

TOWN COUNCIL MEETING

August 21, 2007

BOARD OF LICENSE COMMISSIONERS

1. Call to Order 7:00 p.m. All Councilors were present

2. Presentations

Derek Meiklejohn

Councilor Flynn presented Mr. Meiklejohn with a citation and read it to the audience.

3. Minutes

July 17

Voted 5-0 to approve the minutes, (KM – JJ).

5. Application for Class F License

a. Kirkbrae Country Club for event on August 26, 2007

Voted 5-0 to approve the Class F License, (JJ – KM).

b. St. Ambrose Church for event on September 9, 2007

Councilor Jahnz recused himself as he is the chairman of this event.

Voted 4-0 to grant this license, (RM – JF).

6. Application for Special Event License

a. St. Ambrose Church for event on September 9, 2007

Councilor Jahnz recused himself.

Voted 4-0 to grant this license and waive the fee, (RM – KM).

**b. Manville Sportsmen's Club for event on September 23 and 24
Voted 5-0 to grant this license requiring a detail officer as
recommended by the police, (RM – JJ).**

7. Application for Private Detective License

a. Edward Melucci

Voted 5-0 to grant this license, (KM – JF).

b. Michael Melucci

Voted 5-0 to grant this license, (KM – JF).

7. Communication

Lincoln Police

**Voted 5-0 to accept this communication and schedule a show cause
hearing on September 17, 2007 at 6:00 and to authorize the Town
Solicitor to issue any subpoenas as necessary, (RM – KM/JJ).**

8. LaCabana

non-payment of Police Details

Voted 5-0 to include this issue at the show cause hearing, (KM – RM).

TOWN COUNCIL

A. Call to Order 7:17 p.m.

B. Consent Agenda

**Voted 5-0 to accept the consent agenda as amended, (KM – JJ). The
consent agenda consists of the following items:**

Minutes

1. July 16 – Work Session

2. July 16 – Purchasing Committee
3. July 17 – Ordinance Committee
4. July 17 – Claims Committee
5. July 17 – Regular Meeting

Consideration of Monthly Bills

1. Accounts Payable – Library: \$17,352.27
2. Accounts Payable – Town: \$423,804.75

Claims for Referral to Committee

- a. Casey Gillooly
- b. Stephen Struk

Communications

State Mandated Financial Reports

- a. Town
- b. Water Department

RI DEM

C. Public Comment

Jim Spooner: Mr. Spooner stated he would like to see a better program to allow seniors to be alleviated from taxes. He also stated Officer Murphy has been responding to traffic concerns in the Lonsdale /Main area.

Edward Slattery: Mr. Slattery would like to see Chief Justice Williams meet with the public regarding the new courthouse proposal.

Debra Ambeault: Ms. Ambeault complained that she is having difficulty getting in and out of her driveway.

Voted 5-0 to dispense with the Council rules and change the order of business to consider the correspondence from Finance Director John Ward, (JJ – KM).

Communications

John Ward, Finance Director

Mr. Ward explained his letter regarding using the states bids to purchase items for the Town. The Council discussed and will revisit this item at the next meeting.

Voted 5-0 to dispense with the Council rules and change the order of business to consider the direct pay, Final Middle School Accounting and Bids, (RM – JJ).

Consideration of Monthly Bills

Direct Pay – Town: \$1,775,950.43

Voted 5-0 to approve this payment as presented, (JJ – KM).

Councilor O’Grady asked a question regarding this line, which was answered by the Finance Director.

Final Middle School Bond Accounting

Finance Director John Ward reported the Town is waiting for some final approvals. He will present a final report in September.

