

**LINCOLN BOARD OF SELECTMEN  
MEETING MINUTES  
DECEMBER 16, 2013 – 5:30PM  
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

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**Board of Selectmen Present:** O.J. Robinson, Patricia McTeague, and Tamra Ham.

**Staff Present:** Town Manager Alfred Burbank, Police Chief Ted Smith, Fire Chief Ron Beard, Town Clerk and Tax Collector Susan Whitman, and Administrative Assistant Brook Rose.

**Public Present:** Lori Wiggett and Terri Ross.

## **I. CALL TO ORDER**

O.J. Robinson called the meeting to order at 5:35pm.

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

**MOTION: “To approve the meeting minutes of December 9, 2013 as amended.”**

**Motion: Tamra Ham      Second: O.J. Robinson      Motion carries with Patricia McTeague abstaining as she was not present at the meeting.**

Amendment was pertaining to cameras at the skate park and was to change the word, “unmonitored” to, “dispatch monitored.”

**MOTION: “To approve the non-public meeting minutes of December 9, 2013.”**

**Motion: Tamra Ham      Second: O.J. Robinson      Motion carries with Patricia McTeague abstaining as she was not present at the meeting.**

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## **III. PUBLIC PARTICIPATION**

### **Discussion of Revisions to Dog Ordinance**

Terry Ross questioned which RSA the Town was discussing pertaining to the current dog ordinance. O.J. Robinson stated that the Town is reviewing adoption of NH State Statute 466:30-31. Terry questioned how the RSA is different from the Town’s current ordinance. Chief Smith stated that the Police Department is attempting to gather all of the different versions of signed, unsigned, and outdated ordinances the Town has into one signed ordinance. The most recent version that can be found of the dog ordinance is not signed. He added that all other towns have adopted the State Statute as part of their ordinance.

Lori Wiggett questioned whether the Town has received an overabundance of dog related complaints. Chief Smith replied that since 2010 the Town has received 44 complaints from locations all over Town and 9 of those were specific to Lori. Lori questioned how the complaint and enforcement process would be handled differently if the Town adopted the statute. Chief Smith stated that this revision is town wide and is not personal to any one situation and that the statute simply allows the Town to enforce state law.

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Lori went on to voice her concerns about being singled out by certain individuals in Town including some residents of the Nordic Inn to the point that she feels she is being harassed. She stated that she can't even let her dogs outside without someone calling to complain and oftentimes her dogs aren't even outside. She stated that she has met with the Nordic Inn Homeowner's Association as well as the Police Department to try to resolve any issues and she is not sure what else she can possibly do to alleviate the complaints made against her dogs. She stated that the Police Department has threatened to fine her. She also mentioned that the neighbors on either side of her have never complained about her dogs. O.J. Robinson replied that the revision of the dog ordinance is not specific to anyone and is simply being considered to give the Police Department authority to enforce the law and the ordinance.

Terry Ross stated that if the Town is going to enforce ordinances based on one or two complainants, she would bring several unsigned town ordinances to the Board's attention that she would like to see enforced. She went on to say that the matter concerning Lori's dogs seems to be a personal matter with some of the residents of the Nordic Inn and she is sorry to have seen the matter going so far as to have to come before the Board. She went on to say that she feels the current ordinance is a good ordinance. Chief Smith stated that the state statute is the minimum standard for an ordinance and further what he likes about this ordinance is that the townspeople, not the Board of Selectmen have to adopt the ordinance. Town Manager Burbank stated that he would like to see a revised and signed ordinance. O.J. Robinson concluded the conversation by stating that it is the Board's intention to revise the ordinance. The Board thanked both Lori and Terry for their comments.

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#### **IV. PUBLIC HEARING on the petition to universally amend pole and conduit license in the Town of Lincoln**

O.J. Robinson opened the Public Hearing at 6:00pm.

He stated that the Board would now conduct a hearing on a Petition to universally amend the pole and conduit license the Board of Selectmen's agent has issued for poles and conduits in the public rights-of-way, to require payment of properly assessed property taxes and notify the Town of Lincoln of additional attachers on the poles and conduits, as required by the New Hampshire law. The Board of Selectmen received the Petition on November 26, 2013 from Susan Whitman. O.J. read the Petition out loud. He questioned Susan Whitman as to whether she would like to address the Board and explain why the licenses need to be amended? Susan asked that Town Manager Burbank address the Board on her behalf.

Town Manager Burbank explained that the amendments proposed are in the public good because they would change the licenses to comply with the requirements of New Hampshire law by referencing the statutory scheme which authorizes the Town of Lincoln to tax entities with poles and conduit in the public rights-of-way. Additionally, the amendments would require the license holders to notify the Town of Lincoln of additional attachers on the poles and conduits who have perhaps avoided taxation until now. Properly assessing property taxes against all entities using the public rights-of-way is required under the law and is in the public good.

The law of New Hampshire is clear at this time that licenses such as those held by License Holders are required by law to include a section requiring the licensee to pay properly assessed real and personal property taxes. Specifically, he pointed the Board to the cases of N.E. Tel. Tel. Co. v. City of Rochester, 144 N.H. 118 (1999) ("Rochester I"), Verizon New England, Inc. v. City of Rochester, 151 N.H. 263 (2004) ("Rochester II"), N.E. Tel. Tel. Co. v. City of Rochester, 156 N.H. 624 (2007) ("Rochester III"). This requirement also covers others with agreements with the Town of Lincoln to use the right of way,

such as gas or water companies. Additionally, RSA 72:23, I(b) currently requires that all leases or other agreements for the use or occupation of real property owned by the Town Lincoln “shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.” The law also requires that if the leasee or person using or occupying the property fails to pay the duly assessed real and personal property taxes on the due date, the tax collector must notify the Town of Lincoln and the Town of Lincoln must terminate the lease or agreement. RSA 72:23, I(c). The Petition to the Board of Selectmen is to universally amend the licenses they have issued for conduits or poles in the public right-of-way to include these requirements and the requirement for the licensee to notify the Town Lincoln of additional attachers on the pole or conduit to confirm to the law.

