

**LINCOLN BOARD OF SELECTMEN'S
MEETING MINUTES
JULY 20, 2020 – 5:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

APPROVED

Board of Selectmen Present: Chairman OJ Robinson, Vice Chair, Tamra Ham, and Selectman Jayne Ludwig

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

Public Present: Roger Harrington, Cliff Dauphine, and Cindy Lloyd (Riverfront Condo resident)

Public Present via Zoom Video Conferencing: Myles Moran, Carol Riley, Dave Beaudin, Paul Beaudin, Jay Scambio, Bob McCabe (President, Riverfront Condo Association), and Mike O'Connor.

I. CALL TO ORDER

Chairman Robinson called the meeting to order at 5:03 pm.

II. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING

MOTION: "To approve the BOS meeting minutes of July 13, 2020 as amended."

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

MOTION: "To approve the Non-public BOS meeting minutes of July 13, 2020 as presented."

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

III. LEVEE EXTENSION – MAINTENANCE RESPONSIBILITY *Discussion*

Town Manager Burbank received an email from Bunker Lane resident, Richard Sakakeeny who has expressed an interest in working with the Town to get the Army Corp. of Engineers (ACOE) to include the "levee extension" (approximately 200' - 400') as part of their re-activation of the main part of the levee, and therefore be responsible for any required repairs in the future, which he believes is the principal liability moving forward. Mr. Sakakeeny further explained that he is prepared to enter into an agreement with the Town of Lincoln to share in the maintenance responsibility. The board has agreed to meet with Mr. Sakakeeny and put this on the agenda for a future date to discuss further.

IV. LADIES BATHTUB DEED *Discussion*

Chairman Robinson explained that the board had agreed to continue this discussion from last week's meeting (7/13) so that everyone had a chance to review the town's deed for the Ladies Bathtub swimming area. The Selectmen agreed that they did not find anything specifically noted within the deed that could guide or prevent the Board of Selectmen from making any definitive decisions concerning the usage or restrictions of this swimming area.

Selectman Ludwig commented that she had a chance to go down to the swimming area this past weekend and had to call the Police Department because people were parking all over the place, and Ludwig strongly suggested reassessing this swimming area and restricting its usage. In the meantime, Ludwig recommended shutting the Ladies Bathtub down until such time that the Selectmen redefine how it can be used responsibly and safely.

Selectman Ham agrees that something needs to be done and this area must be maintained, however, Ham does not believe it should be closed down, explaining that this would be havoc for the Police Department to try to enforce.

Chairman Robinson read an email received from Riverfront Condo resident, Krista Shaughnessy, concerning the conditions at Ladies Bathtub this past weekend: *"I am an end unit owner at 23 West Branch Road, unit 12 Riverfront Condos overlooking Lady's Bath. This site needs to be shut down due to COVID 19 violations. No social distancing, no trash control, no bathrooms, health violations, no masks, plus a ton of parking violations. This place was a zoo. The NH towns of Merrimack, Wilton, North Woodstock have all shut down hiking or swimming locations due to COVID and this needs to happen here. Also, if you wish to maintain this site for the town, it is not handicapped accessible which is also a violation. Trash clean-up is not happening so the town is not maintaining the property in a responsible manner and causing owners to be put at risk due to bears visiting the area. I am paying my taxes and expect the town to maintain their property in a responsible manner. As a microbiologist this is not happening in a healthy manner and I will be contacting the state epidemiologist and legal counsel. As I said previously, other towns have shut down areas where there is no social distancing and this needs to happen here!"*

Chairman Robinson agrees that this swimming area is getting out of control (parking, trash, cooking, no social distancing, overnight camping, personal items left behind) and recommended restricting access to Lincoln and Woodstock residents, and taxpayers *only*, and to work on implementing signage that states the same. Robinson would also like to see a 10:00 p.m. curfew implemented; however, he was not certain how much control the town would have when it comes to parking enforcement on Rt. 112 because this is a state road.

Selectman Ham commented that Chief Morris should be part of this discussion (*currently on vacation*) because he would essentially be the facilitator overseeing enforcing whatever recommendations and changes that the board implements. Town Manager Burbank commented that even limiting usage to Lincoln and Woodstock residents, and taxpayers *only*, would still create the same parking issues that are currently going on, and he does not feel that this is the best alternative. Burbank explained that the Governor's order lifted concerning *limited group sizes*, and social distancing is only a *suggestion*. Burbank does not feel that the Police Department has the capacity/manpower to enforce any suggested rules for the swimming area, and he would have to hire additional officers to enforce these changes. Ludwig added that if the town does not have the resources to oversee this area, then this area needs to be closed.

