

LINCOLN BOARD OF SELECTMEN

**APPROVED**

MEETING MINUTES

JULY 16, 2018 – 5:30PM

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

*AMENDED AUGUST 13, 2018*

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**Board of Selectmen Present:** Chairman OJ Robinson, Tamra Ham and Jayne Ludwig

**Staff Present:** Fire Chief Ron Beard, Chief Ted Smith & Administrative Assistant, Jane Leslie.

**Excused:** Town Manager Burbank

**Public Present:** Roger Harrington, Jim Welsh, Dave Beaudin, and Debbie Celino

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**I. CALL TO ORDER**

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

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

**MOTION:** “To approve the meeting minutes of July 2, 2018 as amended.”

**Motion:** Tamra Ham

**Second:** Jayne Ludwig

**Motion carries.**

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**III. OLD/NEW BUSINESS**

**Town Managers Report**

*There was no Town Managers Report.*

**Report from Trustees of the Trust Funds**

Chairman Robinson read an email received from the Trustees informing the Board that they had met earlier in the day with TD Bank and purchased a \$100K Certificate of Deposit (CD) for a term of two (2) years, and an APR of 1.9%. Funds for the CD are from the Roland Dubois Settlement account. The Board agreed that this was a good move and a great interest rate.

**Non-meeting with Town Council**

The Selectmen had conducted a non-meeting with town council and the town’s assessors to discuss properties seeking abatements (Black Mountain Rd.). The Board is awaiting additional data and information from the assessors before any final decisions are made.

**Pollard Road Sidewalk**

The sidewalk project is substantially completed (some paving work left to do).

**Water Tank Circulators**

The circulators for the Forest Ridge water tank arrived this day and will be installed soon.

**Franconia Notch Parking**

Selectman Ludwig noticed there were not as many cars parked along the highway going through the Notch this past weekend. Chief Smith commented that DOT is requesting another meeting with the Town of Lincoln and Franconia as well as the State Police in early August to discuss alternative solutions to the parking issues in the Notch.

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## **Fireworks Ordinance**

The Board agreed that the fireworks display this past 4<sup>th</sup> of July was great. The overall feedback was that everyone enjoyed the parade and fireworks as it was in a stark contrast to last years show. Selectman Ham noted two (2) things she wanted to address with Woodstock: (1) the sirens on the fire trucks were extremely loud and uncomfortable for many, and (2) the confetti really should be “bio-degradable” as it creates a big mess and must be cleaned up, whereas the bio-degradable confetti dissipates after a rainfall. Ham will follow-up with the Chamber as well.

The Board reviewed the ordinance that was supposedly adopted in 1988 at a special town meeting. There is no formal record or documentation that can be found of any special meeting taking place or being voted on in 1988, and the issue has become whether or not this ordinance can be enforced. Chairman Robinson suggested the Board focus on here going forward and asked Chief Smith for his thoughts after reading the ordinance. Smith said that Chief Beard did a phenomenal job on educating the public and meeting with residents and attempting to alleviate the problems the town has had in the past with certain types of fireworks. Smith went on to explain that he found the ordinance amongst old ordinance books in the Police Station and feels the problem is that a number of ordinances have gone missing over the years. Selectman Ham questioned who authorized the promotion of this ordinance on the Police Department’s Face Book page? Ham explained that she was not happy with the ordinance being posted on the municipal website five (5) days prior to the July 4<sup>th</sup> event where it states in the ordinance that *applications for permits must be requested (15) days prior to an event*. Smith explained that Chief Beard waived the application for permitting time-frame for interested parties. Ham also felt it was wrong that citations were issued to residents who were really doing nothing wrong and carrying on with the holiday events as they have in previous years. Ludwig stated adequate notice was not provided to the residents and the upcoming year can be used to inform the residents about the ordinance.

Chief Smith explained that according to State Statute (RSA 160-C-11) it clearly defines what are permissible consumer fireworks in the State of New Hampshire, and fully explains that it is a violation/misdemeanor to have, sell, and ignite non-permissible fireworks which come with a \$1,000 fine. Smith went on to say he received 17 complaints from people in town, and also received letters from residents complaining about the fireworks and *not* the enforcement of the ordinance. Robinson questioned how many violations were issued (3 citations) and asked if there was any discussion with the resident(s) prior to writing the citation. Robinson expressed equal concern for those who received the violations as well as the 17-people who thanked the Police Department for taking actions, and feels the ordinance is a good tool for both the Police and Fire Department to use for enforcement purposes.

The Board is in agreement that having a Fireworks Ordinance in town is a good thing, however, it must be handled in a manner that informs and educates the public throughout the year so that next Fourth of July the public is aware of the rules and what is and is not acceptable. Chairman Robinson suggested Chief Smith and Beard review the ordinance that was allegedly adopted in 1988 and recommend changes that are more applicable to today’s standards and easily enforced. At such time there is a draft proposal, a public hearing will be held for community input prior to the enactment of the new ordinance.

