

**LINCOLN BOARD OF SELECTMEN**  
**MEETING MINUTES**  
**FEBRUARY 29, 2016**  
**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

**APPROVED**

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**Board of Selectmen Present:** O.J. Robinson, Patricia McTeague, and Jayne Ludwig.

**Staff Present:** Town Manager Burbank, Finance Manager, Helen Jones, Recording Secretary Wendy Tanner and Fire Chief Beard

**Public Present:**, Tamra Ham, Edmond Gionet, Dave Beaudin, Mary Conn, Paul Beaudin, Tammy Gionet Dutilly, Roger Harrington, Steve Noseworthy, Taylor Beaudin, Jim Welsh, Debbie Celino, Susan Clark and Cindy Rineer.

**Others Present:** Robert Wetherell

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**I. CALL TO ORDER**

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

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

**MOTION: "To approve the meeting minutes of the February 22, 2016 Select Board meeting as amended."**

**Motion:** Jayne Ludwig

**Second:** Patricia McTeague

**All in Favor**

**MOTION: "To approve the non-public minutes of the February 22, 2016 Select Board meeting as presented."**

**Motion:** Jayne Ludwig

**Second:** Patricia McTeague

**All in Favor**

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**III. REVIEW OF PROPOSED WARRANT ARTICLES FOR TOWN MEETING *with Robert Wetherell – Moderator***

The board reviewed the warrant articles with Mr. Wetherell who will be moderating the Town Meeting on March 8, 2016. Mr. Wetherell explained that the articles will be reviewed by members of the Select Board, and should be voted on one at a time. Board members will have a maximum of 10 minutes to explain each article.

It was noted that Article 7 has an incorrect dollar value written out, but the correct numerical value is in parenthesis.

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#### **IV. TOWN WEBSITE ELECTION OP/ED COMMENTARY *Discussion***

Last week there was a public request to put an opinion article on the town web site, and the board agreed. After speaking with several surrounding towns and the town attorney, it was advised that the election commentary be removed from the web site. Selectman Ludwig added that personal opinions do not belong on a municipal website. Town Manager Burbank will be writing a website content policy, and hopes to have a draft available by the next Selectmen's meeting. All Select Board members agreed.

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#### **V. OLD/NEW BUSINESS • Town Managers Report • Public Participation**

##### **Town Manager Report**

##### **Black Mountain Road and Water System**

Approximately 200 mailings went out on Friday, February 26, 2016 to Beechwood I, Beechwood II, and The Landing homeowners regarding the bankruptcy filing by the Landing owner. The town's position at this time is that they will not be taking responsibility for roads, maintenance, or the water systems in the Landing. DES has been notified about the water systems, and will be investigating further. Chairman Robinson read a letter from town attorney Peter Malia to the Landing's attorney, Daniel W. Sklar. **(Copy attached)**.

Chairman Robinson explained that the Select Board met with the town attorney to examine the town's alternatives regarding Black Mountain Road and the Landing Pump Station.

- It is the Select Board's position that it remains the trustee's responsibility to continue to meet the obligation of life and safety.
- Regarding the bond for Black Mountain Road, the town is taking the position that a legal notification of the bond expiring was never received by the town. It was unclear whether the bond did lapse because it automatically renewed unless the town was notified otherwise, which it was not.
- A notice of claim for a direct lien on the deed is also being explored as an option.

##### **Town report**

The town report is now posted on the town web site, and hard copies will be available tomorrow.

##### **Loon Pond Dam**

There will be a bid opening March 1, 2016 at 2:00 p.m. for the Loon Pond Dam Reconstruction project.

##### **The FEMA LAMP Project**

There was a teleconference on February 21, 2016 to discuss the next phase of the project. FEMA's initial survey of the main portion of the levee exceeds the hundred (100) year flood plain with plenty of freeboard. The flanking dike does not have the necessary freeboard (short by about 1.5 feet) and therefore the project will be mapped as though the levee does not exist. The current plan will be to restore the levee to 1960

standards. Categorization of the flood zones will be different throughout the levee. The flanking dike meets the hundred year flood level, but does not provide the required freeboard. There will be a flood zone, so that if the dike completely fails, or if it provides protections up to the hundred year flood plain, it will be without the sufficient freeboard, which essentially makes it at risk. FEMA is not requiring the town to do anything specifically.

Roger Harrington questioned how much fill has been put in behind the dike from 1959 to today? Harrington thought his map showed all the elevations. Town Manager Burbank replied that the engineers thought that the data on Harrington's map was too old. The state and FEMA were aware that the town had the map but were not interested.

### **Commerford Nieder Perkins LLC (CMP) vs. Vision**

Helen Jones provided a comparison of the two assessing companies as well as consulted with other municipalities, which resulted with CMP as the better choice for Lincoln. CMP has been the town assessor for the last 4 years, and was able to reduce the fee on their contract.

**MOTION: "To accept Commerford Nieder Perkins proposal as modified."**

**Motion: Jayne Ludwig**

**Second: Patricia McTeague**

**All in Favor.**

### **Riverside Park Assessment**

Roger Harrington reviewed the property with the assessor and things are progressing.