Riverfront Condo resident Cindy Lloyd commented that she has lived here since 1997, and has never seen the overwhelming amount of traffic and visitors to this swimming area as she has this summer. Chairman Robinson queried the Selectmen as to what they would like to see happen to Ladies Bathtub as follows: Selectman Ludwig favors closing Ladies Bathtub down to *all* visitors; Robinson was in favor of signage allowing access to Lincoln and Woodstock residents, and taxpayers *only*, and, Selectman Ham did not want make any decisions until the Lincoln Police Chief has been consulted. Robinson clarified that when he refers to "taxpayers" he is referring to people who live in Lincoln or Woodstock, or people who own a property in Lincoln or Woodstock (not people "staying" in town) and they can either utilize their dump sticker as proof, or the town can create a sticker specifically for this.

Riverfront Condo President, Bob McCabe commented that he does not want the town to close the Ladies Bathtub, but rather to "manage it". The condo owners are having to pay money for security guards to be onsite and park cars on property that the town owns, and the matter is getting out of control. McCabe feels that this comes down to an enforcement issue and something that needs to be managed, or the condo association will have to put a gate in to manage and control the parking.

There was a brief discussion concerning towing vehicles at the owner's expense, and Selectman Ham suggested having a discussion with Deputy Chief Burnham, (in the Chief's absence) to determine what is enforceable and what is not.

The board agreed to make a proposal tonight to bring to the Police Department, and to schedule a board meeting for Wednesday, July 22. The following motion was made:

MOTION: "To bring the following proposal to Deputy Chief Burnham: (1) a process for permit parking only (either current dump sticker, or a revised sticker) for Lincoln-Woodstock residents, and taxpayers only (*all others will be towed at the owners expense*), (2) additional signage for no campfires, carry-in/carry-out, 10pm closing time, and, (3) request to State of NH to put (*or allow the town to put*) additional "No Parking" signs on Route 112 or other state roads that align town-owned swimming spots."

Motion: OJ Robinson

Second: Jayne Ludwig

Motion carries 2-1.

Nay: Tamra Ham

Robinson asked Town Manager Burbank to bring this proposal to Deputy Chief Burnham for any Police Department feedback, and the board will then hold a Zoom meeting on Wednesday, July 22nd at 4:00 pm.

Paul Beaudin asked the board how they can justify penalizing all of the town's visitors because of a few that do not respect the town's property? Beaudin recommends that the Selectmen consider this when making their decisions. Cindy Lloyd responded that they are not saying anyone is bad or good, but rather the parking lot cannot sustain the high volume of visitor traffic.

Town Manager Burbank thanked Jeanne Beaudin (Belmont Town Administrator) for sending him information on what the Town of Belmont recently had to do to apply for funding through the GOFERR (Governor's Office for Emergency Relief and Recovery) COVID grant program to apply for funding to pay for a detail officer to patrol their beach in Belmont (to control parking and non-resident taxpayer usage). The Board thanked Jeanne Beaudin.

V. OLD/NEW BUSINESS

OLD BUSINESS:

Y-Birch Kids, LLC Revised Assessments

Chairman Robinson explained that the Board of Selectmen participated in a non-meeting with Town Counsel earlier today concerning this ongoing litigation and based on this discussion the following motion was made:

MOTION: "To abate taxes to the Y-Birch Kids LLC Map 121 Lot 039, 6 Yellow Birch Circle based on the following assessments: 2016-\$1,377,600; 2017-\$1,377,600, 2018-\$1,577,600, and, 2019-\$1,777,600 and to refund the appropriate amount based on the overpayment and required 6% interest."

Motion: OJ Robinson

Seconded: Jayne Ludwig

All in favor

Revised Land Use Planning Fees (Approved)

Selectman Ham made the following motion in reference to last weeks approval of the revised Land Use Planning Fee Schedule:

MOTION: “To make the revised Land Use Planning Fee Schedule as approved on July 13, 2020 effective July 21, 2020.”

Motion: Tamra Ham

Second: OJ Robinson

All in favor.

Paul Beaudin commented for the purpose of the meeting minutes that the reason the Board of Selectmen are approving the revised Land Use Planning Fee Schedule is because the Planning Board chose *not* to weigh in on this matter.

Town Hall Board Meetings

Chairman Robinson took a moment to remind everyone that although the board meetings are no longer live-streamed, these meetings are available on the YouTube video platform (1-2 days after actual meeting) and have closed captioning available.

