Second: Jayne Ludwig Motion carries

IV. WINTER ROAD MAINTENANCE OF LOUIS LAND AND PERSONNEL COMPLAINT *Discussion with Paul Beaudin*

Chairman Robinson explained that the town made a decision last week to terminate its agreement with Paul Beaudin (dated March 3, 2012) to discontinue the winter maintenance of Louis Lane, a private way. Paul Beaudin addressed the Board and explained that he received two (2) letters from Town Manager Burbank, and he would like to discuss the winter maintenance of Louis Lane and an employee issue in non-public. The second letter concerned a *Cease and Desist notice* he received from Town Manager Burbank which he wanted to discuss during public session. The Cease and Desist concerned the allegation that Mr. Beaudin was cutting trees and plowing a walkway/driveway across town land adjacent to Forest Ridge Road and the Kanc Ski Area. Beaudin explained that he has lived at his home for forty (40) years and that path has always been there and nothing he constructed. Selectman Ham asked Beaudin if he had been trimming the trees and brush along the path. Beaudin explained he's been trimming the brush along the path and snow blowing it during the winter months for forty-years, as he walks his dog along the path. Beaudin maintains that he has *never* widened the path nor cut down trees. The board presented Beaudin with photos from 2014 and the present. Beaudin explained that he has been using the path for over forty-

years and all he wants to do is continue using the path to walk his elderly dog. Beaudin added that other people and kids in town occasionally use the path which leads to his property, and he is fine with that. Mary Conn clarified that the "old path" has been there for forty-years, however, there is a "new path" that Paul has created within this past year that leads directly to his backyard. Selectman Ham recommended the board meet next Monday at the Kanc Rec Parking Area and walk the path(s) for a better visual of exactly what they are discussing. Robinson agreed and suggested they call their meeting to order at 5:00 pm next Monday, February 10, and then return to Town Hall to continue the regularly scheduled meeting at approximately 5:30 pm.

Beaudin also wanted to discuss the Kanc Rec Parking Lot, and referenced a letter from his attorney, Alvin Nix which was previously forwarded to the board explaining his concerns. Beaudin referenced a NH RSA 674:54 Governmental Land Uses, and change of use when building parking lots. Beaudin also wanted to make sure that the town holds a public meeting(s) (Planning Board meeting) if they decide to turn the portion of town land into an over-flow parking area. Beaudin reminded the board that he submitted a petition a few years ago signed by the abutters stating they oppose the development of the land located adjacent to the residential neighborhood for the purpose of providing additional parking for the Kanc Rec Area. Beaudin asked the board whether or not they have considered alternative options for parking at the Kanc other than this piece of land. A discussion ensued concerning alternative locations for additional Kanc parking.

V. COLLECTIVE BARGAINING AGREEMENT *Police Department*

Town Manager Burbank explained that he needed the Board's ratification vote tonight so that it can proceed to the next phase. There was a brief discussion concerning overtime and the following motion was made:

MOTION: "To ratify the Collective Bargaining Agreement (Police Department Union Contract) presented to the board tonight."

Motion: Tamra Ham

Second: Jayne Ludwig

All in favor.

Town Manager Burbank gave kudos to Police Department for working together with the town to reach this mutually beneficial agreement for all.

VI. OLD/NEW BUSINESS

2020 Budget

Chairman Robinson noted that the BOS and Budget Committee Hearing will be held on Thursday, February 6th. The Selectmen will be discussing the warrant articles (whether or not to recommend) on February 10th. Selectman Ham commented that the Budget Committee did not support a warrant article for the Water Meters and explained that although she is in favor of the water meters, she does not feel now is the time. Ham then made the following motion:

MOTION: "To remove the water meter bond from this years' warrant."

Motion: Tamra Ham Second: OJ Robinson

Motion Carries

Chairman Robinson then asked Selectman Ham to read the following email from the NH Municipal Association as follows:

The 10% Limitation

In towns with an official budget committee, the total amount appropriated by the meeting, including amounts appropriated in separate and special warrant articles, cannot exceed the total recommended by the budget committee by more than 10 percent. RSA 32:18. The 10 percent calculation is computed on the total amount recommended by the budget committee (including separate warrant articles), less that part of any appropriation item which constitutes "fixed charges." Fixed charges include appropriations for principal and interest payments on bonds and notes, as well as mandatory assessments imposed on towns by the county, state or federal governments.

In official ballot referendum (SB 2) towns and districts, the 10 percent limitation is calculated based on the initial recommendations of the budget committee prior to the first session, even if the budget committee changing its recommendations after amendments are made at the first session. RSA 32:5, V(b).

