

TOWN COUNCIL MEETING

April 22, 2008

BOARD OF LICENSE COMMISSIONERS

- 1. Call to Order 7:06 p.m. All Councilors were present.**

- 2. Pledge of Allegiance led by Eagle Scout Michael Gingras
Presentation to Michael Gingras from Councilman James Jahnz.
Presentation to Retiring Water Department Employees Louis Prescott,
Jean Gagnon and Ray Kelly.**

- 3. Minutes**
 - a. March 18, 2008**
Voted 5-0 to approve the minutes from March 18, 2008, (KM – RM).

- 4. Application Private Detective License (Renewal)**
 - a. Eric F. Fox**
**Voted 5-0 to approve the renewal of a Private Detective license for
Eric Fox, (JF – KM).**

- 5. Application for Victualling License**
 - a. Café at Fairlawn (change in hours of operation)**
Voted 5-0 to schedule a public hearing for May 20 at 7:00, (KM – RM).

6. Application for Class F License

a. Lincoln Memorial Day Parade Committee for fundraiser on April 26, 2008

Voted 5-0 to grant a Class F license for the event on April 26, (KM – JF).

b. Lincoln Memorial Day Parade Committee for event on May 26, 2008

Voted 5-0 to grant a Class F license for the event on May 26, (KM – JF).

7. Application for Beverage License Class BVL

a. Tina SaSa, LLC d/b/a Super Suppers

Voted 5-0 to defer, (RM – JF).

8. Renewal of Holiday Sales Licenses

a. See attached

9. Application for Solicitor's Permit

a. Affordable Computer Services

No action needed, withdrawn.

10. Application for Special Event License

a. Events at Twin River

Voted 5-0 to grant Special Events Licenses for the following events: Richard Marx, Body Building Competition, Providence College Dinner/Concert, Arrival concert, Thunder Down Under, (KM – JJ).

TOWN COUNCIL

Call to Order 7:25 p.m.

Voted 5-0 to dispense with the order of business and move to the public hearing for the road abandonment, (KM – JJ).

Request for Road Abandonment from Lincoln Housing Authority – Public Hearing

Voted 5-0 to grant the application for road abandonment from the Lincoln Housing Authority, on the basis that the road ceases to be useful as a public way. (KM – JJ).

Joshua Glass, attorney for Lincoln Housing Authority explained the reason for the request. Lincoln Housing Authority was asked to seek this request by the Town's Zoning Board as it ceases to be useful to the public. Councilman McKenna stated he met with a resident who has water issues that he claims are from the Housing Authority property. If improvements are made to this property, those issues will have to be worked out. Solicitor DeSisto also stated any proposed sub-division will have to address drainage issues.

Vern Rainville asked what is proposed for this site. Joshua Glass

stated nothing is planned right now.

Jim Spooner stated promises should be in writing.

Richard Pina suggested the council members listen to the residents.

Consent Agenda

Voted 5-0 to accept the consent agenda as amended, (KM – RM/JF).

The consent agenda consists of the following:

Minutes

- 1. March 17 – Public Safety Committee**
- 2. March 18 – Regular Meeting**
- 3. March 31 – Ordinance Committee**
- 4. April 3 – Special Meeting**

Consideration of Monthly Bills

Accounts Payable – Library: \$

Direct Pay – Town: \$

Claims for Referral to Committee

- a. Maria Carbone**
- b. Anna Larginho**

Communications

- 1. State Mandated Financial Reports**
 - a. Town**
 - b. School**
 - c. Water Department**
- 2. David E. Maglio**
- 3. City of Newport**
- 4. Town of East Greenwich**

5. **Town of Portsmouth**
6. **Town of South Kingstown**
7. **Town of Smithfield**
8. **RI DEM**
- 9.

Reports

1. **Town Administrator**

Tax Abatements

- a. **\$ 74,695.06**

Public Comment

Richard Pina: Mr. Pina commented about the deed to his land and how he feels it is not correct.

Jim Spooner: Mr. Spooner commented he had been denied by the Tax Board of Review and is disappointed that he cannot go before them again.

Edward Slattery: Mr. Slattery feels the Resolution regarding the FTM Quorum should go before the voters, and the Town should consider Saturday meetings.

George Hadley: Mr. Hadley commented on articles in the newspaper regarding the courthouse.

Voted 5-0 to dispense with the order of business and consider the communication from Ken Pichette, (JJ – KM).