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### **Public Participation**

**Edmond Gionet** questioned why the minutes did not reflect the Select Boards response to his request to submit his Op/Ed on the town web site. Chairman Robinson explained that this discussion was addressed earlier this evening. Gionet went on to say that the flyer Chairman Robinson was handing out during the National Primary Elections was still posted on the town website. Gionet also feels that when it comes to electioneering, he questions the fairness of the presentation of issues on either side. Sue Clark also commented that she felt this was a manipulation of registered voters, and thought it was illegal. Chairman Robinson replied that it would be illegal only if they were electioneering for something that was taking place that day; however, this flyer was relative to an event scheduled for the following month.

**Paul Beaudin** agreed with Sue Clark's point and feels the selectmen are supposed to be a neutral authority, particularly when taxpayer dollars are involved. Selectmen have the right to verbalize all they want as elected officials, but not with town resources. Chairman Robinson responded that although he understands the concerns that are being presented, the Select Board is required, when it comes to budgetary issues to speak to the town as a position of the Select Board on funding.

**Mary Conn** asked if the Public Works Department will be delivering the town reports this year. Town Manager Burbank replied that he would look into it, as it has been customary over the years to have the

Public Works Department deliver the reports. The Select Board concurred that they should be delivered again this year, but for future years other methods could be explored, and the Town Meeting would be a good place to bring this up. Also mentioned was the 7:30 pm start time for Town Meeting which is very late for some residents. A discussion ensued that the meeting begin earlier so that it would not run as late into the evening. It was also agreed that this year could not be changed, but it can be another issue to discuss at Town Meeting.

**Tamra Ham** thanked the Select Board for making decisions that are in the best interest of the town and its residents, and for fulfilling their obligations and doing what they were elected to do. They made the decision to support the Town Manager form of government and voted on it as a Board. "That is why we elected you, to make those decisions which are in the best interest of the town."

#### **VI. NON PUBLIC SESSION Pursuant to RSA 91-A: 3II (a,c,e,d)**

**MOTION: "To go into Non-Public session at 7:00 PM"**

**Motion: Patricia McTeague                      Seconded: Jayne Ludwig                      All in favor**

**MOTION: "To go back into Public session at 7:10 PM"**

**Motion: Patricia McTeague                      Seconded: Jayne Ludwig                      All in favor**

#### **VII. ADJOURNMENT**

After reviewing the weekly accounts payables, the Board made the following motion.

**MOTION: "To adjourn."**

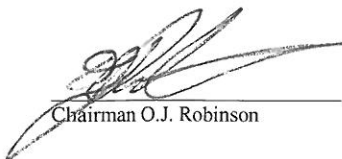
**Motion: OJ Robinson                      Second: Patricia McTeague                      All in favor**

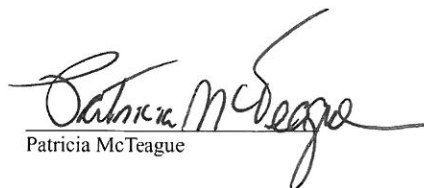
**The meeting was adjourned at 7:15 PM**

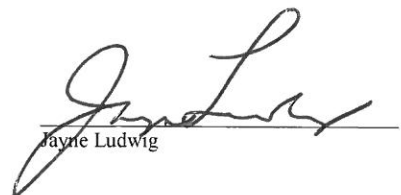
Respectfully Submitted,

Wendy Tanner

Approval Date 3 17 16

  
Chairman O.J. Robinson

  
Patricia McTeague

  
Jayne Ludwig

February 29, 2016  
Board of Selectmen's Meeting  
Please PRINT Legibly

DAVID BEAUDIN

Roger Harrington

Paul Boonick

Jim Welch

Debbie Pelino

Steve Nisanti

Larry Gioriet D. Kelly

EDMOND GIORIET

Ron Bessard

Tammy Hagan

Steve Clark





HASTINGS MALIA P.A.  
ATTORNEYS AT LAW

PETER G. HASTINGS  
DAVID R. HASTINGS III  
PETER J. MALIA, JR.  
ANDREW P. PIERCE

DAVID R. HASTINGS 1847-1896  
EDWARD E. HASTINGS 1879-1939  
HUGH W. HASTINGS 1914-1967  
DAVID R. HASTINGS II 1949-2010

February 24, 2016

Daniel W. Sklar, Esq.  
Nixon Peabody  
900 Elm Street  
Manchester, NH 03101-2031

Re: Saber Mountain Landing, LLC Chapter 7 Bankruptcy

Dear Dan:

I represent the Town of Lincoln. The Town is in receipt of your letter dated February 16, 2016, regarding the above captioned matter. To the extent that your letter suggests that it is the Town's responsibility to "make alternative arrangements with the residents who are serviced by said road," please be advised that under New Hampshire law, a municipality is prohibited from spending public funds to repair or maintain private roads. See Clapp v. Jaffrey, 97 N.H. 456 (1952); and also Hersh v. Plonski, 156 N.H. 511 (2007).

Therefore, it is incumbent upon your client, not the Town of Lincoln, to "make alternative arrangements with the residents." It is the opinion of the Board of Selectmen that filing for bankruptcy does not relieve your client of its responsibility to provide essential life safety functions such as maintenance of the water system and sanding and plowing Black Mountain Road.

Please call me if you have any questions.

Sincerely,



Peter J. Malia, Jr.

PJM/bjs  
cc: Butch Burbank, Town Manager/Town Planner

PJM.Municipalities.TOL.TheLanding.Ltr.Sklar 022316