

**BOARD OF SELECTMEN  
MINUTES OF MEETING  
JANUARY 28, 2013**

Selectmen present: David Barrows, Chairman, Rosendel Gerry, Jason Trundy, Julia Libby and Ladleah Dunn.

The meeting was called to order by Chairman Barrows at 6:00 p.m. at Lincolnville Central School (B-5). Selectman Libby will be leaving at 7:15 p.m. The quote was read by Libby.

1. **Citizens' Forum:** None

2. **Administrator's Report:**

David Kinney, Town Administrator, reported:

- Reminder that dog licenses expired at the end of December and as of February 1<sup>st</sup> there is a \$25 State mandated late fee. Currently, approximately 130 dogs are unlicensed. The late fee goes into the late dog account, which we use if we pick up an injured animal and we have to pay a veterinary bill before we can take the animal to the dog shelter.
- Reminder that the State maintains a list of unclaimed property; we have 727 Lincolnville people on the list. It's available on line and we have a copy of the list at the Town Office.
- Engine 3, which was declared surplus by the Board, is going to Matinicus Island.
- Reminder that the Property Tax Circuit Breaker Program and the Rent Refund Program are available to assist the public with their property tax either on line or applications are available at the Town Office.

3. **Meetings & Announcements:**

Town Administrator Kinney read the upcoming meetings.

4. **Upcoming Community Events:** None

5. **Meeting Minutes:**

**Motion by Gerry, second by Trundy, that the Board approve the January 14, 2013 meeting minutes as presented. Vote 5-0.**

6. **Governor LePage's Budget Proposal Estimated Financial Impacts:**

Kinney said that at the Board's last meeting a request was made that we contact our State Representative and State Senator and invite them to our next meeting to put together the financial impacts of Governor LePage's budget proposals on municipal revenues.

Kinney said that on Friday, January 11, a summary of the Governor's Biennial Budget and Budget Message were released. The budget, as proposed, has direct impact on the Town of Lincolnville in terms of revenues that we typically use to reduce property tax.

Municipal Revenue Sharing: Kinney said Municipal Revenue Sharing was established in the 1970s to “stabilize the municipal property tax burden and to aid in financing municipal services.” By statute 5% of State government’s monthly sales tax revenues and corporate and personal income tax revenues are set aside to fund the municipal revenue sharing pool. These funds are then distributed to the municipality based on a formula whose variables include municipal population, state valuation and tax assessments. The statute has been amended so that over the last four years funds have been transferred out of revenue sharing and into the State’s General Fund. The Governor’s proposal is to temporarily suspend all revenue sharing to the municipalities for the next two-year budget cycle. For the Town of Lincolnville the estimated impact for the upcoming year is \$185,000. In the most recent completed fiscal year the Town received a little over \$124,000.

K-12 Education Funding: Kinney discussed K-12 Education Funding. Although the Board of Selectmen does not oversee education issues the funding of the Lincolnville Central School and the Camden Hills Regional High School will financially impact town residents. Kinney said his understanding is that the proposal is to flat fund schools over the next two years. However, the budget contains, for the first time in history the proposal that the teacher’s retirement program be at least partially funded locally. It appears that the State will calculate a municipality’s ability to pay using a formula based on its mill rate used for education. As the Town of Lincolnville is a “wealthier” community it appears that for the Lincolnville Central School we will be required to pay 100% of the teacher retirement program. The CSD is a little bit different with their cost share formula and Cathy Murphy, the CSD Business Manager, amended her estimate so our share will be somewhat less as of today. Cathy told Kinney she had been in contact with Jim Rier, the Deputy Commissioner of Education and learned that they are working to put together the impacts on all the communities by the end of February. Kinney said the impacts could be substantial. He said that based on what Cathy gave me today we are looking at probably upwards of \$220,000 that may not be coming to the town for education.