Exceptions to the 10% Limitation:

- Vote to override, RSA 32:18-a. If a warrant article for a bond is not recommended in its entirety by the budget committee, the governing body may vote to place the article on the warrant with the phrase "passage of this article shall override the 10 percent limitation imposed on this appropriation due to the non-recommendation of the budget committee."
- Cost items excluded, RSA 32:19. Under RSA 32:19, amounts that are included in a budget for funding the cost items of collective bargaining agreements are exempt from the 10 percent rule.

The Board agreed that more time is necessary to adequately inform the voters of what the implementation of water meters entails. A discussion ensued concerning the many issues surrounding water meters, and the board agreed that they should wait another year while moving ahead with the rate structure study and compiling as much information as possible to better inform the voters next year. The board also agreed to get recommendations from the Ad Hoc Water Committee concerning all of the issues involved, and give them another year to come up with these recommendations.

Warrant Articles

The board discussed how the warrant articles will appear on the warrant.

Town Manager's Report

Boyce Brook Water Tank

Town Manager Burbank explained things are progressing well and he is currently having talks with the North Country Council and Northern Borders. All of the paperwork is in to the US Forest Service and the town is now awaiting them to accept it.

Community Choice Aggregation (CCA) Energy Committee

Town Manager Burbank explained that a representative from Freedom Energy will be attending the next Board of Selectmen's meeting (February 10th) to hold a brief informational session as required by law (Community Choice Aggregation Program) prior to Town Meeting. This item will also be a warrant article.

Disinfection By-product (DBP) Report

Town Manager Burbank, DPW Director Hadaway, and Water Plant Operator, Dave Beaudin participated in a teleconference with Hoyle Tanner concerning the disinfection by-product report. This report has been filed with DES. The town is currently *not* in violation of DES groundwater standards.

West Street Construction Project

Town Manager Burbank explained that the bid opening was held on Friday, January 31st and four (4) bids were received as follows: (1) J. Hutchins Inc. \$1,214,953; (2) Caulder Construction \$947,930, (3) AJ Coleman \$933,640,50, and (4) Earthworks \$864,921. Town Engineer, Ray Korber is currently reviewing the bids and will have a final recommendation sometime next week.

Town Hall air quality issues

Town Manager Burbank informed the board that major air quality issues have been discovered in the Town Hall building. There is no fresh air/intake circulating in the building, and the same air is recycled through the internal air flow system. Burbank said he will be looking into purchasing individual air purifying units for the building and offices.

Public Participation

Roger Harrington asked how the roof was holding up at the Community Center and if there were any leaks since the roof has been repaired. Town Manager Burbank responded that so far so good. Selectman Ham said she would follow-up with the staff at the Community Center to see if there are any new spots on the ceiling.

VII. NONPUBLIC SESSION *Pursuant to RSA 91-A: 3: II (a,c) Two Personnel Issues and contract agreement*

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

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

The Board went into non-public session at 7:33 pm.

MOTION: "To re-enter public session."

Motion: OJ Robinson Second: Tamra Ham Motion Carries.

The Board came back into public session at 8:43 p.m.

VIII. 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 8:45p.m.


Respectfully Submitted,
Jane Leslie

Approval Date: February 10, 2020


Chairman OJ Robinson


Jayne Ludwig


Tamra Ham

February 3, 2020
Lincoln-Woodstock Joint
Budget Committee Meeting
Please PRINT Legibly

1
(Print Name)

Roger Harrington

Cindy Lloyd

Kim Pickering

Sarah Umberger

Bob McLaughlin

Dave Larsen

Paul Bordin

Sharon O'Brien

Michael O'Brien

Cinda D'Amante

TOM TREMBLAY

Amy Cleveland

Debra Sullivan

Mary Ann

(Sign Name)

Roger Harrington

Cindy Lloyd

Kim Pickering

Sarah Umberger

Bob McLaughlin

Dave Larsen

Sharon O'Brien

Michael O'Brien

Cinda D'Amante

Thomas Tremblay

Debra Sullivan

Mary Ann


February 3, 2020
Lincoln-Woodstock Joint
Budget Committee Meeting
Please PRINT Legibly

(Print Name)
TAYLOR BEAUDIN

DAVID BEAUDIN

SUSAN CHENARD

(Sign Name)



**Comments of Forest Ridge Unit Owners' Association
on
Regulations Relative to Permits for Short Term Rentals
proposed by Town of Lincoln**

February 3, 2020

The Forest Ridge Unit Owners' Association (FRUOA) is a condominium association including 82 townhouse condominium units, and is one of the six junior associations making up the Forest Ridge Property Owners' Association. Certain owners of units in FRUOA offer their units as Short Term Rentals. However, the majority of unit owners do not.