Short-Term Rental Application and Ordinance

Chairman Robinson explained that the approved Short-Term Rental Application and Ordinance must be changed on the Town’s Website so that the public is aware of the new dates and application deadlines.

Town Manager’s Report

Town Hall Wi-Fi/Internet

Town Manager Burbank explained that he is working with Spectrum and trying to negotiate a package that will operate off of fiber optic lines which should eliminate all of Town Halls wi-fi issues.

September 12th Fireworks

Town Manager Burbank explained that they need to secure a shoot site (Lincoln or Woodstock) so that the Fireworks Company can come in and measure and prepare for the event. Selectman Ham said she would reach out to Woodstock Selectmen Rice and Reardon and follow-up with the Burbank on the designated event site.

Town Hall Office Partitions

Town Manager Burbank explained that Town Hall desks will now have partitions around them and they should be up shortly. The costs for the partitions should be covered under the COVID-19 reimbursement program.

NEW BUSINESS:

Labrecque Street Construction Project

Town Manager Burbank explained that the Town Planner is currently drafting a *Cease and Desist* letter for the construction project on Labrecque Street. Paul Beaudin commented that if this individual is in violation of his current site plan approval, he should have to come in before the Planning Board to review this matter and then determine whether or not they must go before the ZBA. Chairman Robinson suggested Planner Bont verify and get advice as to whether or not the next step is the Planning Board or the ZBA.

Email update received from Town Clerk/Tax Collector Kristyn Brophy

Chairman Robinson explained that this email from Town Clerk, Kristyn Brophy was in response to (1) follow-up from a previous meeting between Kristyn Brophy and the Board of Selectmen a few weeks ago, and, (2) an email request from Lisa Philbrick questioning what the Town Clerk’s hours of operation were:

Good afternoon!

Brooke Rose has started today as the Assistant Town Clerk and will work Monday's and Wednesday's from 8am to 12pm, and then the remaining 4 hours either before or after we close due to childcare restrictions. Once school starts back up, we will discuss changing her schedule. All tax deposits have been made, we are all caught up and have nothing pending! As far as the days/hours of operation are concerned, it was my original goal to be open 5-days a week. Right now, remaining closed on Tuesdays allows me to have "catch up time" (as I am still in a learning curve), while also allowing me to schedule my doctor's appointments without having to worry about coverage. I have reached out to other town clerk's in the area and feel as though our current hours are comparable and more consistent, especially as not all town halls open to the public and are still by appointment only or via drop box. Also, in speaking to other town clerks, it seems as though we are actually in a really good spot as far as a backlog on items needing to be completed, including registrations (we only have a few left in the box).

The last I spoke to the Helpdesk (State DMV) they informed me they were working on the licensure in order to train via Moodle. The other idea they are throwing around is having someone come to us and training them one-on-one. She stated she would let me know as soon as they had solidified their plans. Please let me know if you have any other questions! Kristyn Brophy, Town Clerk/Tax Collector

Town Manager Burbank added that the Town of Lincoln is *not* the only municipality awaiting Town Clerk Motor Vehicle training, as the COVID crisis has slowed down many government operations.

Stormwater Discharge Permit for Forest Gardens

Chairman Robinson discussed an email received in reference to the Stormwater Discharge Permit for Forest Gardens (*see attached*). Town Manager Burbank commented that the Forest Gardens Development will have to pay for a third-party review, and Town Engineer, Ray Korber will coordinate with their engineer on a SWIPP (Stormwater Intake Protection Plan).

Energy Audit for Town of Lincoln

Selectman Ham read an email received from Public Works Director, Nate Hadaway concerning an Asset Management Energy Audit for both water and wastewater (free audit):

Nate,

Good news for Lincoln! We have been able to come up with funding between CWSRF and NHEC to cover 100% of the energy audit expenses for both wastewater and drinking water facilities in Lincoln. Once the paperwork between Process Energy Services (energy auditor) and NHEC is in place we can move forward with scheduling. Thank you to everyone who made this happen!

*Sharon L. Nall, P.E., Supervisor
Planning, Protection and Assistance Section
Wastewater Engineering Bureau, Water Division, NHDES*

Chairman Robinson commented that this audit could potentially save the town a tremendous amount of money and the Board gave kudos to Public Works Director Hadaway for his diligent follow-up.