Purchasing Committee Report

Bids

a. Cut and Patch Bituminous Concrete

Voted 5-0 to award this bid to Cardi Corp, as the lowest bidder, as recommended by the Finance Director, (JJ – RM/KM).

b. Bituminous Concrete-in Place

Voted 5-0 to award the bid to Cardi Corp, as the lowest bidder as recommended by the Finance Director, (JJ – KM).

c. Roof Highway Garage

Voted 5-0 to award this bid to Gorman Roofing Inc in the amount of \$68,300.00 as the lowest bidder as recommended by the Finance Director, (JJ – KM).

d. Capital Improvement Study

Voted 5-0 to award this bid to Shamoon Planning, LLC in the amount of \$15,000.00 with an additional \$5,000.00 plus \$85.00/hour for site visit, as determined by the CDC, as recommended by the Finance Director, (JJ – JF).

e. Wastewater Collection Systems Service Fee

Voted 5-0 to award this bid to Malcom Pierni in the amount of \$28,500.00 as recommended by the Finance Director, (JJ – KM).

D. Minutes

August 2 – Special Meeting

Voted 5-0 to defer these minutes, (KM – JF).

E. Appointments

1. Sewer Appeals - District 1

Voted 5-0 to defer, (JJ – KM).

2. Conservation Commission – District 4

Voted 5-0 to defer, (JJ – KM).

3. Juvenile Hearing Board – District 2

Voted 5-0 to defer, (JF – JJ).

4. Juvenile Hearing Board – District 4

Voted 5-0 to defer, (JJ – KM).

5. Juvenile Hearing Board – District 5

Voted 5-0 to re-appoint Rene Remillard, (RM – JF).

6. Juvenile Hearing Board – Alternate

Voted 5-0 to defer, (KM – JF).

7. Juvenile Hearing Board – Alternate

Voted 5-0 to defer, (KM – JJ).

G. Unfinished Business

1. Claims Committee Report

a. Dennis Pierson

Voted 5-0 to deny this claim, (RM – JF). The claimant has been paid by their insurance company.

2. Ordinance Committee Report

Ordinances – vote on Ordinances for consideration and/or passage

a. Ordinance 07-06: Creation Lonsdale Redevelopment Agency

Voted 5-0 by roll call to approval passage of this ordinance as amended in committee, (KM – JJ).

Ordinance 07-06a

AN ORDINANCE TO ESTABLISH THE LINCOLN REDEVELOPMENT AGENCY

The Town Council of the Town of Lincoln, Rhode Island hereby ordains as follows:

Section 1. ESTABLISHMENT AND FINDINGS:

A. Rhode Island General Laws §45-31 through 45-33, inclusive, authorizes the establishment of a Redevelopment Agency for the purposes of the elimination and prevention of blighted and substandard areas and their replacement through redevelopment by well-planned, integrated, stable, safe, and healthful neighborhoods.

B. The Town Council finds that there exists blighted and substandard areas within the Town of Lincoln and that these areas constitute a serious and growing menace which is injurious and inimical to the public health, safety, morals, and welfare of the people of the Town of Lincoln and of the people of the State of Rhode Island generally.

C. The Town Council adopts the findings of the Rhode Island Legislature as to the detrimental effects of such blighted areas, as outlined in R.I.G.L §45-31-2 through §45-31-6.

D. The Town of Lincoln, through its Town Council finds that there is the need for such a Redevelopment Agency to function in the Town to eliminate and prevent the existence of such blighted areas, including the Lonsdale Bleachery complex location, in order to facilitate redevelopment in such areas in accordance with the goals set forth in R.I.G.L. § 45-31 through 45-33 and any redevelopment plans or studies of specific enforcement areas to be serviced by the

Redevelopment Agency.

E. This Ordinance shall serve as proof of the establishment and authorization of the Lincoln Redevelopment Agency (herein “Agency”) which shall be comprised of a variety of professionals who have expertise in this type of real estate development. This agency shall transact business and exercise its powers, as provided by §45-31 through §45-33 of the Rhode Island General Laws.

Section 2. DECLARATION OF PURPOSE:

The purpose of the Agency is to encourage, direct, and regulate new development and redevelopment and to carry out the purposes of Title 45, chapters 31-33, inclusive, of the Rhode Island General Laws.

Section 3. DEFINITIONS:

The following definitions pertain to this Ordinance and its associated documents.