General Assistance: Kinney said the State is looking to cap their contribution to General Assistance. Most towns in Maine get reimbursed for 50% of their expenditure for General Assistance, so if we spend a dollar and follow the program we get fifty cents in return. Kinney said that with the new proposal once the State reaches their cap the reimbursement to the Town will cease, but the Town will then have the option to discontinue the General Assistance program. If the Town chose not to discontinue the program when the State funds ran out, Kinney estimates that it could cost the Town an additional \$7,500.

Homestead Exemption: Currently, if you meet certain qualifications including that you are a Maine resident, you own your property, and it’s your primary residence you can have \$10,000 subtracted from your assessed value. The Governor’s budget proposal would eliminate the existing exemption and replace it with a \$20,000 homestead exemption only for homestead property owners who are 65 years of age or older. Kinney said that the Town received in the last fiscal year just over \$37,000 in reimbursement

from the State for that program. If the proposal is amended Kinney suspects there will be some loss of revenue to the Town.

State Appropriation of Truck Excise Tax Revenue: Kinney said from what he can gather from the budget proposals that are on the State web site and some of the discussion among the Maine Town Tax Collector and Treasurer Association the Governor's budget proposal is geared toward tractor trailer trucks. Kinney said we are fortunate in that it would have a limited impact on Lincolnville, just over \$2,000 a year. In FY 12 the Town collected over \$300,000 in motor vehicle excise tax revenue, of this about \$36,000 was commercial excise tax. At Town Meeting, we annually appropriate anticipated excise tax revenues to reduce the property tax burden. Kinney said the concern is this might be the start of a "slippery slope" where it's commercial tractor trailer trucks this budget cycle and then next budget cycle it is all commercial vehicles and then eventually all excise tax the Town collects.

Conversion of BETR to BETE: Kinney said there is the conversion of the Business Equipment Tax Reimbursement (BETR) to the Business Equipment Tax Exempt program (BETE) for business personal property. Our worst case scenario would be a loss of revenue of about \$4,600 the first year and increasing to \$5,700 in the third year.

Summary of State Budget Impacts: Kinney summarized that if the budget is adopted as proposed the best estimate of total loss of revenue to the Town would be approximately \$462,000. If we were to pass that on to tax payers it would result in an 8.1% increase in taxes if no other measures are implemented to mitigate the loss of revenue. Based on Cathy's new numbers for the school we are looking at a 7.4% increase before we look at any other services to add or subtract in the coming year. Plus anyone that lost their Homestead Exemption would be looking at roughly \$138 additional taxes.

Michael Thibodeau, State Senator representing all of Waldo County, thanked the Board for inviting him to their meeting. Thibodeau said that no one is celebrating the fact that our State finds itself in tough economic times. Everyone at the State House is doing what we can to dig into this proposal to find creative ways to balance to the budget so as to have the least impact on taxpayers all across the State. Because this is the only proposal at this time, he understands why folks would be thinking what is this going to do to my local community and my property taxes. Thibodeau said he never saw a budget that came out of an administration, whether it was this administration or a previous one, that wasn't changed substantially. There will be public hearings and plenty of opportunities for people to have their input, but at the end of the day there are going to be some very tough decisions that need to be made. He hopes that some of the impact that is in this proposal can be alleviated, but there is a process that has to be followed and we are looking for answers as well. He said to his knowledge there's never been a budget that was proposed that wasn't well debated at the State House and subject to change.