Voted 4-0, Councilman McKenna abstained, to accept the resignation and communication from Kenneth Pichette, (JJ – KM)

Voted 5-0 to dispense with the order of business and consider Resolution 08-14, (KM – JJ).

a. Resolution 08-14: CDBG Application

Voted 5-0 for immediate consideration of Resolution 08-14, (KM – JF).

Voted 5-0 to adopt Resolution 08-14, (KM – JF).

Resolution 08-14

RESOLUTION AUTHORIZING THE FILING OF SMALL CITIES CDBG APPLICATION

WHEREAS, funds are available under the Rhode Island Small Cities Community

Development Block Grant Program, administered by the Department of Administration's Division of Planning, Office of Municipal Affairs, and

WHEREAS, the Governor of the State of Rhode Island has authorized the Director of

Department of Administration to disburse such funds, and

WHEREAS, it is in the best interest of the citizens of the Town of Lincoln that

Application be made to undertake a Small Cities Community Development Program, now

THEREFORE, BE IT RESOLVED by the Town Council of the Town of Lincoln that the filing of this application in the amount of \$400,000.00 to implement the activities proposed herein is hereby authorized. Additionally, T. Joseph Almond, Town Administrator, is hereby authorized and directed to file this application with the Department of Administration to provide any additional information or documents required by said Department to make any assurances required in connection with its program to execute an agreement with the State of Rhode Island to otherwise act as the Representative of the Town of Lincoln in all matters relating to this application and any award which may be based upon this application.

Voted 5-0 to dispense with the order of business and consider the report from the Purchasing Committee, (JJ – KM).

4. Purchasing Committee Report

a. Bid for GASB 43/45 Actuarial Consulting Services

Voted 5-0 to award the bid for GASB 43/45 Actuarial Services to Alliance Benefit Group in the amount of \$6,000.00 at the

recommendation of the Finance Director, (JJ – KM).

Voted 5-0 to dispense with the order of business and consider the monthly bills, (KM – JJ). Consideration of Monthly Bills

1. Accounts Payable – Town: \$

Voted 5-0 to discuss the bills, (KM – JJ).

Council President O’Grady had a question about the solicitor bills.

Voted 5-0 to amend the Accounts Payable – Town bills by adding \$8,070.09 bringing the total to \$\$235,729.32, (KM – JJ).

Voted 5-0 to dispense with the order of business and consider Resolution 08-13, (RM – JJ).

b. Resolution 08-13: Cancellation of Certain Taxes

Voted 5-0 to discuss, (RM – KM).

Councilman McKenna asked why the Town was abating real estate.

John Ward, Finance Director explained it was to clean up a record and was in the settlement agreement.

Voted 5-0 to adopt Resolution 08-13, (RM – KM).

Resolution 08-13

RESOLUTION

AUTHORIZING THE CANCELLATION OF CERTAIN TAXES

WHEREAS, the Town of Lincoln purchased certain parcels of land

from Lombeau, Inc., and;

WHEREAS, there remains unpaid balances of real estate taxes and sewer assessments and user fees on those parcels, and;

WHEREAS, it is the intention of the Town to retain certain of these parcels as open space or to resell them free of any liens or encumbrances, and;

WHEREAS, the Town Finance Director recommends that the said taxes be cancelled in conformity with R.I.G.L. Section 44-7-14 Cancellation of Taxes in the amount as respectively set forth in the attached report, therefore;

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LINCOLN, RI AS FOLLOWS:

Section 1: That the said above described report be incorporated in and attached to this resolution and that the said report be made a part hereof;

Section 2: That the Town Council hereby orders that said taxes be cancelled and/or refunded,

Section 3. That the Town Clerk of the Town Council shall, upon passage of this resolution, forthwith certify to the Town Treasurer

and Tax Collector that the taxes specified and itemized in said report have been cancelled and abated in the amounts set forth in the report.

Section 4. This resolution shall take affect upon passage.

Lincoln Town Council

Resolution 08-13 / April 22, 2008

Schedule of Abatements

Account No.	Type of Tax	Amount of Tax	
12-45790-00	Real Estate	\$16,754.94	
12-45791-00	“ “	11,544.85	
12-45792-00	“ “	11,257.75	
12-45793-00	“ “	13,024.02	
12-45794-00	“ “	13,997.28	
S12-45792-00	Sewer Fees & Assessment		3,233.59
S12-45794-00	“ “	3,228.59	
Total		\$73,041.02	

Voted 5-0 to dispense with the order of business and consider Resolution 08-15, (RM – JJ).

