



## **TOWN COUNCIL MEETING MINUTES MARCH 3, 2015**

Gregg Garrison, At Large 2015  
Mark Lunt, District 1 2015  
Dillon Pesce, District 2 2015  
Christopher Brunelle, At Large 2016  
Eric Metivier, District 1 2016  
Roger Bickford, District 2, 2016  
Dale Crafts, At Large 2017

**CALL TO ORDER & PLEDGE TO THE FLAG.** The Chairman, Dillon Pesce, called the meeting to order and led the pledge of allegiance to the flag at 7:00 PM.

**ROLL CALL.** Members present were Councilors Bickford, Crafts, Pesce, Garrison, Brunelle, and Metivier. Councilor Lunt was excused. Also present were Diane Barnes, Town Manager; Tracey Steuber, Economic & Community Development Director; Dennis Douglas, Code Enforcement Officer; Mark Stevens, Recreation Director; Traci Austin, School Committee Chairman; Kathi Yergin, Gina Mason, & George Caron, School Committee Members; Rick Green, Superintendent of Schools; Donald Fellows, Planning Board Member; Karen Paradis, Planning Board Chairman; Miriam Morgan-Alexander, Appeals Board & Assessment Review Board member; and approximately 85 citizens in the audience.

### **EXECUTIVE SESSION**

#### **FINANCE DIRECTOR APPOINTMENT**

**VOTE (2015-61)** Councilor Bickford seconded by Councilor Metivier moved to go into Executive Session at 7:04 PM per 1 MRSA Section 405 (6) (A) Personnel Matters to discuss the Finance Director appointment. **Order passed - Vote 6-0.**

Councilor Pesce indicated that this would not take very long. Councilor Bickford, seconded by Councilor Garrison moved to come out of Executive Session at 7:15 PM. The Chairman resumed the meeting.

### **GOOD NEWS & RECOGNITION**

Councilor Bickford commended the Planning Board members and Code Enforcement Officer for establishing an excellent working relationship with the engineers designing the Dollar General store. He indicated that the Dollar General engineers commented on how easy it was to work with them and how professional they were.

### **PUBLIC HEARING**

#### **SPECIAL ENTERTAINMENT PERMIT FOR SANDRA HARKINS D/B/A RAILROAD DINER**

The Chairman opened the public hearing. There were no comments. The Chairman closed the public hearing.

#### **DOWNTOWN OMNIBUS MUNICIPAL TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM**

The Chairman opened the public hearing at 7:05 PM. Ms. Steuber explained that this resolution was necessary to complete the conditional application to secure the April 1, 2013 valuation. This will allow us the time needed to complete the full application for the proposed downtown TIF District. No other comments were made. The Chairman closed the public hearing at 7:06 PM.

## **AUDIENCE PARTICIPATION & RESPONSE FOR AGENDA ITEMS**

Councilor Pesce announced that he would allow comments for everything except the School Budget, which he asked citizens to wait until they hear budget comments from Superintendent Green first.

George Caron, Main Street, asked why the voters are not the final say on the town's budget when voters approved voting on the town's budget.

Dean Willey, Oak Street, asked 1) if the addition for the Public Works garage fell under the charter rule to go to referendum, 2) if the Police Sergeant vacancy will be filled by year end or can it wait until after the personnel study, and 3) if we eliminate the transfer station and go to curbside pickup, how long will it take to implement and plan any move on that subject.

Councilor Pesce replied that the town did vote on a non-binding referendum question to do that, but the Council at that time wanted to wait to move forward.

Council Pesce explained that no single contract for the Public Work's addition would exceed \$100,000 because we were not hiring a General Contractor so this would not need to go to a referendum vote per charter. He indicated that the Council was working diligently on the budget and may move to fill that vacancy after the budget is determined. He said the Utility Committee did meet to discuss the transfer station that options were being discussed and that further information will be public soon.

## **CONSENT AGENDA**

**VOTE (2015-53)** Councilor Bickford, seconded by Councilor Metivier moved to approve the minutes of February 17, 2015 and the Special Entertainment Permit and Liquor License for Sandra Harkins d/b/a the Railroad Diner. **Order passed – Vote 6-0.**

## **COUNCIL ORDERS, ORDINANCES, & RESOLUTIONS**

### **PUBLIC WORKS ADDITION**

Mrs. Barnes indicated the Council requested she check with the School Department before proceeding to see if they wanted to contribute to the project. She mentioned she met with the Superintendent and Director of Grounds and Maintenance. Creating a larger addition would mean hiring a third mechanic to maintain buses but hiring new personnel is not an option at this time, therefore she recommended moving forward with the proposed plan as initially requested. Councilor Pesce said we can't afford to supply a mechanic for the School Department.