Email received from Chelsea Harrington

Chairman Robinson read the following email received through the town's website:

Details of Issue: There are vehicles blocking part of the road every day around the intersection of connector road and route 3. Aka, Arnold's Garage. I regularly cannot see to make a left turn and the other

day the car in front of me almost hit a tow truck coming into connector road because it was in the middle of the road and hidden by the numerous other vehicles parked in the bike lane. This makes for unsafe traffic patterns and the inability to even use the bike lane for walking or biking. Please let me know what will be done regarding this major traffic issue at your earliest convenience.

Chairman Robinson suggested making the Police Department aware of this complaint so that they can investigate this matter further.

Correspondence received from Denise Heredeen

Chairman Robinson read a letter received from resident Denise Heredeen of 25 School Street (*see attached*). Ms. Heredeen is seeking to have her property restored to its original two (2) lots (Track 1 and Track 2). The board had a brief discussion and suggested Town Attorney, Peter Malia be consulted prior to following up with Ms. Heredeen.

Public Participation

Jay Scambio commented that he had spoken with Woodstock Selectman Rice briefly about a fireworks display, however, they had a bad phone connection. Scambio was looking for more detailed information about the fireworks display and what the town is asking of Loon Mountain. Town Manager Burbank explained that Lincoln and Woodstock were wondering if Loon Mountain would be willing to allow the town to move their fireworks event that is scheduled for September 12th to their grounds to better accommodate social distancing for parked vehicles. Selectman Ham explained she would get together with Selectman Reardon (Woodstock) and then follow-up with Jay Scambio.

Paul Beaudin asked the board if they have had a chance to speak with Jay Scambio about opening up their parking lots for public river access. Town Manager Burbank explained that he had not because he was on vacation last week. Scambio explained that it has been challenging for Loon to keep the public out of their parking lots (river access points) that have been closed, and they are constantly having to ask people to leave the river access points. Scambio said that he would be glad to speak with Town Manager Burbank at a later date.

IV. NON-PUBLIC Session Pursuant to RSA 91-A:3:(III) (c)

There was no public participation

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: Tamra Ham

Second: OJ Robinson

All in favor.

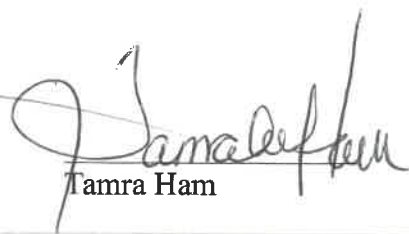

The meeting adjourned at 7:00 p.m.

Respectfully Submitted,

Jane Leslie

Approval Date: July 27, 2020


Chairman O.J. Robinson


Tamra Ham


Jayne Ludwig

Town Hall

From: Tamra Ham
Sent: Monday, July 20, 2020 6:46 PM
To: Town Hall
Subject: FW: Stormwater Discharge Permit for Forest Gardens

From: Town Manager <townmanager@lincolnnh.org>
Sent: Monday, July 20, 2020 11:02 AM
To: O.J. Robinson <robinsonbos@lincolnnh.org>; Jayne Ludwig <ludwigbos@lincolnnh.org>; Tamra Ham <hambos@lincolnnh.org>
Cc: Planning <planning@lincolnnh.org>; Fire <fire@lincolnnh.org>; Town Hall <townhall@lincolnnh.org>
Subject: FW: Stormwater Discharge Permit for Forest Gardens

Good Morning:

Just catching up on e-mails. I know this question will come up tonight. Looks like we should require an erosion & sediment control plan.

Butch

From: Peter Malia <pmalia@hastingsmalia.com>
Sent: Tuesday, July 7, 2020 3:04 PM
To: rkorber@kvpllc.com; Planning <planning@lincolnnh.org>
Cc: Town Manager <townmanager@lincolnnh.org>; Fire <fire@lincolnnh.org>
Subject: RE: Stormwater Discharge Permit for Forest Gardens

The question to me was...is this development grandfathered under the SW Management Ordinance? The answer is no, because "nobody is grandfathered from a regulation whose only aim is to prevent public harm activities which violate the rights of others." Grandfathered-The Law of Nonconforming Uses and Vested Rights (2009 Ed.), H. Bernard Waugh, Jr., p. 25.

The stated Purpose of the Stormwater Management Ordinance indicates that it falls squarely within that category. Therefore, I agree with Ray. The town should require an erosion and sediment control plan.