Jethro Pease, District 44 State Representative, said he wasn't going to be quite as positive because we are in trouble. He said today he sat on the Criminal Justice Committee because a little over 2.5 million dollars out of the curtailment, that goes back

to the House Appropriations Committee. In the House we have not actually seen the total FY 2014-2015 budget; we are working on three budgets. Right now we are working on the curtailment budget. We are actually in session two days a week, but are working an additional three days just on budget proposals. Pease said that he is optimistic that you won't see Revenue Sharing as it's proposed, but there will be a cut in Revenue Sharing and flat funding for the schools. Pease gave a little history about Revenue Sharing. He said that when the State, thirty something years ago, had a surplus instead of cutting taxes and moving it back to taxpayers they decided to give it to the municipalities to provide help with property taxes. However, a couple of things happen with that, the State gained control and the Towns lost control. Pease said the Towns will have some very tough local decisions to make, because the State is looking at eight hundred million dollars in cuts. Pease said he has a real good feel across party lines and finds that both political parties are working well together. Pease said the unclaimed property that Kinney mentioned will not be published in the newspaper anymore because of the cost of advertizing, so it's important for the Towns to post this information in their office for their citizens. Pease asked if the Board had any questions.

Libby asked if the Department of Human Services has their software issues fixed.

Pease said no, but they've had 80% less down time and errors. The problem is the computers don't talk to each other and the information gets dropped from one computer to another computer. Pease said we spent two million dollars on this software and that's a good reason why all contracts should go out to bid.

Michael Thibodeau said that no matter what you think of our Governor, one thing he will never be accused of is being a spend thrift or somebody who wants higher taxes. He said that we do find ourselves in some very tough economic times in this state. He said he was not excited about passing on misfortune to the Towns. We are also seeing substantial decreases in Federal reimbursement.

Gerry said these are very tough times. He said he knows the State is in trouble, but I think this is going to be the toughest budget year in his six years as Selectmen. Gerry said he thinks the town's tax payers are going to beat them to death. He said he knows the State's phones are ringing off the wall, but ours will really be ringing this year. We flattened the budget before and did everything we could to help people in the town, but it's not going to happen this year.

Trundy said that he was the one at the last Selectmen's meeting that asked for the representatives to come to our meeting to talk about the budget proposals. He said he feels government is responsible to the people. As a Selectman, we have citizens who come in for tax abatements. You sit across the table and listen to them; they can't pay their taxes and they are afraid the Town will take their home. You listen to some of the situations these people are in, people who have worked hard their entire life, and they are not making it. It's quite sobering to sit across from them. We don't have the revenue or expenses the State has. We have a small budget. We don't have a lot of places to cut, but still have the need to provide for our citizens, so it puts us in a tight spot. Trundy said as

a Selectman he has no problem with tightening his belt if he knows everyone else is also doing the same. We had our citizens attend our Town meeting this year and voted to eliminate the 32 hour part time police coverage because they felt that they couldn't pay for it anymore. We had an employee who retired at the town office and our Town Administrator reorganized our workforce so that we could make a \$10,000 savings in that budget line. We have looked hard at the budget issues coming in. Trundy said he read an article in the Maine Townsman on the positions cut by municipalities across the State over the last few years due to the budget crunch. Trundy has concerns with some of the comments the Governor has made many of the topics he agrees with, but on some of the things the Governor has said about Revenue Sharing he doesn't agree. The Governor is looking at the Towns and saying if we want to raise taxes that is our own decision. For some towns, if the Revenue Sharing is going to mean a 2% increase maybe that's an option for them, but in a small town like Lincolnville where the impact could be far more reaching I don't think it's quite as easy for us to do that.

Dunn said she has no trouble tightening the belt, but I want to make sure it's happening all the way up and down.

Pease responded to Jason saying he was absolutely right, he sees the State tightening the belt a lot. At the State level there's been a mindset that for every constituent that makes a case for themselves legislators historically have try to give a little bit. But now we can't afford to do that. The State has to decide what they really can afford. Pease said he will focus on what are the needs. He said he wants to hear from the Selectmen because they represent the citizens of the town.

The Board thanked the representatives for coming.