**VOTE (2015-54)** Councilor Bickford, seconded by Councilor Garrison moved to start construction to allow staff to proceed with the original plan to solicit bids for the construction of a 25' x 80' steel structured addition to the Public Works garage. **Order passed – Vote 6-0.**

### **FY 2013 HOMELAND SECURITY SUPPLEMENTAL FUNDS**

Chief Brooks explained the funds from the 2013 grant program that were not expended during that grant period are available now. He indicated these funds were drying up, that a year and a half ago Lisbon received \$31,300, and this year \$2,619.90, which is not even the amount requested to purchase the voter repeater radio system. This system will pick up the radio signal and transfer it to another location to enhance our current radio system. He suggested the balance (\$5,666.61) for this system come from the forfeiture account leaving about \$20,000 left in that account after purchasing the mobile computers for the 2015 cruisers. He asked Council to approve the purchase of two (2) mobile computers (MDTs) for the two new 2015 cruisers for \$9,324 from forfeiture funds as well.

**VOTE (2015-55)** Councilor Bickford, seconded by Councilor Metivier moved to authorize the Police Chief to submit a grant application through the Homeland Security Grant Program for supplemental funds and to authorize the expenditure of forfeiture funds for two mobile computers (MDT's) for the two new police cruisers in an amount not to exceed \$9,234 leaving the current balance \$34,831.12. **Order passed – Vote 6-0.**

#### DOWNTOWN OMNIBUS MUNICIPAL TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM

Ms. Steuber explained that the attached documents outline where most of this development will happen. The next step will be to fine-tune this area. She said the credit enhancement document will be created through the Town Manager's office and ratified by the Town Council.

Councilor Pesce indicated his concerns about the hydro plant being involved due to the revaluation data. Ms. Steuber said there was no need for that plant to be included into the District and that it could sit on its own.

**VOTE (2015-56)** Councilor Bickford, seconded by Councilor Metivier moved to adopt the Downtown Omnibus Municipal Tax Increment Financing District Development Program (see attached) and Resolution Exhibit H (see attached) and below:

RESOLVE: Authorizing the Town Manager and the Town's Economic and Community Development Director to execute documents creating the Town's Downtown Omnibus Municipal Tax Increment Financing District and submit the same to the State Department of Economic and Community Development.

WHEREAS, the Town of Lisbon, Maine ("Town") is considering whether to designate the Downtown Omnibus Municipal Tax Increment Financing District and Development Program and adopt the Development Program for the District presented to the Town Council, designation and adoption to be pursuant to the following terms and provisions; and

WHEREAS, the Town is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, to designate specified areas within the Town as a Downtown Development and Tax Increment Financing District (the "District") and to adopt a Development Program for such District; and

WHEREAS, there is a need for commercial development in the Town; and

WHEREAS, there is a need to provide continuing employment opportunities for the citizens of the Town and the surrounding region to improve and broaden the tax base of the Town and to improve the general economy of the Town, the surrounding region and the State of Maine; and

WHEREAS, the expansion will help to provide continued employment for the citizens of Lisbon and the surrounding region, improve and broaden the tax base in the Town, and improve the economy of the Town and the State of Maine; and

WHEREAS, the public improvements, credit enhancement agreements, and targeted business retention initiatives contemplated by the Development Program will enable the Town to expand its tax base, and to improve the economic environment within the Town in order to attract additional businesses to the Town; and

WHEREAS, there is a need to encourage the expansion, improvement and continuation of commercial facilities through the establishment of Municipal Development and Tax Increment Financing Districts in accordance with the provisions of Chapter 206 of Title 30-A; and

WHEREAS, on March 3, 2015 the Town held a public hearing on the question of establishing the District in accordance with the requirements of Chapter 206 of Title 30-A, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and

WHEREAS, it is expected that approval will be sought and obtained from the Maine Department of Economic and Community Development approving the designation of the District and the adoption of the Development Program for the District;

NOW, THEREFORE, BE IT HEREBY ORDERED BY THE TOWN COUNCIL:

Section 1. The Town hereby finds and determines that:

The designation of the District and pursuit of the Development Program will generate substantial economic benefits for the Town and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose.

The proposed District and Development Program will make a contribution to the economic growth or well-being of the Town. The Public Improvements, credit enhancement agreements, and other business programs contemplated by the Development Program will enable the Town to improve its economic climate and construct improvements and other collateral economic inducements to attract new businesses to the Town.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, the Town hereby designates the Downtown Omnibus Municipal Tax Increment Financing District and Development Program, designated and described as more particularly set forth in the Program presented to the Town Council in the form attached hereto and such Development Program is hereby incorporated by reference into this vote as the Development Program for the District.

Section 3. Pursuant to the provisions of 30-A M.R.S. § 5224, the percentage of captured assessed value for the real estate to be retained in accordance with the Development Program is hereby established as set forth in the Development Program.

Section 4. The Town Manager and the Economic and Community Development Director are authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to the State of Maine Department of Economic and Community Development for review and approval.

Section 5. The Town Manager and the Economic and Community Development Director are hereby authorized and empowered, at their discretion, from time to time, to make such technical revisions to the Development Program for the District as may be reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program.

Section 6. The foregoing designation of the District and the adoption of the Development Program for the District shall take full force and effect upon receipt by the Town of approval of the designation of the District in adoption of the Development Program by the Department of Economic and Community Development, without requirements of further action by the Town, the Town Council, or any other party.