Voted 5-0 for immediate consideration of Resolution 08-15, (RM – KM).

Voted 5-0 to adopt Resolution 08-15, (RM – KM).

Resolution 08-15

RESOLUTION

AUTHORIZING THE CANCELLATION OF CERTAIN TAXES

WHEREAS, the Town Finance Director recommends that the said taxes be cancelled in conformity with R.I.G.L. Section 44-7-14 Cancellation of Taxes and/or refunded in the amount as respectively set forth in the attached report.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LINCOLN, RI AS FOLLOWS:

Section 1: That the said above described report be incorporated in and attached to this resolution and that the said report be made a part hereof;

Section 2: That the Town Council hereby orders that said taxes be cancelled and/or refunded,

Section 3. That the Town Clerk of the Town Council shall, upon passage of this resolution, forthwith certify to the Town Treasurer and Tax Collector that the taxes specified and itemized in said report have been cancelled and abated in the amounts set forth in the

report; and that the Finance Director of the Town of Lincoln is hereby authorized, on the passage of this resolution, to make refunds in the amount or amounts as set forth in this report.

Section 4. This resolution shall take affect upon passage.

Lincoln Town Council

Resolution 08-15 / April 22, 2008

Schedule of Abatements

Account No. Type of Tax Amount of Tax Reason_____

Submitted by Rossi Law Offices

See attached list

Tangibles \$ 253,525.23 See enclosed codes

Motor Vehicles 12,389.44

Subtotal \$ 265,914.67

Whelan

23-07400-50 Motor Vehicle \$ 1,371.47 Deceased

Herman

S19-12857-03 Sewer Fee \$ 3,017.28 Alienation of Lien

Total \$ 270,303.42

Minutes

5. March 17 – Ordinance Committee

Voted 5-0 to amend the names of the members present, (JJ – KM)

Voted 5-0 to accept these minutes as amended, (JJ – KM).

6. March 17 – Work Session

Voted 5-0 to accept these minutes as amended, (KM – JJ)

7. March 18 – Purchasing Committee

Voted 5-0 to amend the minutes by correcting the vote which was 2-0, (JJ – KM).

Voted 5-0 to accept these minutes as amended, (JJ – KM).

8. March 31 – Special Meeting

Voted 5-0 to accept these minutes as amended, (KM –JJ).

E. Appointments

1. Sewer Appeals - District 1

Voted 5-0 to defer, (KM – JJ).

2. Conservation Commission – District 4

Voted 5-0 to defer, (JJ – KM).

3. Planning Board – District 1

Voted 5-0 to re-appoint Fred Ordinez, (JJ – RM/KM).

4. Lonsdale Redevelopment Agency

Voted 5-0 to defer, (KM – JJ).

5. Board of Canvassers

Voted 4-0, councilman McKenna abstained, to appoint Robert Ferioli, (JF – KM).

G. Unfinished Business

1. Claims Committee Report

a. Benita V. Kuykendall

Voted 5-0 to deny this claim, (RM – KM). This incident occurred on the Route 295 overpass which is a state road.

b. Robert E. Bibby

deferred in committee

2. Ordinance Committee Report

Ordinances – vote on Ordinances for consideration and/or passage

a. Ordinance 08-04: Child Safety Zone

Voted 3-1-1 for passage, (JJ – JF). Councilmen Jahnz, O’Grady and Flynn were in favor, Councilman McKenna abstained and Councilman Macksoud was opposed.

Councilman Jahnz explained this is in response to the incident in New Bedford, but is less restrictive than other similar ordinances. He feels this will withstand a court appeal. Councilman Macksoud feels it may not accomplish what is intended. Councilman McKenna is worried about the civil liberties of the residents.

Motion made by Councilor Macksoud, and seconded by Councilman McKenna to send this back to committee failed 2-3.

Ordinance 08-04

THE TOWN OF LINCOLN

CHILD SAFETY ZONE ORDINANCE

As a Proposed Addition of §167-4 to the Town of Lincoln Code of Ordinances

The Town Council of the Town of Lincoln hereby ordains:

Section 1: Purpose

The Town of Lincoln recognizes that sex offenders who prey upon children have a high rate of recidivism. The Town of Lincoln has an obligation to protect the health, safety, and welfare of its children by prohibiting access by convicted sex offenders to areas where there is a concentration of children under the age of 16 years.