A. “Agency” means a redevelopment agency created by this Ordinance and authorized by RIGL Title 45, Chapters 31-33.

B. “Arrested blighted area” means any area which, by reason of the existence of physical conditions including, but not by way of limitation, the existence of unsuitable soil conditions, the existence of

dumping or other unsanitary or unsafe conditions, the existence of ledge or rock, the necessity of unduly expensive excavation, fill or grading, or the necessity of undertaking unduly expensive measures for the drainage of the area or for the prevention of flooding or for making the same appropriate for sound development, or by reason of obsolete, inappropriate, or otherwise faulty platting or subdivision, deterioration of site improvements, inadequacy of utilities, diversity of ownership of plots, or tax delinquencies, or by reason of any combination of any of the foregoing conditions, is unduly costly to develop soundly through the ordinary operations of private enterprise and impairs the sound growth of the community.

C. “Blighted and substandard area” includes a “slum blighted area”, a “deteriorated blighted area”, or an “arrested blighted area”, or any combination of these areas. “Blighted and substandard area” shall also include those areas where the presence of hazardous materials, as defined in § 23-19.14-2, impairs the use, reuse, or redevelopment of impacted sites.

D. “Bonds of agency” means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to §§ 45-33-5 – 45-33-15.

E. “Community” means the Town of Lincoln, or a village or neighborhood contained therein.

F. “Deteriorated blighted area” means any area in which there exist buildings or improvements, either used or intended to be used for living, commercial, industrial, or other purposes, or any combination of these uses, which by reason of:

- 1. Dilapidation, deterioration, age, or obsolescence,**
- 2. Inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities,**
- 3. High density of population and overcrowding,**
- 4. Defective design or unsanitary or unsafe character of conditions of physical construction,**
- 5. Defective or inadequate street and lot layout, and**
- 6. Mixed character, shifting, or deterioration of uses to which they are put, or any combination of these factors and characteristics, are conducive to the further deterioration and declined of the area to the point where it may become a slum blighted area as defined in subdivision (R) of this section, and are detrimental to the public health, safety, morals, and welfare of the inhabitants of the community and of the state generally. A deteriorated blighted area need not be restricted to, or consist entirely of, lands, buildings, or improvements which of themselves are detrimental or inimical to the public health, safety, morals, or welfare, but may consist of an area in which these conditions exist and injuriously affect the entire area.**

G. “Federal government” means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

H. “Town Council” means the Town Council of the Town of Lincoln.

I. “Obligee of the agency or obligee” shall include any bondholder, trustee or trustees for any bondholder, or lessor demising to the agency property used in connection with a redevelopment project or any assignee or assignees of that lessor, and the federal government.

J. “Planning Board” means a town board established under any state law or created by or pursuant to the charter of the community.

K. “Project area” means all or any portion of a redevelopment area. A project area may include lands, buildings, or improvements which of themselves are not detrimental or inimical to the public health, safety, morals, or welfare, but whose inclusion is necessary, with or without change in their conditions or ownership, for the effective redevelopment of the area of which they are a part.

L. “Public hearing” means a hearing before the Town Council or before any committee of the Town Council to which the matter to be heard shall have been referred.

M. “Real property” means lands, including lands underwater and waterfront property, buildings, structures, fixtures, and improvements thereon, and every estate, interest, privilege, easement, franchise and right, legal or equitable, including rights of way, terms for years and

liens, charges or encumbrances by way of judgment, attachment, mortgage, or otherwise, and the indebtedness secured by such liens.

N. “Redevelopment” means the elimination and prevention of the spread of blighted and substandard areas. Redevelopment may include the planning, replanning, acquisition, rehabilitation, improvement, clearance, sale, lease, or other disposition,, residential, recreational, commercial, industrial, institutional, public, or other purposes, including the provision of streets, utilities, recreational areas, and other open spaces consistent with the needs of sound community growth in accordance with the community’s Comprehensive Plan and carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements.

O. “Redevelopment area” and “Redevelopment District” means any area of a community which the Town Council thereof finds is a blighted and substandard area whose redevelopment is necessary to effectuate the public purposes declared in RIGL Title 45, Chapters 31-33.