**Resolution passed – Vote 6-0.**

- 1) NON-STORM WATER DISCHARGE ORDINANCE  
AND
- 2) POST-CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE  
AND
- 3) AMENDMENT TO SECTION 47-4 STREET EXCAVATIONS  
(*First Readings- Roll Call Votes Required*)

Mr. Douglass said this Non-Storm Water Discharge Ordinance was developed by MMA and a storm water engineer that specializes in just storm water. He explained that this language was reviewed by legal, mandated nationally to be completed, and that it is in the best interest of the town to adopt. He mentioned that MEPA inspects to ensure its compliance and that MDEP administers and oversees its implementation.

Councilor Pesce asked how close we are to completion. Mr. Douglass said right now, 10%; we are in Permit Year 1, going into Permit Year 2, and this may have started in 2003. We were just brought into this, but Lewiston, Auburn, and Sabattus have been involved from day 1. However, within a month or so we will be more like 65% to 70% done. There is a lot of work to be done.

Mr. Douglass explained that Non-Storm Water is stuff that enters into our drainage channel that does not come from natural rain water/storm water so that's called non-storm water. The Post – Construction storm water refers to, for example, a company comes into town and puts in a detention pond or whatnot and yearly we have to inspect these detention ponds to make sure they are operating correctly. If they are not, then the town is responsible to take care of them and if the owners are not or if there was an agreement in place we make sure that these owners are taking care of them. These ordinances were supposed to be in place by January 1. This involves the Water Department, Sewer Department, Public Works, and Code Enforcement.

Councilor Garrison asked that a workshop be held on this topic after the budget season is done. Councilor Pesce said he was concerned that we were only 10% ready at this point. He asked Mr. Douglass to present the Town Manager with a list of tasks and who will be responsible for those for the Council to review.

**VOTE (2015-57)** Councilor Bickford, seconded by Councilor Metivier moved to adopt the Non-Storm Water Discharge Ordinance. Councilor Garrison suggested the Council take action all three ordinances at the same time.

**Amendment #1:** Councilor Bickford, seconded by Councilor Metivier moved to include the Post-Construction Storm Water Management Ordinance and Amendments to Sec. 47-4 Street Excavation and vote on all three ordinances at the same time as follows:

- 1) NON-STORM WATER DISCHARGE ORDINANCE

Section 1. Purpose/Objectives.

A. Purpose. The purpose of this Non-Storm Water Discharge Ordinance (the "Ordinance") is to provide for the health, safety, and general welfare of the citizens of the Town of Lisbon through the regulation of Non-Storm Water Discharges to the Municipality's Storm Drainage System as required by federal and State law. This Ordinance establishes methods for controlling the introduction of Pollutants into the Town's Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

B. Objectives. The objectives of this Ordinance are:

1. To prohibit un-permitted or un-allowed Non-Storm Water Discharges to the Storm Drainage System; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

## Section 2. Definitions.

For the purposes of this Ordinance, the terms listed below are defined as follows:

A. Best Management Practices (“BMP”) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

B. Clean Water Act. “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

C. Discharge. “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

D. Enforcement Authority. “Enforcement Authority” means the person(s) or department authorized under Section 4 of this Ordinance to administer and enforce this Ordinance.

E. Exempt Person or Discharge. “Exempt Person or Discharge” means any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP”).

F. Industrial Activity. “Industrial Activity” means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

G. Municipality. “Municipality” means the Town of Lisbon.

H. Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

J. Non-Storm Water Discharge. “Non-Storm Water Discharge” means any Discharge to an MS4 that is not composed entirely of Storm Water.

K. Person. “Person” means any individual, firm, corporation, municipality, quasi- municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.

L. Pollutant. “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

M. Premises. "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

N. Regulated Small MS4. "Regulated Small MS4" means any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ~~dated June 3, 2003~~ effective July 1, 2013 ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

O. Small Municipal Separate Storm Sewer System, or Small MS4. "Small Municipal Separate Storm Sewer System", or "Small MS4," means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

P. Storm Drainage System. "Storm Drainage System" means the Municipality's Regulated Small MS4 ~~and if want to expand reach of Ordinance, add: "and areas outside the UA that drain into the Regulated MS4" or "and all Premises"]~~.

Q. Storm Water. "Storm Water" means any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water."

R. Urbanized Area ("UA"). "Urbanized Area" or "UA" means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

### Section 3. Applicability.

This Ordinance shall apply to all Persons discharging Storm Water and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.

### Section 4. Responsibility for Administration.

The MS4 Stormwater Coordinator is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

### Section 5. Prohibition of Non-Storm Water Discharges.

A. General Prohibition. Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that ~~even though~~ the Municipality may have approved the connections, drains or conveyances by which a Person ~~discharges~~ unallowed Non-Storm Water Discharges to the Storm Drainage System.