Section 2: Definitions

A. Registered Sex Offender: those individuals required to register pursuant to

R.I. Gen. Laws § 11-37.1-3 according to R.I. Gen. Laws §§ 11-37.1-4 and 11-

37.1-5, including those persons having been found guilty of a “criminal

**offense against a minor” as defined in R.I. Gen. Laws §11-37.1-2(e),
and
required to register pursuant to R.I. Gen. Laws §11-37.1-3.**

**B. School/Daycare: any public or private educational facility that
provides**

**services to those 18 years or younger or a licensed daycare
facility that is**

clearly marked by at least one sign.

**C. Recreational areas: public areas owned by the Town of Lincoln.
The following locations in Lincoln are considered “recreational
areas” under this Ordinance:**

D.

Property Assessor’s Plat and Lot

Lincoln Youth Center AP 33 Lot 34

Chase Farm AP 22 Lot 72

Camp Meehan AP 45 Lots 53, 61, 144

Handy Pond AP 40 Lots 2, 3

Lime Acres Park AP 26 Lot 110

Saylesville Basketball Courts AP 7 Lot 135

Lincoln Almond Field AP 4 Lot 32

Manville Park AP 36 Lot 6; AP 39 Lot 38

Fairlawn Park AP 6 Lots 316-18, 320-24, 338-43, 348-49, 352, 375, 440

Arnold Park AP 9 Lots 122, 245

Albion Playground AP 34 Lots 189, 362

Quinnville Playground AP 29 Lot 221

Lonsdale Park AP 22 Lot 66, 160

Gateway to Great Road AP 22 Lots 155-159

Aldrich Marshall Woods AP 27 Lot 26

Lime Kiln AP 27 Lot 119

Hearthside House AP 22 Lot 64

Valentine Whitman House AP 29 Lot 148

Thibaudeau Farm AP 13 Lot 77, 81, 113

Skating Pond AP 30 Lot 57

Butterfly Pond AP 25 Lots 230-231

D. Premises: the building or structure including the playground area, playing

fields, courts and parking lots accessory to the building or structure.

E. Loiter: Remaining idle in essentially one location and shall include the

concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, to stand around, and shall also include the colloquial expression “hanging around,” as defined in Ordinance §167-1.

F. Radius: Distance to be measured from the perimeter of the premises outward in a straight line, as long as within the boundaries of the Town of Lincoln.

G. Child Safety Zone: Encompasses the premises of any school, daycare or

recreational area, defined herein, as well as a 500 ft radius

surrounding each premise.

Section 3: Restrictions

A. Any person who is a registered sex offender, as defined herein, shall not reside within 500 ft radius of a school, daycare, or recreational area, as defined herein, subject to the exceptions outlined in this Ordinance.

B. Any person who is a registered sex offender, as defined herein, is prohibited from entering upon or loitering within a 500 ft radius of the premises of a school, daycare center, or recreational area, as defined herein, subject to exceptions outlined in this Ordinance.

Section 4: Exceptions

The provisions of this Ordinance shall not apply to:

1. any person whose name has been removed from the Rhode Island Sex

Offender registry or from the registry of any other state or in the federal or military system by act of a court or by the expiration of the term such person is required to remain on such registry or such person is reclassified as a Level 1 offender or lowest offender category in another jurisdiction.

2. The premises in the child safety zone also supports a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:

a. The registered sex offender's entrance and presence upon the

premises occurs only during hours of worship or other religious program/service as posted to the public and

b. The registered sex offender shall not participate in any religious education programs that include individuals under the age of 18.

3. The premises also support a use lawfully attended by a registered sex offender's natural, adopted, or step- child(ren), which child's use reasonably requires the attendance of the registered sex offender as the child's parent upon the premises, including a school, subject to the following condition:

a. the registered sex offender's entrance and presence upon the premises occurs only during the hours of activity related to the use as posted to the public.

b. If the premises under this exception are a school or daycare the registered sex offender may enter upon the property supporting the school at which time the registered sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.

4. The premises also support a polling location in a local, state or federal election, subject to all of the following conditions:

a. the registered sex offender is eligible to vote;

b. the property is the designated polling place for the registered sex offender; and

c. the registered sex offender enters the polling place premises, proceeds to cast a ballot with whatever usual and customary

assistance is to any member of the electorate, and vacates the property immediately after voting.