P. “Redevelopment plan” means a plan, as it exists from time to time, for a redevelopment project, which:

a. Conforms to the Comprehensive Plan for the community as a whole; and

b. Is sufficiently complete to indicate such land acquisition,

demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the project area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationships to definite local objectives, respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

Q. "Redevelopment project" means any work or undertaking of an agency pursuant to Chapters 31-33, inclusive, of Title 45 of the R.I.G.L.

R. "Slum blighted area" means any area in which there is a predominance of buildings or improvements, either used or intended to be used for living, commercial, industrial, or other purposes, or any combination of these uses, which by reason of:

- a. Dilapidation, deterioration, age, or obsolescence,**
- b. Inadequate provisions for ventilation, light, sanitation, open spaces, and recreation facilities,**
- c. High density of population and overcrowding,**
- d. Defective design or unsanitary or unsafe character or condition of physical construction,**
- e. Defective or inadequate street and lot layout, and**
- f. Mixed character or shifting of uses to which they are put, or any combination of these factors and characteristics, are conducive to ill health, transmission of disease, infant mortality, juvenile**

delinquency, and crime, injuriously affect the entire area and constitute a menace to the public health, safety, morals, and welfare of the inhabitants of the community and of the state generally. A slum blighted area need not be restricted to, or consist entirely of, lands, buildings, or improvements which of themselves are detrimental or inimical to the public health, safety, morals, or welfare, but may consist of an area in which these conditions predominate and injuriously affect the entire area.

S. “State government” means the state of Rhode Island, or any agency or instrumentality, corporate or otherwise.

T. “State public body” means the state, or any city or town or any other subdivision or public body of the state or of any city or town.

Section 4. CREATION.

The Agency shall have a membership, organization, and powers as provided below.

A. Membership and appointment.

The appointment of members and rules governing the tenure and officers of the Agency shall be those as stated in the Rhode Island General laws Chapter 45-31-12 through 45-31-15.

The Agency shall be comprised of seven (7) resident electors of the

Town of Lincoln, five (5) appointed by the President of the Town Council, subject to the approval of the Town Council and two (2) appointed by the Town Administrator. No member of the agency may be an elected officer or employee of the Town of Lincoln. The powers of the Agency shall be vested in the members then in office. Members shall receive their actual and necessary expenses, including travel expenses, and may receive other compensation as the Town Council may prescribe.

The Agency members who are first appointed shall be designated to serve for terms of one, two, three, four, and five years respectively. Two members out of the original seven member agency shall be designated to serve one (1) year terms. Another two members out of the original seven member agency shall be designated to serve two (2) year terms. Each remaining member of the original seven member agency shall serve three (3), four (4), and five (5) year terms respectively. Thereafter regular members shall be appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term. Four members out of the seven member agency shall constitute a quorum. A member shall hold office until his or her successor has been appointed.

The Agency shall elect a chairperson and vice chairperson from among its members. The Agency shall elect or appoint a secretary

who needs not be a member of the Agency. The term of office of the chairperson, vice chairperson, and secretary, unless otherwise prescribed by the Town Council shall be for the calendar year, or for that portion remaining after each officer is designated or elected.

Meetings of the Agency shall be held monthly and at such other times as the Agency may determine. All meeting shall be open to the public and comply with all State of Rhode Island and the Town of Lincoln's Open Meeting regulations, as amended. Four (4) members shall constitute a quorum.

B. Qualifications of Agency Members

It is preferable that members of the agency possess qualifications in fields that will be beneficial to the purposes of the agency. This would include legal, architectural, engineering, real estate, finance, construction, and environmental fields.

C. Interest of officers and employees in project area properties.

No officer or employee of the community or of the Agency, who in the course of his or her duties is required to participate in the formulation of plans or policies for the redevelopment of a project area, or to approve those plans or policies, shall acquire any interest in any property included within a project area within the community. If the officer or employee owns or has any financial interest, direct or indirect, in any property included within a project area, he or she shall

immediately disclose, in writing, the interest to the Town Council and the disclosure shall be entered in the minutes of the Agency and of the Town Council. Failure to disclose the interest constitutes misconduct in office. No payment shall be made to any member or officer of Agency for any property or interest in property acquired by the Agency from the member or officer, unless the amount of the payment is fixed by court order in eminent domain proceedings or unless the payment is unanimously approved by the Town Council.