B. Allowed Non-Storm Water Discharges. The creation, initiation, origination and maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing;
2. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and

3. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

C. Exempt Person or Discharge. This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

#### Section 6. Suspension of Access to the Municipality's Small MS4.

The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharge to the Storm Drainage System which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System. If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may enter upon the Premises that are the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System only with the consent of the Premises' owner, occupant or agent.

#### Section 7. Monitoring of Discharges.

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises' owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

#### Section 8. Enforcement.

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S. [§ 4452](#).

A. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The elimination of Non-Storm Water Discharges to the Storm Drainage System, including, but not limited to, disconnection of the Premises from the MS4;
2. The cessation of discharges, practices, or operations in violation of this Ordinance;
3. At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or
4. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

B. Penalties/Fines/Injunctive Relief. Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S. [§ 4452](#). Each day such violation continues shall constitute a separate violation.



Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

C. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

D. Appeal of Notice of Violation. Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Zoning Board of Appeals in accordance with: Chapter 70, [Article II](#), Division 4, Sec. 70-120 of the Municipality's Zoning Ordinance. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A suspension under Section 6 of this Ordinance remains in place unless or until lifted by the Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

E. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Zoning Board of Appeals, within 30 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

F. Ultimate Responsibility of Discharger.

The standards set forth herein are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, ~~or~~ unauthorized discharge of Pollutants into waters of the U.S. caused by said Person. This Ordinance shall not create liability on the part of the Municipality, or any officer agent or employee thereof for any damages that result from any Person's reliance on this Ordinance or any administrative decision lawfully made hereunder.

#### Section 9. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

#### Section 10. Basis.

The Town of Lisbon enacts this Non-Storm Water Discharge Ordinance (the "Ordinance") pursuant to 30-A M.R.S. ~~A~~ § 3001 (municipal home rule ordinance authority), 38 M.R.S. ~~A~~ § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ~~dated June 3, 2003~~ [effective July 1, 2013](#), has listed the Town of Lisbon as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program.

2) POST-CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE

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## ARTICLE I

## General

## A. PURPOSE

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Lisbon through review and approval of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law.

This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

## B. OBJECTIVES

The objectives of this Ordinance are:

1. To reduce the impact of post-construction discharge of stormwater on receiving waters; and
2. To reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

## C. APPLICABILITY

1. This Ordinance applies to all New Development and Redevelopment within the Town that Discharges Stormwater to the Town’s Municipal Separate Storm Sewer System (MS4) and to associated Stormwater Management Facilities.
2. Exception: This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance. Said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post- Construction Stormwater Management Plan requirements for that approved subdivision.

## D. DEFINITIONS

For the purposes of this Ordinance, the terms listed below are defined as follows:

**Applicant** means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

**Best Management Practices (“BMP”)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Clean Water Act** means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

**Construction Activity** means Construction Activity including one acre or more of Disturbed Area. Construction Activity also included activity with less than one acre of total land Disturbed Area if that area is part of a subdivision that will ultimately disturb an area equal to or greater than one acre.

Discharge means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to "waters of the State." "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

Disturbed Area means clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "Disturbed Area." "Disturbed area" does not include routine maintenance but does include Redevelopment. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

Enforcement Authority means the Town Manager or his/her designee who is the person(s) or department authorized by the Town to administer and enforce this Ordinance.

Town means the Town of Lisbon.

Municipal Permitting Authority means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

Municipal Separate Storm Sewer System, or MS4 means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by the U.S. Environmental Protection Agency ("EPA") or by the Maine Department of Environmental Protection ("DEP") that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

New Development means any Construction Activity on unimproved Premises and for purposes of this ordinance includes "Redevelopment" defined below.

Person means any individual, firm, corporation, municipality, town, Quasi-municipal Corporation, State agency or Federal agency or other legal entity.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Post-Construction Stormwater Management Plan means BMPs and associated inspection and maintenance procedures for the Stormwater Management Facilities employed by a New Development or Redevelopment to meet the standards of this Ordinance and approved by the Municipal Permitting Authority.

Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Town from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

Qualified Post-Construction Stormwater Inspector means a person who conducts post-construction inspections of

Stormwater Management Facilities for compensation and who has received the appropriate training for the same from DEP.

Redevelopment means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling of structures.

Regulated Small MS4 means any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

Small Municipal Separate Storm Sewer System, or Small MS4 means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

Storm Drainage System means the Town's Municipal Separate Storm Sewer System including the Town's Regulated Small MS4 and areas outside the Town's Urbanized Area that drain into the Regulated Small MS4.

Stormwater means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water."

Stormwater Management Facilities means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

Urbanized Area ("UA") means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

## ARTICLE II POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN

### A. GENERAL REQUIREMENT

1. Except as provided in Section I.C.2 above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development to which this Ordinance is applicable shall receive such permit or approval for that New Development unless the Municipal Permitting Authority for that New Development also determines that the Applicant's Post-Construction Stormwater Management Plan for that New Development meets the requirements of this Ordinance.
2. At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Town's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

### B. PERFORMANCE STANDARDS

1. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by a New Development through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the *Maine Stormwater Best Management Practices Manual*, published by the Maine Department of Environmental Protection, which hereby are incorporated by reference pursuant to 30-A M.R.S. § 3003.

