

LINCOLN BOARD OF SELECTMEN
MEETING MINUTES
MAY 5, 2014 – 5:30PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH

Board of Selectmen Present: OJ Robinson, Patricia McTeague and Tamra Ham

Staff Present: Town Manager Alfred Burbank and Nikki Donahue, Minute Recorder.

Public Present: Ron Beard, Ron Lelakes, Margret Lelakes, Sharon O'Brien, Alan Malkasiein, Marion Malkasiein, Nancy Ehlers, Marcia Imbrescia, John Imbrescia, Therese Giove, Rich Sakakeeny, Kip Griffin, Cathy Holt, Paul Beaudin, Randy Farwell

I. CALL TO ORDER

OJ Robinson called the meeting to order at 5:30 pm.

II. REVIEW AND APPROVAL – MEETING MINUTES OF THE PREVIOUS MEETING

Motion: “To approve the meeting minutes of April 14th, 2014”

Motion: Tamra Ham Second: O.J. Robinson Abstain: Patricia McTeague

Motion: “To approve the non-public meeting Minutes of April 14th, 2014”

Motion: Tamra Ham Second: O.J. Robinson Abstain: Patricia McTeague

Motion: “To approve the meeting minutes of April 28th, 2014 as amended”

Motion: Patricia McTeague Second: Tamra Ham Abstain: O.J. Robinson

Line 66...*NH DOT has finished their review...*

Line 67...*are not satisfied with the Loon Mountain Bridge construction time line.*

Line 71...*Town Manager Burbank stated that negotiations are still underway concerning bridge easements.*

Motion: “To approve the non-public meeting minutes of April, 28th 2014 as amended”

Motion: Patricia McTeague Second: Tamra Ham Abstain: O.J. Robinson

III. JORI Tax Abatements

The Board of Selectmen requested for more clarification concerning the issue of the JORI Tax Abatements. Town Manager Burbank said he will follow up on this issue with the assessors and the Board will revisit this issue at the meeting on Monday, May 12th, 2014.

IV: Bunker Lane Association Meeting

Chairman Robinson noted that a letter was received today from the Department of Environmental Services about the Dike/Levee inspection, notifying about the date of the inspection and inviting the public to attend. The Levee will be inspected on June 13th, 2014 at 9:00 am. Town Manager Burbank will notify the Department of Environmental Services about adding the other abutters to the contact list, as not all received the notification letter. Chairman Robinson noted that the Board has been working to set up a