To properly manage Short Term Rentals, FRUOA has promulgated rules concerning Short Term Rentals. A copy of these rules is attached as Exhibit A to these comments.

The FRUOA Board has reviewed the proposed Regulations Relative to Permits for Short Term Rentals, and encourages adoption of the proposed regulations. However, we note the following points in the proposed regulation which can be improved:

Definition of "Short Term Rental or Vacation Rental"

While we recognize that the proposed definition is based on the statutory definition in RSA 48-A:1, we believe the definition is confusing and subject to misinterpretation. Also, we believe it is inconsistent with a definition to include a substantive requirement (i.e. "must be registered by August 1, 2020"). Therefore, we suggest the definition be revised to read:

A "Short-Term Rental" or "Vacation Rental" property (hereinafter "Short Term Rental Unit") is defined as any individually or collectively owned single family house or dwelling unit or any unit or group of units in a condominium, cooperative, timeshare or planned development, or portion of an owner-occupied residential home, that is offered for a fee for rental for one or more rental periods of less than 30 consecutive days. The Short Term Rental Unit may be offered for rental throughout the year or only for a limited portion of the year. A property shall cease to be a Short Term Rental Unit if the owner ceases renting the property in any manner which would make it a Short-Term Rental Unit and notifies the Town of Lincoln of the change.

We recommend that the defined term. Short Term Rental Unit, be used throughout the Regulation. Currently, the defined term is used in the third, fourth, fifth and tenth paragraphs, and the term "unit" is used in the sixth and seventh paragraphs.

Application of the Proposed Regulation

While this comment does not affect application to Short-Term Rental Units in FRUOA, we would like to clarify the application of the proposed regulations to associations which operate as both condominiums and hotels. There are a number of condominiums which operate as hotels open to the public to rent condominium units. The Mountain Club at Loon, Riverwalk, Rivergreen and many others operate using this model.

Does the Town intend the registration requirement to apply to units in these communities? As the definition is drafted, the registration will apply to them.

Application of Association Rules in Revoking a Permit

The proposed regulation in its 10th paragraph provides that the Town may revoke a permit if a Short Term Rental Unit "becomes a nuisance" and refers to "problematic occupant actions." We strongly recommend that the Town include refusal to comply with applicable association rules as "problematic." These rules have been developed to assure orderly operation of the associations and provide a basis for determining "problematic occupant actions." For example, FRUOA rules address parking regulations (no more than 2 cars per unit), trash management, and noise and disruptive behavior.

While associations can and do enforce their requirements using their own authority, we also believe the Town should consider these requirements in the enforcement of its regulations.

Public Disclosure of Registered Short Term Rental Units

Community associations have a right and interest in knowing which properties within their associations are being offered as Short Term Rental Units. Also, individuals and associations can help the Town to develop a complete list of Short Term Rental Units if they are able to determine which properties are registered. Therefore, we strongly suggest that the Town maintain a complete, publicly available list of properties which have been registered as Short Term Rental Units.

Exhibit A

Excerpts from Rules of Forest Ridge Unit Owners' Association Relating to Short Term Rentals

By-Laws: The By-Laws of the Forest Ridge Unit Owners' Association provide at Article V §7:

Residential Use. Each unit shall be occupied and used only for residential purposes by the Owner, or a tenant, and their family, guests, invitees or licensees. An Owner may have a home office, and, upon application of the Owner and approval of the Board of Directors, may conduct other limited professional use not incompatible with the residential character of the Condominium. No other commercial or business use of any kind may be made of the Units or Common Area. This restriction on commercial and business use shall not be construed to prohibit an Owner from leasing their Unit so long as the lease authorizes the lessee to occupy and use the whole of the Unit (excluding only Owner private storage areas) for residential purposes in accordance with the provisions of this Declaration and the By-Laws. Units may not be operated as bed and breakfasts, rooming houses, or otherwise subdivided for rental. In all cases, the Owner of the Unit shall be jointly and severally responsible with their tenants for any damages or failure to comply with requirements of the Declaration or these By-Laws.

Rules: The Rules adopted by the Board of Forest Ridge Unit Owners' Association further provide at § r:

Consistent with provisions of the By-Laws and the Declaration, Unit owners may lease their entire units for short-term, seasonal or longer periods. Single night leases, leasing a portion of a unit, or "boarding house" or "bed and breakfast" style operations are not permitted. Whenever a unit is rented, the unit owner must use a written lease that contains the provisions in Appendix B to these rules.