2. The Applicant shall meet the quantity and quality standards above either on-site or off-site. Where off-site facilities are used, the applicant must submit to the Town documentation, approved as to legal sufficiency by the Town's attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development and that the property will not be altered in a way that interferes with the off-site facilities.
3. Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the Town documentation, approved as to legal sufficiency by the Town's attorney that the Applicant, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Applications for New Development or Redevelopment requiring Stormwater Management Facilities that will not be dedicated to the Town shall enter into a Maintenance Agreement with the Town. A sample of this Maintenance Agreement is attached as Appendix 1 to this Ordinance.
4. Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Town for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Town's attorney, shall be provided to the Town allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Town.
5. In addition to any other applicable requirements of this Ordinance and the Town's Municipal Code, any New Development which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S. § 420-D shall comply with the rules adopted by DEP under 38 M.R.S. § 420- D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

### ARTICLE III POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN COMPLIANCE

#### A. GENERAL REQUIREMENTS

Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under this Ordinance shall demonstrate compliance with that Plan as follows.

1. That Person or a Qualified Post-Construction Stormwater Inspector hired by that Person, shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.
2. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.

3. That Person shall employ a Qualified Post-Construction Stormwater Inspector to provide, on or by March 1 of each year , a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 2 to this Ordinance, certifying that the Stormwater Management Facilities have been inspected, and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities, and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

#### B. RIGHT OF ENTRY

In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

#### C. ANNUAL REPORT

Beginning July 1, 2014 and each year thereafter, the Town shall include the following in its Annual Report to the Maine Department of Environmental Protection:

1. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;
2. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Town;
3. The number of sites with documented functioning Stormwater Management Facilities; and
4. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

### ARTICLE IV

#### A. ENFORCEMENT

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S. § 4452.

#### B. NOTICE OF VIOLATION

Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
2. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or

3. The payment of fines, of the Town's remediation costs and of the Town's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

#### C. PENALTIES/FINES/INJUNCTIVE RELIEF

Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Town's attorney's fees and costs, all in accordance with 30- A M.R.S. § 4452. Each day that such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Town for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Chapter.

#### D. CONSENT AGREEMENT

The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

#### E. APPEAL OF NOTICE OF VIOLATION

Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Zoning Board of Appeals in accordance with the provisions of Chapter 70, Article II, Division 4, Sec. 70-120 of the Town's Zoning Ordinance. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation.

The Zoning Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

#### F. ENFORCEMENT MEASURES

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Zoning Board of Appeals, within 30 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the Town's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

### ARTICLE V

#### A. SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.



**B. BASIS**

The Town of Lisbon enacts this Post-Construction Stormwater Management Control Ordinance (the “Ordinance”) pursuant to 30-A M.R.S. § 3001 (municipal home rule ordinance authority), 38 M.R.S. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 *et seq.* (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”)). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems,” effective July 1, 2013, has listed the Town of Lisbon as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Town’s Stormwater Management Program in order to satisfy the minimum control measures required by Part IV.H.5 (“Post-construction stormwater management in new development and redevelopment”).

**3) AMENDMENT TO SECTION 47-4 STREET EXCAVATIONS**

Sec. 47-4. Fee Schedule.

A fee of ~~\$20.00~~ \$150.00 shall be paid for the issuance of an excavation permit. The Lisbon Water Department and Wastewater Treatment Plant Utilities shall have the option to pay a yearly fee of \$200.00 for unlimited excavations.

**FEE SCHEDULE**

STREET EXCAVATIONS		
47-4	Excavation permit	<del>20.00</del> \$150.00
	Lisbon Water Department and Wastewater Treatment Plant shall have the option to pay a yearly fee for Unlimited excavations <del>for</del> <u>utilities</u>	200.00

**Amendment #1 Roll Call Vote: Yeas - Garrison, Metivier, Bickford, Crafts, Pesce, and Brunelle. Nays - None. Amendment passed – Vote 6-0.**

**Main Motion as Amended #1: Roll Call Vote: Yeas - Garrison, Metivier, Bickford, Crafts, Pesce, and Brunelle. Nays - None. Order passed as Amended - Vote 6-0.**

**OTHER BUSINESS****A. PARKS DIRECTOR VACANCY DISCUSSION**

Mrs. Barnes mentioned that the retiring Parks Director, Mrs. Ridley would not be replaced until a plan to consolidate Parks and Recreation has been explored. Once we have researched this we will come back to the Council with a recommendation. No objections were noted.

Councilor Garrison asked about creating a list of things that need to be done in the spring. Mrs. Barnes indicated that the seasonal workers can still be hired so we can be clicking along. Councilor Pesce remarked that he would be willing to wait and hold a workshop to discuss our options.

**B. TOWN MANAGER’S REPORT**

Mrs. Barnes announced that the State of Maine’s unclaimed property list is available on our Town Clerk’s webpage. This list came out by community and she encouraged residents to check the list for their name.