5. The premises also support a court, government office or room for public governmental meetings, subject to all of the following conditions:

a. the registered sex offender is on the premises only to transact business at the government office or place of business, or attend an official meeting of a governmental body; and

b. the registered sex offender leaves the property immediately upon completion of the business or meeting.

6. A registered sex offender residing within a 500 ft radius of the premises of a school, daycare, or recreational area, as defined herein, is not in violation of this Ordinance if their residence was established prior to the date of adoption of the ordinance, and the registered sex offender's residency has been continuously maintained. A registered sex offender is not in violation of this Ordinance, if after the passage of this Ordinance the premises of a school, daycare or recreational area is located or expanded to within the 500 foot radius of their residence and said residence has been continuously maintained.

Section 5: Notice

The chief of police or his designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this section

(which notice shall contain a copy of the ordinance) to all persons who are listed on the sex offender registry, as of the effective date of this section and who are covered under this Ordinance, as well as those persons who are added to the sex offender registry at such levels thereafter, which person' addresses (as shown on the sex offender registry) are within the Town of Lincoln. Such notice requirement may be satisfied by personal service upon the registered sex offender by a member of the Lincoln Police Department at the last known address of such person as listed on the Sex Offender Registry or as otherwise known to the chief of police. The failure of any person to receive such actual notice shall not be a defense to a violation of this section.

Section 6: Violations, Enforcement and Penalties

A. Enforcement:

If a police officer reasonably believes that a registered sex offender is in a child safety zone in violation of this Ordinance, the officer shall require the suspected registered sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a registered sex offender as defined in this ordinance, then the officer shall issue a written citation that he/she is in violation of this section and require the person to leave the child safety zone. If the person refuses to leave or is later found to be in the same child safety zone, the penalties set forth below shall apply. A map depicting the prohibited areas shall be created by the Town and maintained by the Lincoln Police Department. The Town shall review the map

annually for changes. Said map will be available to the public at the Lincoln Police Department.

B. Penalties:

After a written citation is issued for violation of this Ordinance, if the registered sex offender refuses to vacate the child safety zone, his refusal shall result in a non-criminal fine of \$125.00. If the registered sex offender does vacate the child safety zone after a written citation from an officer and is later found in a child safety zone, this shall result in the imposition of a civil fine of \$125.00. However, a second violation of the Ordinance shall result in the imposition of a \$250.00 civil fine on the registered sex offender. Additional violations of this Ordinance shall result in the imposition of a civil fine up to \$300.00 for each separate offense. A child sex offender commits a separate offense for each and every violation of this section.

C. Jurisdiction:

Any matters related to this Ordinance shall be referred to the Town of Lincoln Municipal Court.

Section 6: Severability

If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason adjudicated to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of such Ordinance.

Resolutions – vote on Resolutions for consideration and/or passage

a. Resolution 07-48: FTM Quorum

Deferred in committee

b. Resolution 08-10: Oppose Twin River Expansion of hours

Tabled in committee

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5. Capital Improvement Committee Report

Councilor Flynn reported there will be a report ready for the May Town Council meeting.

6. Courthouse Update

Councilor Macksoud reported the court house is no longer being sited in Lincoln. Chief Justice Williams determined that a site in Smithfield is better suited. Councilor Flynn feels it is not the right time to build a new court house.

H. New Business

2. Resolution introduction for referral to Committee

a. Resolution 08-16: Modify Homestead Exemption

Deferred in committee.

3. Ordinance introduction for referral to Committee

a. Ordinance 08-03: Amendment to Retirement of Municipal Employees

Voted 5-0 to refer this ordinance to the Ordinance Committee, (JJ – KM).

b. Ordinance 08-06: Amendment to Homestead Exemption

Voted 5-0 to refer this ordinance to the Ordinance Committee, (KM – RM)

Communications

10. Town Administrator, T. Joseph Almond

11. Norman Lepore

Voted 5-0 to accept these communications, (JJ – RM). Councilman Jahnz read each of them.

Voted 5-0 to amend the agenda to include approval of a citation for Oliver Perry for his 65 years of attendance and naming him the Dean of the Financial Town Meeting, (RM – KM)

Adjourn 9:40 p.m.

Karen D. Allen