D. Suspension and removal of Agency members.

For inefficiency, neglect of duty, more than two (2) unexcused absences, or misconduct in office, a member of the Agency may be suspended by the Town Council. A member of the Agency may be removed by the Town Council only after he or she has been given a copy of the charges against him, or her which copy shall be served on him or her at least ten (10) days prior to a public hearing, and after he or she has had an opportunity to be heard in person or by counsel, at the hearing to be held within thirty (30) days after the day of the suspension/removal.

E. Resident Attorneys.

The Agency shall appoint, in writing, some competent person or persons resident in this state as its resident attorney or attorneys with authority to accept service of process against that agency in this state, and upon any of whom all processes against the agency in this state may be served. The power of attorney shall be filed in the office

of the secretary of state and state the name and address of the Resident Attorney. If the Resident Attorney dies, resigns, or moved from the state, the agency shall immediately make a new appointment as prescribed and immediately file the power of attorney in the office of the secretary of state. No power of attorney shall be revoked until after a like power has been given to some other competent Resident Attorney in this state and filed as prescribed. Service of process upon the Resident Attorney is deemed sufficient service upon the Agency, as long as it comports with the usual requirements for service of process as governed by the Rules of Civil Procedure.

F. Deactivation or substitution of Agency.

At any time after two (2) years of the effective date of this Ordinance declaring that there is need for a Redevelopment Agency to function in the community, the Town Council, if the Agency has not redeveloped or acquired land for, or commenced the redevelopment of a project or entered into any contracts for redevelopment, may, by repeal of this Ordinance, declare that there is no further need for the Agency in the community. Thereupon, the offices of the members of the Agency shall be vacated and the capacity of the Agency to transact business or exercise any power shall be suspended and remain suspended until the Town Council adopts an Ordinance declaring the need for the Agency to function.

G. Engaging Services of Experts.

The Agency may designate a secretary and engage the services of a

recorder and such other technical services or assistance it deems necessary to carry out its responsibilities subject to the provisions of the Town of Lincoln's Charter and Ordinances.

Section 5. POWERS AND DUTIES OF THE LINCOLN REDEVELOPMENT AGENCY.

A. Statutory Powers of the Agency

The Agency shall carry out any and all powers authorized by the Rhode Island

General Laws, including those listed in §45-31 through §45-33, and any and all other powers necessary and convenient to carry out and effectuate the purposes and provisions of this Chapter.

Section 6. APPROPRIATIONS AND AGENCY BUDGET

A. Administrative Appropriations

When the Agency becomes authorized to transact business and exercise its powers upon passage of this Ordinance, the Town Council may, at this time, and from time to time thereafter, make an estimate of the amount of money required for the administrative purposes of the Agency and may appropriate amounts to the Agency as it deems necessary.

B. Budgetary Control of Agency

The Agency shall annually submit to the Town Council a proposed

budget of its

administrative expenses. The budget is subject to changes as the Town Council may prescribe, and its preparation and adoption, and the adoption of any changes in the budget, shall be subject to the same rules which are applicable to other agencies and departments of the Town which are subject to budgetary control. No adoption is effective unless it is concurred in by the membership of the Town Council.

C. Periodical Reports

Each agency transacting any business and exercising any powers shall file with the legislative body a detailed report of all its transactions, including a statement of all revenues and expenditures, at monthly, quarterly, or annual intervals as the legislative body may prescribe.

Section 7. SUPERCISSION AND EFFECTIVE DATE.

This Ordinance shall become effective upon passage.

4. Public Safety Committee Report

Councilor Flynn updated the Council on the Neighborhood Traffic Safety Program. Officer Murphy has been active in the Lonsdale area.

Reports will be coming to the Town Council. Councilor O'Grady reported on the Mount Ave issue. The Town may look into moving the road and taking land across the street to alleviate this problem. Councilor Flynn will be drafting an ordinance to force maintenance of all Town sidewalks.

5. Capital Improvement Committee Report

Councilor McKenna reports hiring a consultant to do a facility study. Site Studies have been done on the Senior Center. Recreational facilities are part of the studies.