Mrs. Barnes reported that the Police Department personnel study will start next week. She mentioned they will finish, depending on how quick we get the required information to them, in 30 to 90 days.

### C. SCHOOL BUDGET PRESENTATION

Superintendent Green went over the last ten Lisbon School Department budgets. This information was helpful to compare the impact that the Lisbon School Department has had on the local budget. In the Town Council's January 20<sup>th</sup> minutes, there were multiple references to the complaints from the citizens in regards to their increased taxes. Since 2010, the local contribution has increased by a total of \$691,777 and since 2006 the local contribution has increased by a total of \$445,064. This does not include the 2015-16 preliminary figures, but like every year before, the current budget numbers are preliminary and based on a "worst" case scenario, which will be impacted by a number of variables that he said he would share with the Council this evening. He said our original plan was to develop a budget that would have less than a \$200,000 increase to the Total Local Funding, which would include the \$304,551 increase in our debt service as a result from the track and gymnasium.

Superintendent Green, also, pointed out that there were links to two additional resources online on the School's webpage under Announcements. The first link allows you to view the February 4, 2015 Special School Committee meeting, which was his initial presentation to the School Committee that provides detailed information line by line for each individual item. The second link, which should be available this week, allows you to watch the February 23, 2015 workshop where he presented information related to consolidating additional resources with the Town and details related to the January 20 Town Council directive to reduce specifically our additional local funds by \$600,000.

Superintendent Green said that he would like the Council to take another voter by straw poll once he had explained which budget items were covered in the Additional Local Funds line. He said as you know, under Section 6.04 of the Town Charter, the Town Council does have the right to amend the School Department budget, but those amendments are limited to adding or decreasing the total amount of the budget. He said he hoped through his presentation this evening and throughout the remaining budget process that the Council would see how specifically targeting Additional Local Funds would negatively impact specific levels of student services that have been supported by members of this community.

Superintendent Green said prior to the meeting this evening that he shared with each Councilor documents that he planned on referring to throughout his presentation. He provided copies to members of the public as well. One of those documents was the Subsidy Sheet that they will continue to update throughout the budget process.

Superintendent Green presented the following terms to make sure everyone is on the same page:

Total Budget/Budget Expenditures: Includes Local Funds, Additional Local Funds, Revenue, Debt Service, Essential Programs and Services (EPS), Transition Amount and State Subsidy. The total budget, as of today, for the Lisbon School Department, including Adult Education is \$15,760,632.

Undesignated Fund: Includes unanticipated revenue (MaineCare, Tuition, etc.) and money that was undesignated from the prior budget year.

Anticipated Revenue: Includes revenue from the use of the Capital Reserve Fund and payments from the Nutrition Program.

Local Only Debt Service: This includes the local portion of LCS and Gym; not included in the EPS formula.

Essential Programs and Services: The EPS funding model is designed to insure that schools have the programs and services which are essential if all students are to have equitable opportunities to achieve the Maine Learning Results. The 100% EPS number is the result of this calculation. The Amount above 100% EPS is the result of subtracting the 100% EPS amount from the Total Budget.

Transition Amount: The amount of subsidy we don't receive from the state because they are unable to fund the 55% required by law.

Total Additional Local Funds: This is the Amount above 100% EPS added to the Transition Amount. (\$1,246,851)

State Subsidy: This is the actual amount of funding that we receive from the state.

Required Local Contribution: The amount of money you raise locally in order to receive State Subsidy.

Total Local Funding: The amount of money raised locally through property taxes.

Superintendent Green pointed out from the Subsidy Sheet, the total increase in preliminary expenditures for the 2015-2016 school year which is \$822,093. He said their preliminary subsidy amount has an increase of \$174,604 so the budget would require an increase in Local Funding of \$698,564. The balance to help defray taxes (Undesignated Amount) is \$118,211, but because of an error with the auditing software, additional unanticipated revenue and an earlier transfer, there is \$94,481 already listed as Additional Subsidy. Use of the Capital Reserve Fund over the last few years has been included as Additional Revenue. The Capital Reserve Fund currently has a balance of \$228,180. This initial preliminary budget does not include any use of the Capital Reserve Balance to build the budget. He said there were several other variables that will have an impact on this budget too as follows:

Anticipated/Actual Resignations  
Anticipated/Actual Retirements (March 1<sup>st</sup>)  
Bond Proceeds/Balances (\$43,936)  
Capital Reserve (\$228,180)  
Guaranteed Performance Contract (\$95,614)  
Salaries/Benefits (\$390,295)  
- Insurance 9.5% (1% = \$22,822)  
- Maine State Retirement (2.5%-3.36% = \$68,266)  
Special Education (Enrollment)  
State Budget  
Charter School Tuition (\$70,000)  
Consolidation (Central Office Costs)  
State Subsidy (Preliminary ED-279)  
Undesignated Amount (\$94,481)  
Unanticipated Revenue

Superintendent Green reported that by quickly looking at these variables, reducing the current increase in the Total Local Funding from the current \$698,564 to reach our original goal of less than \$200,000 increase is manageable, especially knowing that all current projections in regard to the total cost of the gym appear to be well under budget. He said the real challenge is reducing the Additional Local Funds by \$600,000 because none of the above reductions would be included in the Total Additional Local Funds calculation.