## **Class Action Lawsuit**

The Town received notice from the United States Court of Federal Claims regarding the towns right to recover additional sums of money under the Payments in Lieu of Taxes Act (PILT) for fiscal years 2015, 2016, and 2017. The Town of Lincoln is reimbursed for federal land and buildings that are in the town and the town does not collect property taxes for, but rather, the town receives a payment in lieu of taxes. The lawsuit alleges that the payments made were incorrect according to 31 U.S.C. § 6902 (a). The Board agreed to participate in the Class Action Lawsuit and made the following motion:

**MOTION: “To opt-in to the Federal Class Action Lawsuit to recover additional sums of money under the Payments in Lieu of Taxes Act (PILT).”**

**Motion: O.J. Robinson**

**Second: Tamra Ham**

**Motion carries.**

**Proposed Settlement Assessment Agreement (Robert J. & Lisa A Drew)**

The Board reviewed the proposed assessment settlement agreement for Robert J. & Lisa A. Drew, Parcel ID: 126-011000-00, 85 Beechnut Drive for tax years 2016, 2017, and 2018. The proposed assessment is a \$31K annual reduction in their assessment (\$408.89 for 2016; \$415.71 for 2017, and 2018 to be determined). This settlement is recommended by John Hatfield (Town Assessor) who reached this agreement with Commercial Property Tax Management, LLC who represents Robert & Lisa Drew. The Board accepted the settlement agreement and made the following motion:

**MOTION: “To accept the proposed settlement agreement for Robert J. & Lisa A. Drew, 85 Beechnut Drive, Parcel ID: 126-011000-00.”**

**Motion: Jayne Ludwig**

**Second: Tamra Ham**

**Motion carries.**

**Town Clerk’s Monthly Motor Vehicle Report through June 2018**

The total year-to-date is \$198,966.42. The month of June is up by \$2,166.36 from June 2017. The year-to-date is up \$10,515.88.

**Signage for the Book Moose**

Selectman Ham commented that the property owner of the *Book Moose* on U.S. Route 3 has a flag on his property that blows out onto U.S. Route 3’s bike path obstructing the view of riders. Ham noted that the owner has been spoken to in the past concerning this issue and continues to do the same. Ham also stated that the property owner continues to add structures to his property without getting properly permitted. Chief Beard said that he would pull the map and lot file for the property and verify what permitting the owner has come into to get from the Planning Department and verify if there is any outstanding. Beard said he would also have a discussion with the owner concerning the flag issue in the bike path and follow up with the Board at the next scheduled meeting on July 30<sup>th</sup>.

**Planning Board**

Ham had a question concerning what happens when a site plan is issued with conditions of approval, and what the time limit is (if any) on the conditions to be fulfilled. Robinson commented that the Planning Board is not typically strict on setting deadlines, and when/if someone comes into complain to the Planning Board they would then issue a *cease and desist* which would go into effect until such time the conditions are met. Chief Beard explained that the Planning Department periodically reviews files with outstanding permits that expire one (1) year from the date of issuance, and they would contact the land owner to see if the work has been completed and ready for inspection. If the work is not complete, the property owner can then apply for a permit extension until the work is completed.

**Public Participation**

Roger Harrington asked if the section of sidewalk on Pollard Road that ditches-in is safe. Robinson thinks it should be fine for walkers, however, feels that in retrospect, side entrance catch basins should have been used and would have been more practicable. Town Engineer Ray Korber is aware of this and the Board is awaiting a response from him.

Jim Welsh asked who would be responsible for damages in the event someone got injured/hurt on the Pollard Road sidewalk (the engineer or taxpayers). Robinson explained that any town in the State of New Hampshire has immunity (unless gross negligence is involved) and this would not be a taxpayer

liability. Ham asked what the status of the budget is for the sidewalk and suggested Town Manager Burbank update the Board at the next meeting.

Roger Harrington asked the Board who the party was that was involved in the \$400K law suit with the town. Robinson explained that Loon South Mountain Partners is a party to the law suit and it concerns the large piece of land that abuts the levy (owner unknown at this time). They had sued the town over the Planning Board decision to *not* renew their approval to build which resulted in the loss of their federal Wetlands Permit and subsequently rendered them unable to build on that development. Robinson added that as part of the town settling the lawsuit and release of all claims, they added a permanent parking easement for the town over their land which is located near the substation. The town also has a permanent walking easement over their land that goes down to the levy, as well as a 300 ft. permanent recreation easement over their land (starting upstream and heading down) for recreation purposes (Old Hole Swimming area).

Dave Beaudin asked what Loon South Mountain Partners gets in return for the easements (permits for building etc.). Robinson explained that they received \$400K in cash; plans that were previously presented are still valid, however, any changes subsequently made to the plans would have to go through a regular site plan review process and they would be responsible for getting their own Wetlands permitting. Beaudin asked where the \$400k came from, and Robinson explained that it was all taxpayer money and that the town had asked permission from DRA to overspend the budget in fiscal year 2017 because of the \$400k law suit and the uncertainty of how much money the town would need. After spending the \$400k the town was still under budget by \$250k (after that expense). The revenue was ahead of budget by \$100k and Robinson noted we really did not need permission to overspend after all.

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#### **IV. NONPUBLIC SESSION *Pursuant to RSA 91-A:3: II(a,c,e)***

*There was no non-public session.*

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#### **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: O.J. Robinson      Second: Tamra Ham**

**Motion Carries.**

The meeting adjourned at 7:20 p.m.

Respectfully Submitted,  
Jane Leslie

Approval Date   7  /  30  /  2018  

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Chairman OJ Robinson

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Selectman Tamra Ham

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Selectman Jayne Ludwig

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