**7. Financial Advisory Committee Update:**

Linwood Downs, Chairman of the Financial Advisory Committee, said that he works with David, Jodi, Mary Ann Mercier and Steven Kemple. Downs said he has been on this committee since 2001. The purpose of the Financial Advisory Committee is to determine what level of reserves, in a rainy day fund, would be appropriate for the community on an ongoing basis. The committee researched what other towns across the State and beyond are doing for a reserve fund level. Based on that research, we came up with a recommendation for the Selectmen Board. The recommendation is to have on hand money to cover three months of expenses, which out of a \$7,000,000 budget is about 1.7 to 1.8 million dollars. So that was their recommendation at the beginning of this committee and we continue to reinforce that throughout the last several years.

Once we came up with the amount for a rainy day fund the committee focused on how the town was going to invest that money. We came up with an investment policy so that those reserves are invested to provide a return that will be reasonable given the Town's tolerance for risk and subject to statutory limitations. The committee did a lot of research on what towns are doing and what the State allows. The last thing we did was to put in place a policy so that the investments are monitored to ensure a good return is generated given overall market conditions and subject to limitations we provided. The latest audit

report shows the Town has an overall reserve that's unassigned of 1.2 million dollars. We have an additional reserve that is assigned of another 1.7 million dollars. According to the audit report, we have overall reserves of approximately 2.9 million dollars. Some of the money is in a checking account for operating and cash flow and some of it has been invested with The First Advisors, who manage our portfolio. As of the end of this year, we had approximately 1.9 million dollars sitting in First Advisors investment accounts earning some amount of return. There are probably some substantial amounts of money that are unreserved in that particular investment account. As of December 31<sup>st</sup>, we had an investment return of 5.6%. Eighty one percent of our money is sitting in either an investment cash account or in a fixed income account; primarily government agency mutual funds or Treasury bills. About 19% of our money is invested in a diversified portfolio of equity investments; primarily exchange trading funds, which is Standard & Poor's 500 mutual funds.

Downs said last year the market had a nice year. The market was up about 16%. Over the last four years, working with First Investors, we've had a compound return over 6.2%. Downs said after hearing about the potential shortfall of \$420,000, even if a worst case scenario, that is what a rainy day fund was developed for so you could tap into it. He said that First Advisors has done a professional quality job of managing our accounts and he recommends that we continue to retain them as our investment advisor.

The Board thanked Downs for his presentation and the committee for its work.

**8. Tanglewood Road Drainage/Power line:**

Kinney said that we had the January thaw and Tanglewood Road, which has a gravel surface, has its challenges as the thaw comes out. The difficulties are due to the fact we have trouble maintaining control of water from the uphill side of the road. This is caused because we cannot maintain a ditch due to the power line location that feeds Camp Tanglewood. Kinney introduced Richard Bouchard head of maintenance at the camp. Kinney said we received some calls concerning the condition on Tanglewood Road. Also, Selectman Gerry received some comments and asked that this be put on the agenda. Kinney said a couple of years ago we resolved the issue regarding the location of the road right-of-way. We didn't know where we could work or couldn't work. Now that the right-of-way issue is behind us it's time to see if we can make some other improvements.

Gerry said the town spent money to survey the road so that we could proceed to bring it up to a reasonable standard; we've done our part.

Trundy said that Kinney in his notes indicated that the Town might be able to get CMP to move the lines. Trundy asked what that would entail.

Kinney said it's not CMP's line, it belongs to Tanglewood.

Richard Bouchard told the Board that he has worked at Tanglewood for twelve years. He clarified that the Camp leases the property from the State of Maine Parks and Lands and

the Cooperative Extension Service of the University of Maine. So we conduct our business through a memorandum of understanding with Parks and Lands and the State of Maine Cooperative Extension Service. We have talked about how to resolve the problem with the underground power line. Bouchard said that CMP estimated in 2005 that it would cost between \$85,000 and \$100,000 to move the line. We talked to CMP to come up with a preliminary plan to move the line, but Tanglewood has not been able to raise sufficient funds. There is very little advantage to Tanglewood Camp to move the power line to address the Town of Lincolnville's road issues. One of our concerns is that if CMP disconnects the power line do they in fact have to reconnect a wire that was installed back in the 1970s. Unless we have an absolute 100% guarantee that they would do that we are not going to move forward. Bouchard said they have a new Board and he's been talking to them routinely about what it would take to start raising that kind of money. We do have a relationship with the University of Maine that will expire in 2014 which provides that for every dollar we raise we will get fifty cents from the University of Maine. Even with this matching arrangement \$100,000 is still a lot of money. Keep in mind these are 2005 costs, but if we move the underground wire along the Town road up to either the boundary or the gate it would cost between \$7,500 and \$15,000. That's without talking to the phone company.