Superintendent Green pointed out that the Town Council's directive would be to follow Section 6.04 of the Charter for taking action on the School's budget. He indicated several comments made previously and included in the Town Council's Minutes were that the town's budget is half that of the School Department's, which is misrepresented if you look at the percentage raised to support each:

\$600,000 School = 11% of Local Contribution  
\$300,000 Town = 4% of Local Contribution

Superintendent Green remarked the town's budget should also include the County Tax, TIF Financing, Revenue Sharing, and Other Revenues totaling \$3,354,954 since those have to be raised too.

Superintendent Green pointed out that the Total Additional Local Funds is the Amount above 100% EPS added to the Transition Amount, then he addressed the difference between what EPS allows and Lisbon has for Teachers, Guidance, Librarians, Health, Ed-Tech's, Library Techs, clerical and school administration as follows:

Teachers EPS 79.9	Actual 81.9
Guidance EPS 4.2	Actual 4
Librarians EPS 1.6	Actual 1
Health (Nurses) EPS 1.6	Actual 3
Ed-Techs EPS 10.8	Actual 10
Library Techs EPS 2.6	Actual 3
Clerical EPS 6.4	Actual 7
School Admin. 4.2	Actual 5

Student Services include the following:

Co-Curricular	\$318,446
Nutrition	\$364,767
Special Education	\$357,888
Nurses, Student Resource Officers (SRO), Volunteer Coordinator, etc	

Transition Amount (\$294,090):

Difference of the 55% funding required by law

Superintendent Green pointed out that the Transition Amount (\$294,090) is the difference unfunded from the 55% funding required by law. He said by specifically targeting the Additional Local Funds, reducing \$600,000 would be extremely difficult because the reductions would have to come from an area that we are over in EPS. He said the community has supported funding for these student services in the past and that residents were here this evening to support those again. He mentioned since June, the professional working relationship between the Town and School Department has been strained to say the least. He mentioned in recent emails to both members of the Town Council and School Committee that they need to put their differences aside and focus on developing fiscally responsible transparent budgets that provide the needed services for both the Town and School Departments.

Superintendent Green said the Lisbon School Department's Mission and Vision drive our professional conversations and work we do. Our Vision recognizes that all students learn in different ways and in different timeframes and our mission states that we are united with our community to provide a personalized, innovative education for all learners in an ever-changing world. He mentioned the town's Mission statement. He remarked that most of the current Town Councilors may not have been involved in developing these statements, but that it is apparent the residents who created the Mission had the best short and long-term interests of the community in mind. He said he hoped that throughout this budget process each Councilor would ask questions and trust those responsible to make the right decisions. With that, he concluded his presentation and asked again for reconsideration in regard to the directive specifically targeting the Additional Local Fund amounts within the school's budget based on the information shared this evening.

Superintendent Green said there are on-going conversations continuing between the town and school to see if there were other areas we can consolidate to reduce spending. He said recently they discussed the town performing maintenance on school vehicles, which would save the School over \$60,000, but this would require increasing the size of the new addition requiring a referendum vote. He reported the Town Manager informed him today that they cannot absorb a third Mechanic in their budget unless there is offsetting revenue that would cover the entire cost. He indicated the Town Manager shared that there were Town Councilors concerned that the addition would not pass if it were to go to a referendum vote. He talked about his concerns and that not looking at restructuring or providing data or evidence stating why this cannot happen needs to be looked at more

closely as everyone prepares to present this information to the public. He pointed out that building an addition that is not large enough to accommodate our buses in an effort to avoid a referendum, in his opinion, lacks transparency and would not be in the long-term best interest of the community. He explained that currently the Lisbon School Department pays for over \$75,000 in salaries and services utilized by the Town as follows:

Cleaning	(\$18,243)
LEAD	(\$3935)
Payroll	(\$47,580)
SRO's	(5%)

Council Metivier said this directive was not meant to be an attack on the school or kids. We are paying too much in taxes and we need to stop that from going up. We need to decide what's right for the town. This has been hard for the Town Manager and everyone across the board. Councilor Pesce indicated the straw poll vote would not be happening this evening.

Superintendent Green asked the Council to let him make these cuts and use additional funds to offset increases instead of targeting those specific areas. He mentioned the Council could not do this because only the bottom line the Council can impact. He said, yes we have areas to cut; we can come in flat with no local increase. He indicated his department has always focused on their impact on taxes.

Councilor Pesce said he wanted to see the statute that says the additional local funds can only be used on certain lines. He said the reason I ask this is because I heard you mentioned that at a prior school Committee meeting. He reported he asked our town attorney if that was the case. The letter from the town attorney indicated that the additional local funds are not used on certain lines within the school budget so giving the directive that we did to reduce the additional local funds by \$600,000 that does not target certain line so the School Committee could reduce where they need to within the school budget to accomplish this.