plan to reconstruct the levee to its 1960's standards, which was the requirement made by the Army Core, for about two years now. He also noted that the Town is proceeding as it can without the authority to spend extra money on the project, since that issue did not pass at the Lincoln Annual Town Meeting in March. Theresa Giove inquired about the results of the vote at the meeting. Chairman Robinson noted that a two thirds majority was needed to approve the spending since it is a bond issue. Giove then asked if another Town Meeting could be held to examine the issue again and have another vote. Town Manager Burbank said the possibility exists, but it would be very difficult to achieve as the Town would have to prove that new issue has arose since the March meeting. Chairman Robinson then noted that court action or a directive from DES or Army Core would push the issue more. Cathy Holt asked if there is a public safety override on issues such as these. Chairman Robinson stated that if the State comes in on June 13th and says that construction is eminent, then the Court could be petitioned. He noted that even if that were to happen, the Board of Selectman would still need town approval to spend any money fixing the levee. Chairman Robinson also stated that the State has said they could come in and make some repairs, if it gets to that point, but it is unknown what they will do for repairs. (They could repair less than what the Army Core requires or more, at this time it is unknown.) Kip Griffin asked about the article in the Union Leader that stated the dam was not in "imminent danger". He asked, if the Towns people realized that the dam was in need of serious repairs. Chairman Robinson responded by saying the State will be the ones to determine if the levee is in "imminent danger" or not. He also read Article 3 as it was presented at the Town of Lincoln Annual Meeting. Therese Giove asked if this issue elicited much discussion at the Annual meeting or not. Chairman Robinson responded that there was not much discussion, a few questions were asked about the project, and then the vote was made. He also noted that many Town citizens wanted clarification as to who actually owns the levee structure and the land the levee is on. Town Manager Burbank noted that the majority was achieved for the vote at the Annual Meeting, however not the "super majority" that was needed for the Article to pass. Rich Sakakeeny then asked if the issue was publicized before the Annual Meeting was held. Town Manager Burbank stated that every effort was made to publicize the issue before the meeting. He also noted that "levees" and "dams" are not considered to be different structures and that all levees will be inspected in the next year. He also stated that FEMA has very limited funding to fix these structures, so the burden is then put on the Towns tax payers. Marcia Imbrescia stated that the Town granted building permits for individuals to build by the river without fully disclosing past levee problems. NH DES is now classifying the structure as a "high hazard dam" but FEMA is still referring to the structure as a "levee". Town Manager Burbank suggest that all concerned individuals come to the inspection of the structure on Friday, June 13th at 9:00 am. He also noted that the Town has a maintenance agreement for the structure, but that the Town does not own the actual land the structure is on. Chairman Robinson stated that the Town can not spend money fixing private land or property. Through legal counsel, it was determined that the Town of Lincoln did own the structure and was responsible for repairs. Ron Lelakes stated that he hasn't heard that the land owners are responsible for what might happen down river should the levee break in the future. Chairman Robinson stated that the Town started working with the Army Corp of Engineers since Irene. He then noted that since working with legal counsel, the Town was named responsible to fix the levee. Then DES came and said they were taking over the project. Since DES has been involved, ownership of the land has become an issue. He stated that DES will require the levee to be repaired, but as of now it is unclear who will be responsible for that. Town Manager Burbank then discussed the history of the land and the levee, stating that the Franconia Paper Company never gave easements to the Town. Cathy Holt said that the Town was told to repair the levee before the hurricane, so she questions if the lack of repairs caused more damage than would have occurred had the levee been repaired by then. Holt then stated that she wishes to be notified about the levee progress more directly. Selectman McTeague responded that the Fairways Association Board should be notifying the home owners about the levee progress, and that it is there personal responsibility to keep up with meetings and information that is given out publically. Chairman Robinson stated that the standard to which the levee was maintained was fine for many years with the Army Corp. Then, after Hurricane Katrina, the Army Corp standards got stricter for all levees

in the United States. He stated that the granite blocks at the levee have shifted overtime do to gravity. Therese Giove then asked if there is a difference between the function of a levee and a dam. Will there be more problems if the structure gets deemed a “dam”? Town Manager Burbank responded that levees are diversionary structures only and that NH DES is classifying the structure as a “high hazard dam” and the Army Core of Engineers is agreeing with that. Chairman Robinson stated that the structure meets the State definition of a “dam”. If it were to be rebuilt to the 1960’s standards, the State would approve. He also noted that the FEMA flood mapping is also in progress and that the levee will not be recognized in the new mapping plan. He suggested that if the home owners are concerned, they should research this issue further. Alan Malkasian asked why the Federal Government isn’t participating in this issue and what the Town’s plan is for this. Chairman Robinson stated again that the Town cannot spend money on the issue currently and that the June 13th inspection will answer many questions once a report is received. Malkasian then asked if a public hearing can be held with DES. Chairman Robinson stated that the suggestion was a great one and the home association should contact DES about this. Marcia Imbrescia then inquired if the Board of Selectman felt that the home owners should all put their concerns in writing and contact DES or State Legislatures. Town Manager Burbank suggested that the home owners association have representatives attend the June 13th inspection and Chairman Robinson agreed. Selectman Ham stated that when the levee was built, the Franconia Paper Company owned it. The Town of Lincoln has never owned the land under the levee, easements were never obtained and the issue of ownership dates back many years to the beginning of the town. Kip Griffin stated that, to him, it seemed very coincidental that the State came only fourteen days before the Annual Town Meeting to raise issues about the levee. Selectman Ham explained that this was due to the fact that the engineers offered to help clean up and remove remnants of the old dam structure, which in turn lead to the structure to becoming an issue for the dam bureau. Paul Beaudin stated that he feels there is still a lot of unanswered questions concerning the levee and that he feels the whole burden of the repair costs should not be on the town tax payers alone. Cathy Holt stated that the home owners pay taxes and their money goes to the town already, including many services that none of them utilize, thus she doesn’t want to have to pay more to fix the structure because it is in her backyard. Chairman Robinson stated that he appreciated their input on the issue, but it is currently unknown what will happen concerning the levee. He suggested that anyone who wishes to be present at the June 13th inspection, should contact the Department of Environmental Services per the request of the letter that they sent out.