O.J. Robinson then questioned whether anyone in the audience would like to speak on this matter. There was no one to speak on the matter however PSNH had submitted a letter to the Town that they asked be attached to the meeting minutes. The Board recognized the letter and agreed to attach it to the minutes. As no one wished to speak, O.J. Robinson closed the public hearing.

**MOTION: “To grant the Petition to Amend Pole Licenses Agreements to use the public rights-of-way.”**

**Motion: Patricia McTeague**

**Second: Tamra Ham**

**All in favor.**

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## **V. REVIEW OF REVISED PRIVATE ALARM SYSTEM ORDINANCE**

The Board, Chief Smith, and Chief Beard reviewed the revised ordinance as well as the proposed impairment notice. All were in favor of using the proposed notice.

The Board discussed the fact that the Town should never be disconnecting alarms but rather ordering the disconnection of alarm systems. Chief Smith will make this revision. The Board asked that once the ordinance is adopted that the Police Department e-mail it to the registered alarm system users.

**MOTION: “To adopt the Private Alarm System Ordinance as amended.”**

**Motion: Tamra Ham**

**Second: Patricia McTeague**

**All in favor.**

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## **VI. OLD/NEW BUSINESS**

### **Response to Recent Fire Incident**

Tamra Ham commented that she has heard a lot of positive feedback on the response of the Police and Fire Departments to the fire in Lincoln last Friday night. She added that the Town of Woodstock Fire Department had many positive things to say about Lincoln’s response to the call. Chief Beard updated the Board on the incident and stated that the response time by all was excellent. Chief Smith added that Sergeant Jeff Meier will receive a commendation and an official ribbon for saving a life. Chief Beard stated that if Sergeant Meier and the three Woodstock firefighters that were first to arrive on the scene would not have removed the homeowner at the time they did, there would have been a fatality at the scene. He added that the teamwork between the Towns of Lincoln and Woodstock was incredible. The Board would like to send a letter to the Town of Woodstock thanking them for their response to the call and excellent service at the scene. Chief Beard will also send a thank you to the Woodstock Fire Department. Town Manager Burbank applauded Chief Beard. O.J. Robinson added that the Fire Department is doing an outstanding job under Chief Beard’s leadership.

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## **Town Manager's Report**

### **Signage**

Dennis Ducharme will be in Town this week to follow up with Town Manager Burbank on the rotary signage.

### **NH The Beautiful Grant**

**MOTION: "To accept the \$1200 NH the Beautiful Grant for the Solid Waste Facility."**

**Motion: Tamra Ham**

**Second: Patricia McTeague**

**All in favor.**

### **Update on Land Use Plan Ordinance Violations – Chenard, Goodbout/Peterson, and Lavigne Properties**

Mr. Burbank informed the Board that the only alternative action to move things along at a quicker pace on the Chenard property is to file a Motion to Enforce with the court. Joe Chenard is making progress but it is at an extremely slow pace. Not filing the motion at this time does not affect being able to do so in the future.

A certified letter has been sent to Goodbout/Peterson as well as a violation letter to Lavigne. Tamra Ham commented that Jon Ham offered to help Mr. Lavigne clean up his property and tow materials to the junkyard at no cost. Mr. Lavigne responded to Jon's offer by telling him that his property was grandfathered. Town Manager Burbank will follow up.

### **Timeshare Assessments**

Town Assessor Phil Bodwell will attend an upcoming meeting to discuss the assessment parameters for timeshares with the Board.

### **Upcoming Meeting Schedule**

The Board will not meet on December 23<sup>rd</sup> but will meet on December 30<sup>th</sup>.

### **Recommendations from Vachon Clukay & Co PC**

The Board reviewed the Town auditors' recommendations for strengthening internal controls pertaining to tax lien compliance and the investment policy.

### **Town Bankruptcies Procedure**

Mr. Burbank did discuss the management of bankruptcies with Town Counsel. The Town will only be sending substantial bankruptcies to Counsel to manage on the Town's behalf.

### **Commendations**

Tamra Ham would like to thank and recognize Mike Dovoluk. She stated that Mike does a lot of work on the Town's snowmaking equipment at no charge to the Town. Both Cannon and Loon Mountain

Resorts oftentimes donate their used parts to the Kanc Ski Area which Mike uses to repair the equipment. Tamra would like to recognize how much the Town appreciates these services.

## **VII. NON PUBLIC SESSION PURSUANT TO RSA 91-A:3II(a)**

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

**Motion: O.J. Robinson      Second: Tamra Ham      Role call vote was all in favor.**

The Board went into non-public session at 7:18pm.

**MOTION: “To re-enter public session.”**

**Motion: Patricia McTeague      Second: Tamra Ham      Roll call vote was all in favor.**

The Board came back into public session at 8:15pm.

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## **VIII. EDUCATION TAX WARRANT**

The Board reviewed the Education Tax Warrant for the Tax Year 2014. The NHDRA is requiring the Town to assess the sum of \$1,968,451 for the Education Tax.

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## **IX. ADJOURNMENT**

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

**MOTION: “To adjourn.”**

**Motion: O.J. Robinson      Second: Tamra Ham      All in favor.**

The meeting adjourned at 8:30pm.

Respectfully Submitted,

Brook Rose

Approval Date \_\_\_\_/\_\_\_\_/\_\_\_\_

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Chairman O.J. Robinson

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Patricia McTeague

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Tamra Ham