Gerry said there is a water issue and to have a decent road bed you must be able to get rid of the water and that comes through proper ditching. Gerry said the Town's contribution to the State and to Tanglewood is to provide a road to the gate. He said the taxpayers of Lincolnville have been providing funds to maintain the road.

Bouchard said the wire was put in by the State of Maine Parks in the 70s when there were no houses on the road. He said we should approach the State of Maine and CMP to ask how we can proceed to go forward. He said he is willing to help.

Kinney said this is part of the challenge in a right-of-way situation, the town controls what's in the right-of-way. Kinney said he's not sure where we stand in terms of telling the State what to do and not to do with regard to moving the wire.

Bouchard said he will talk to Mike Leighton in Bangor, who is the manager of the Northern District for Parks and Lands. He said, he will tell him where we are with the underground wire situation. I need to hear from you (the Board) how you want to proceed. If we want to apply pressure, then it should be formalized (in writing) and sent to the appropriate people to get the situation resolved.

Gerry asked what do you as a go between need from the Board to get this moving.

Bouchard said that if the Board was to write a letter to the University of Maine and Parks and Lands expressing your concerns this might move things along. At the same time, contact needs to be made with CMP to fine.

David Barrows asked Kinney if we have approached Parks and Lands about the wire.

Kinney said no.

Barrows said then that is a step we should take.

Bouchard said that the contact needs to be made with the State of Maine Parks and Lands and the University of Maine at the same time. So they are fully aware. It should include CMP as well.

Trundy said that since Tanglewood is in the Town of Lincolnville he does not want to put them in a difficult position.

Barrows said he appreciates that. Feels the Town should write the letter.

Trundy asked David Kinney what he has in mind when talking about following a legal process.

Kinney said that if it was a private entity that had its utility in the public way that you as the Board of the Selectmen can control what's allowed in the right-of-way of the Town road, and unless there was a prior agreement about it being there, you could ask to have it removed.

Trundy said that he doesn't think a letter will do much good, but if there is a legal process by which someone can be forced to do something then it might work, but it would be best to first talk to the Town attorney to see what the options are.

Kinney suggested that we could take a parallel track and both write the letter to Parks and Lands and talk to our attorney about the situation.

Bouchard said that we can approach CMP and ask how they can be a partner to work with three major entities, the State, Cooperative Extension Service and the Town. He would be willing to orchestrate that. The idea would be to find a way working together to move forward. It would be a friendly way to proceed, can't wait a whole lot longer, time to act is now.

Trundy suggested that Dave Kinney could write the letter.

Dave said that he was willing to do that.

Gerry said that we should move forward with that as soon as possible.

Paul Crowley said that he would encourage the Board to pursue the parallel tracks. He felt that the situation is a public nuisance interfering with the road. We should find out what the Town's rights and responsibilities are with the Town Attorney. He said that he owns property in the area and his research found that there is no right-of-way for the buried power line. So it appears that no one has the right to have that power line there. Further research might turn up that there is a right-of-way, but he couldn't find one.

Probably isn't one. Even if there were a right-of-way, when its presence interferes with maintenance of the Town road, something has to give. The Town has a strong obligation to maintain the road. It could be considered a public nuisance and the Town has the right to order the abatement of a public nuisance that is causing unsafe conditions because it is interfering with the proper maintenance of the road. He is also concerned that the old line could be a fire hazard and cause a forest fire. It has already shorted out once.