V. OLD/NEW BUSINESS

Public Participation

Chief Ron Beard has been going around town to look at road usage concerning properties with multi-family residences. He is also addressing the issue of large outdoor barbeques on outside decks and porches. Ron Beard will be sending a notice out to local condo associations about the issue as many people are unaware that it is not permitted.

Town Manager’s Report

Solid Waste Bids

J&M Donahue Construction was the bid that was selected for the Solid Waste Facility. Town Manager Burbank also saw firsthand how much brush collects over a three week period and he advised it would be dangerous if the Town waited to burn only once or twice a year. He suggested still moving toward the plan of grinding the brush once or twice a year. Approval from the Woodstock Board of Selectman is needed before the project can move forward. Paul Beaudin has also ordered the electronics scale and

that will be coming in soon. Paul Beaudin plans to continue to burn until town starts to get really busy, and then he will save the brush to try out the tub grinder.

Dog Ordinance

The Dog Ordinance that was voted on by the Board will be signed by the Selectman next week.

Loon Mountain Bridge

Town Manager Burbank did not get to speak to Dave Hastings today concerning the Loon Mountain Bridge easements. Next Monday the Board of Selectman will discuss the eminent domain process concerning the Loon Mountain Bridge.

Water Treatment Intake Structure

The Water Treatment Project went out to bid and a bid was awarded to a company out of Conway, NH. David Dovholuk went to the water treatment training and the results from the test are not yet in.

Common Man Land Lease

Chairman Robinson suggested the town hire a commercial appraiser to decide what the market value is on the property and what the rate is for commercial parking lot land leases. Town Manager Burbank has heard back from McClain about appraising the leased land and there needs to be more research done on the matter. Paul Beaudin suggested contacting the Assessing Association for contacts of Assessors. Alex Ray has sent the insurance information to the Town even though there is currently no signed lease. Chairman Robinson also suggested signing a multi-year lease on the parking lot land. Town Manager Burbank will research this issue more.

Industrial Park Space

Town Manager Burbank suggested leasing the land at the Industrial Park since currently there are no businesses located there. Chairman Robinson suggested that it is not unusual to lease the land to a business. Town Manager Burbank stated that if an assessor is being contacted about the Common Man Land lease, they should also take a look at the Industrial Park Land.

DOT on Airport Road Improvements

Town Manager Burbank has not heard back from DOT on aiding with improvements on Airport Road. Town Manager Burbank suggested that a “yield” sign is needed at Burndibner Road and Old Airport Road, as multiple near collisions have been reported in the past weeks.

Motion: To put a “yield” sign at Bern Dibner Road and Old Airport Road.

Motion: Tamra Ham Second: Patricia McTeague

Local Officials Workshop

Selectman Ham brought up a few key points to the Board that was made at a recent Local Officials Workshop she attended.

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

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

Motion: O.J. Robinson Seconded: Tamra Ham Roll call vote was all in favor

The Board went into Non-Public session at 8:02 pm

MOTION: “To re-enter public session”

Motion: O.J. Robinson Seconded: Tamra Ham Roll call vote was all in favor

The Board came back into session at 8:12 pm

VII. ADJOURNMENT

With no further business to attend to, the Board made the following motion.

MOTION: “To adjourn.”

Motion: O.J. Robinson Second: Patricia McTeague All in favor.

The meeting adjourned at 8:13 pm.

Respectfully Submitted,
Nikki Donahue

Approval Date ____/____/____

Chairman O.J. Robinson

Patricia McTeague

Tamra Ham