6. Courthouse discussion

Councilor Flynn asked for better communication from the state. The Town Administrator reports that John MacQueen and Al Ranaldi are representing the Town and have attended one meeting. Councilor Macksoud reports the state needs nine acres to site and he has made some suggestions.

H. New Business

1. Resolution introduction for referral to Committee

a. Resolution 07-32: Albion Road

Voted 5-0 to suspend the Council rules and consider this resolution immediately, (JJ – JF).

Voted 5-0 by roll call for passage of this Resolution, (JJ – JF).

Resolution 07-32

Resolution of the Lincoln Town Council

WHEREAS: In the recent several months the new construction of many housing units has occurred and said units have since been inhabited on the portion of Albion Road (Route 123) beginning on State Highway Route 116 and heading westerly;

AND WHEREAS: The condition of this portion of the road has substantially deteriorated;

AND WHEREAS: An inquiry has been made to the State of Rhode Island Department of Transportation to resurface this portion of Albion Road (Route 123);

AND WHEREAS: All formal requests must be accompanied by Town Council approval;

THEREFORE BE IT RESOLVED: That the Lincoln Town Council requests that the State of Rhode Island Department of Transportation resurface said portion of Albion Road (Route 123) from Rt. 116 South heading westerly; and that the Town Clerk of Lincoln shall forward a copy of this Resolution to the General Assembly delegation from the described area.

b. Resolution 07-33: 27 Southwick Drive

Voted 5-0 to suspend the Council rules and consider this resolution immediately, (JJ – JF).

Voted 5-0 by roll call for passage of this resolution, (JJ – JF).

Resolution 07-33

Resolution of the Lincoln Town Council

WHEREAS: There exists a group home for four severely mentally challenged adults located on 27 Southwick Drive in Lincoln for the past 25 years;

AND WHEREAS: The state of Rhode Island Department of Mental Health, Retardation and Hospitals first closed the home in 1995 in a cost cutting measure, only to have the State Superior Court find this action to have negatively impacted the residents and go against procedural safeguards, and ordered the home reopened.

AND WHEREAS: The Court stated that the residents' guardians should be given the opportunity to appeal or consent to any future

effort to close the home;

AND WHEREAS: The state has again recently decided to close this home in another cost cutting measure which has been appealed by representatives of the residents;

AND WHEREAS: This decision to close the home has been ordered temporarily restrained by the State Superior Court citing the residents' service plan guide and the best interests of the residents;

AND WHEREAS: That the Lincoln Town Council supports the efforts of the family members, guardians, and advocates of the residents to keep the 27 Southwick Drive group home open and operational for said residents.

THEREFORE BE IT RESOLVED:; That the Town Clerk of Lincoln shall forward a copy of this Resolution to the Director of the State of Rhode Island Department of Mental Health, Retardation and Hospitals, the Presiding Justice of the State Superior Court and the General Assembly delegation from the described area.

5. Public Access to Playgrounds discussion and/or action

Councilor Macksoud reported he received a complaint from a constituent about not being allowed in the Park during summer programming. The Town Administrator stated this policy has been in effect for eight years and has been effective. He reminded the Council that the schools also have the same policy during school hours. He is not inclined to change at this time as he believes it is the right thing to do to ensure the safety of the hundreds of children that participate in the summer programs. The Town will make a greater effort to communicate this fact better before the start of next season. Councilor O'Grady also stated he believes in the policy.

7. Lonsdale Field Improvement Status discussion

The Town Administrator reports he is hoping to meet the construction schedule. The bid for construction services will go out shortly.

I. Communications

2. State Mandated Financial Reports

a. School

Voted 5-0 to defer, (JJ – KM).

J. Reports

1. Town Administrator

Voted 5-0 to accept the reports, (KM – JJ). Councilor O'Grady asked a question about the Town Planner's report.

K. Tax Abatements

a. \$135,874.71

Voted 5-0 to approve the abatements as presented, (RM – JJ). Councilor McKenna wanted to report that the high amount is due to Homestead exemptions not being applied and errors from DMV.

Adjourn 9:00 p.m.

Karen D. Allen

Town Clerk