Appendix B to the Rules specifies the language of a lease addendum which is required to be used by any unit owner leasing their unit:

Lease Addendum Forest Ridge Unit Owners Association

The unit rented under this lease is located in the Forest Ridge Community and is subject to the requirements and limitations set forth in the Declaration, By-Laws and Rules of the Forest Ridge Unit Owners Association and the Forest Ridge Property Owners Association. Therefore, Lessee is subject to these additional terms and requirements under the Lease of the unit:

1. The unit may be used exclusively by the Lessee and their immediate family and guests for residential purposes. No business or assembly use is permitted. Without limiting the former, the unit may not be used as a

meeting place for any purpose, such as religious and political meetings, as a hospitality center, or as any other gathering place.

2. No more than two (2) vehicles may be parked at the unit, and no trailers, campers or other oversized vehicles may be parked at the unit. Limited overflow parking is available in the Forest Ridge Community for additional or oversized vehicles. For some units there are assigned parking spaces, and vehicles must never be parked in assigned spaces for other units. Vehicles that do not comply with this requirement will be towed offsite at the vehicle owner's expense.
3. Open flames are not permitted. Specifically, without limitation, fire pits, charcoal grills, gas grills, torches and similar devices are not permitted at leased units.
4. Fireworks are prohibited.
5. To assure tranquility, excessive noise and disruptive activities are prohibited. Loud music and television sound must be avoided. Motor vehicles that produce excess noise may not be used. In addition, quiet hours must be observed between 10:00 pm and 8:00 am daily.
6. Use of drones is prohibited in Forest Ridge.
7. Common areas may not be used in any manner that excludes others. Tents and other shelters or outdoor furniture may not be placed in the common areas or on decks assigned to other units.
8. Additional requirements that apply to the use of the leased unit are included in the attached Rules issued by the Forest Ridge Unit Owners Association.

By signing this Lease Addendum, you specifically agree to comply with these requirements and that the requirements apply fully to you and any other person staying in the unit, and your guests.

Failure to comply with these requirements will result in eviction from the unit and forfeiture of your deposit and rent.

If you cannot comply with these requirements and limitations, do not enter into the lease for this unit.

Lessor/Agent

Lessee

Date: __/__/____

____/____/____

Regulations Relative to Permits for Short Term Rentals Pursuant to RSA 41:11-c

Pursuant to RSA 41:11-c, the Town of Lincoln will allow Short Term rentals but wants to ensure the safety of occupants, minimize neighborhood disruption, and maintain fairness related to paying for Town services.

A "Short Term Rental" or "Vacation Rental" unit is defined as any individually or collectively owned single family house or dwelling unit or any unit or group of units in a condominium, cooperative, or timeshare, or owner-occupied residential home, that is offered for a fee for less than 30 consecutive days, per RSA 48-A:1.

On or before August 1, 2020, all Short-Term Rental units must be registered with the Town. A registration form is available online at www.lincolnnh.org or at the Town office. Upon registration, a Short Term Rental permit shall be issued.

There is a \$50 annual fee to register Short Term Rental units per tax parcel.

The owner of any unregistered Short-Term Rental unit will be fined as follows starting August 2, 2020:

First offense from unit owner that was not sent a notice of this ordinance by the Town: written warning

First offense from unit owner that was sent a notice of this ordinance by the Town: \$100

Second offense, after allowing 10 days for registration since first offense: \$500

Additional offenses, after allowing 10 days for registration since second offense: \$1,000 each.

The Town has the right to revoke a permit for any Short Term Rental unit that becomes a nuisance. This action will require a minimum of three incidents within one year, validated by the Lincoln Police Department or NH State Police, where the contact person was notified of problematic occupant actions. Any unit owner found to be operating as a Short Term Rental after revocation will be fined \$1,000 per 10-day period.

If a permit is revoked, the owner may appeal the decision to the Board of Selectmen within 30 days of the date of revocation, and the Selectmen shall hold a hearing on the appeal within 45 days and either affirm the revocation or overturn the revocation. If the revocation is overturned, the Selectmen can impose conditions upon the reinstatement of the permit.

Any comments or complaints related to Short Term Rentals can be submitted online at www.lincolnnh.org or at the Town Office.

Approved by the Town of Lincoln Board of Selectmen on _____,
2020.

O.J. Robinson

Jayne Ludwig

Tamra Ham

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