Camp Tanglewood has been around for a long time and functioned with no power line in the 1950s and 1960s. Maybe they should go back to that. Crowley said that he has had occasion to talk with CMP on a number of occasions about this line with various people. What he has heard is that there is resistance to moving the line. In his view, it should be pulled up and connected to the last pole and a new pole set at the State Park property. He has heard figures of between \$7,500 and \$15,000 to do this and thinks it is hard to believe it would cost that much. He thinks CMP's view is that the power line is so far out of current code that they would just want to replace the whole line. He encourages the parallel track. The line is actually on the land of a number of private property owners and the Town just has a right-of-way.

Another track is to do some repairs of the road even with the power line still in place. He said that the grading of the road leaves ridges along the edge of the road that prevents water from running off the surface into the ditches that we do have along the sides. That would do a great deal to help prevent saturation of the road. On the south side of the road, that has nothing to do with the power line, the Town could improve that side at any time. Where the road crosses the swamp it acts as a dam on the north side and prevents water from running to the south side and causes it to become saturated with water. At this location old, defective culverts need to be replaced with new ones. CMP could pull the "fuse" for a few hours while the Town did some digging to replace some culverts. That would help drain pockets on the north side of the road. Also, cutting some trees on the south side would let some sun get in there to help dry the road out and melt snow and ice off. He does not expect the Town to rebuild the road to the standards for a private road or to pave it. He also said that he expects a reasonable amount of work should be done, but not for a lot of money. He said do what can reasonably and affordably be done.

Gerry said that Paul has good points. He is concerned that if we try to replace the culverts that the power line could get damaged.

The Board agreed with the proceeding with the two approach strategy.

**9. Richard Rosenberg: Town of Lincolnville v. Richard Rosenberg:**

Richard Rosenberg addressed the Board and passed out information to them concerning ongoing problems he is having with the Town and the Land Use Ordinance pertaining to the duties of the Code Enforcement Officer. Rosenberg said he should have sent a letter denying allegations and to request a transfer of his case to Superior Court. He said it's takes about two years for a case to be heard in Superior Court. He said to the Board, you are probably asking why I did not send the letter, my answer to you is I thought I did, but I forgot and at my age my memory is not good. Rosenberg's other complaint was his

allegation that the CEO trespassed on his property without his permission. He feels he is being targeted unfairly by the CEO. He said he should not be treated any differently than any other citizen of Lincolnville.

Kinney asked Rosenberg when was the last time he thought the CEO trespassed on his property.

Rosenberg said he was talking about the year 2011.

Kinney said he just wanted to clarify the date because the last time Rosenberg raised the issue Kinney said he addressed that with the CEO.

Kinney said that if Rosenberg had something he wished to accomplish on his property and worked within our ordinances, Kinney would be more than happy to assist him in obtaining the necessary permits.

Rosenberg said he knew Kinney's heart was in the right place and he thanked him and the Board for their time.

**10. Liquor License Renewal – The Inn at Ocean's Edge:**

**Motion by Trundy, second by Gerry, that the Board approve and sign the Liquor License application submitted by the Inn at Ocean's Edge. Vote 4-0.**

**11. Authority to Post Roads for Seasonal Weight Limits:**

**Motion by Trundy, second by Gerry, that the Board of Selectmen authorize the Road Commissioner to post the roads for weight limits as he deems to be in the best interest of the Town and further that the Board authorizes the use of our signature stamps on these postings. Vote 4-0.**

**12. Treasurer's and Payroll Warrant(s) – Approve and Sign:**

**Motion by Trundy, second by Dunn, that the Board approve and sign the Treasurer's and Payroll Warrants. Vote 4-0.**

**13. Adjourn:**

**Motion by Trundy, second by Gerry, to adjourn the meeting. (8:00 p.m.) Vote 4-0.**

Respectfully submitted,  
Cheryl Ten Broeck  
Administrative Assistant