Peter

From: rkorber@kvpllc.com <rkorber@kvpllc.com>
Sent: Wednesday, July 1, 2020 5:11 PM
To: 'Planning' <planning@lincolnnh.org>
Cc: Peter Malia <pmalia@hastingsmalia.com>; 'Town Manager' <townmanager@lincolnnh.org>; 'Fire' <fire@lincolnnh.org>
Subject: RE: Stormwater Discharge Permit for Forest Gardens

Carole – see below and attached. I believe they will trigger a SWPPP. I suggest the town require an erosion and sediment control plan at a minimum.

Peter – Is this development grandfathered under the SW Management Ordinance?

Ray

From: Planning <planning@lincolnnh.org>

Sent: Wednesday, July 1, 2020 3:02 PM

To: rkorber@kvpllc.com

Cc: 'Malia Jr., Peter J. (pmalia@hastingsmalia.com)' <pmalia@hastingsmalia.com>; Town Manager <townmanager@lincolnnh.org>; Fire <fire@lincolnnh.org>

Subject: FW: Stormwater Discharge Permit for Forest Gardens

Hi Ray,

Roger Harrington and Norman Bartlett wanted to know the answer to this question:

"Is there a valid "Stormwater Discharge Permit" for the Forest Gardens lots that Coolidge Construction is asking for building permits?"

I have two questions:

1. Do you know what they are talking about? Do they mean a federal or state General Permit for Stormwater Discharges from Small Municipal Separate Storm sewer systems? (MS4). (No idea what that would be. I googled.)... I am not aware of such a permit and don't believe it exists. Stormwater is handled at the state level under the AoT (100,000 sf of disturbance) and federal under the CGP (1 acre or more of disturbance). And at the local level under your SW Management Ordinance.

I know about the NH DES's AoT. I know about the Town's Stormwater Management Ordinance. I don't know anything about Stormwater Discharge Permits for the Forest Gardens project.

I did some research. The **Forest Gardens** project was approved over fourteen years ago. According to the final subdivision plan (#12115) recorded on December 19, 2005, the approval was on 12/14/2005. Declarations for Forest Gardens were made on February 22, 2006.

2. How would I apply the Stormwater Management Ordinance to an application to build 1, 2 3 or 4 of the 12-unit buildings?..Good question. That might be a question for Peter. Are they grandfathered? I suspect they will require a SWPPP and the Town should require an erosion and sediment control plan (as a minimum). I assume the drainage system to support the buildings is in.

The problem is that for determining how to apply our Stormwater Management Ordinance, this is not a single house on a single lot. The Planning Board approved 72 dwelling units comprised of six (6) multifamily 12-unit buildings of which only two (2) 12-unit buildings (or 24 dwelling units) have been built so far. The land of 5.34 acres on which these lots are located is only large enough for 15 units, not 72 units. This means there is other land designed to support those 72 units. Those four supporting lots are:

(Map 114, Lot 77)	4.13 Acres only supports	11.99 units
(Map 114, Lot 78)	5.34 Acres only supports	15.00 units (where the buildings are actually planned and built)
(Map 114, Lot 79)	13.52 Acres only supports	39.00 units
(Map 114, Lot 81)	1.98 Acres only supports	5.75 units
(Map 114, Lots 77-79+81)	24.97 Acres supports total of	71.74 units (rounded to 72).

72 units X 15,000 SF = 1,080,000 SF divided by 43,560 SF per Acre = **24.79 ACRES IS REQUIRED TO SUPPORT 72 DWELLING UNITS.**

See attached Map for Forest Ridge. I assume that that means when the dig for 4 additional 12-unit buildings that we only look at the disturbing Lot 78 (which is only 5.34 acres) or do we include all 4 supporting lots and calculate whether it meets the threshold based on whether 50% of an aggregate of all four lots combined were disturbed.

Thank you.

Carole

Carole Bont
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Monday 1:00 PM – 4:30 PM
Wednesday 1:00 PM – 4:30 PM
Thursday 8:00 AM – 4:30 PM
Friday 1:00 PM – 4:30 PM

From: Norman Bartlett <bartlettn27@gmail.com>
Sent: Wednesday, July 1, 2020 10:39 AM
To: Fire <fire@lincolnnh.org>
Cc: Planning <planning@lincolnnh.org>; Town Manager <townmanager@lincolnnh.org>
Subject: Stormwater Discharge Permit for Forest Gardens

Hi Ron,

During last Monday's BOS meeting, Roger Harrington asked the question "Is there a valid Stormwater Discharge Permit for the Forest Gardens lots that Coolidge Construction is asking for building permits?"

Have you found the answer yet? I would like to know as well.

Regards,
Norm Bartlett