Mr. Green said it won't show up on the subsidy sheet so we have to approach this differently. The only way we can reduce those lines on the subsidy sheet, which we have to report to the Department Of Education, is to use the ED-279 which shows you what they want, what they give us, and what we actually are at so anything you are over, well that's the only way to reduce that line. If you want \$600,000 then just say that, but don't target that one line. It would be like asking the Council to take that amount from the municipal budget out of one line or department. He reported that in another month or two he was hoping to present another budget showing no increase in local funding with the gym and track expense at no increase. That maybe different next year and at some point you are going to have to pay for that gym and track, but from what the community is telling Mr. Green, and he mentioned that he has received a lot of calls about the directive to reduce the school budget, that people voted for this and were inspecting their taxes would go up. Some people were confused in thinking the reason taxes went up last year was because of the track and gym and that wasn't the case, the school's budget actually went down. He said your attorney does not work for Dummond & Woodsum so it is not clear how much experience they have with school law. He indicated he did not want to call the school's attorney because it is so expensive. He offered to meet with any of the Council members and Ms. Messmer to go over the ED-279 form to show them specifically what the amount is; it tells you what the amount is, what the EPS formula gives you, and shows you what you are actually at and then it calculates the difference. He said we are under in supplies and equipment by quite a bit so if we increased those lines and did a transfer at the beginning of the year; however Ms. Messmer informed him the Department Of Education would not approve of that, which means we cannot change those. He explained that's the only way you get to change those numbers and that can't be done. He pointed out the problem is not the total number, but specific lines targeted.

Councilor Garrison remarked that is in essence what the Council is allowed to do, which is affect the bottom line. He indicated he did not understand how targeting specific lines came into play, but determining what lines to cut is within the school's right to determine. He explained that the Council's part is to direct that this is the bottom line the Council wants to see from the School Department and that's what the School Department is asking us to do. He commented that he did not think targeting additional local funds would be in the Council's realm to request. He said this is as far as he would go on the subject because he voted against it.

Councilor Pesce asked about the amount from undesignated funds and the use of the \$118,211 in this process.

He said if you didn't include those funds to build your budget, where would those funds go. Superintendent Green said those would end up in the overlay. He explained that is how the School Department funds its capital reserve account by transferring those funds. He indicated that this year the School Department had \$94,000 extra due to a software error.

Councilor Pesce said his concern was with using the undesignated funds to help build the budget and if you do not have that amount of money next year, won't there be a gap. Superintendent Green indicated yes, but historically, before his service, the School Department used to build the budget on over \$500,000 from the undesignated fund. Members of the community would ask if you are not spending that \$500,000, why ask for that every year. Over time the School Department has been able to use that money to purchase the things needed for the School Department. He explained that the \$118,000, although seems like a lot, would be considered a small amount within the School Department budget so anything over that amount is typically transferred into the capital reserve fund. Equipment is not budgeted and this fund is used to offset and pay for those needs. This money has to be spent on the school.

Mrs. Barnes said if you were to cut the \$600,000 from your overall budget discounting the additional local funds, how would that affect the additional local funds. Superintendent Green said there are some areas we can look at that affect the local additional funds, but not \$600,000 worth. He indicated he would plan on a lot of that coming out of debt service next year. That would mean that whatever we come in under for the gym we would use to offset next year's budget and that would knock the total increase down around \$200,000. He said until we take the pieces out he could not tell what that is going to look like. Right now that's higher because this is the worst case scenario budget, but the \$300,000 or \$400,000 in cuts we already talked about won't impact that because it is coming out of debt service, capital reserve, and unanticipated revenue, which will not change that amount. He said although there were pieces, there were not \$600,000 in pieces to look at.

Councilor Pesce commented that if you say you don't have it and the Council doesn't change the directive what scenario are you looking at. Superintendent Green said he would need direction from the School Committee, but if that were to occur then all the co-curricular would have to be cut along with positions mentioned earlier, plus some other items, which would be a challenge because there are savings in other areas, but they are just not impacting those lines. He said at the next School Committee meeting he would seek direction. If the directive doesn't change the attendance will get much larger than what it is now because this would come from those pieces in the budget that this community has historically supported.

Councilor Metivier confirmed that Superintendent Green could find \$600,000 to cut. Superintendent Green explained \$400,000 would be easy to find, but the additional \$200,000 in cuts may affect the accreditation visit next year. We have to non-renew all of our probationary staff in May and then wait another 30 days for another referendum vote and more than likely lose the probationary staff. There is a remarkable difference between hiring in April versus August.

Councilor Garrison said \$600,000 is 4% of your bottom line. He indicated he would be happy with the 4% reduction to the bottom line. He asked how much the School Department gets from the state. Superintendent Green said 52% or 53%, but it changes. This is where the transition amount comes from. If they provided the full amount then we would receive it in subsidies. There is \$290,000 from the state that we don't receive.

## **AUDIENCE PARTICIPATION & RESPONSE NEW ITEMS**

Councilor Pesce opened up the floor for the audience to voice their opinions.

Herbert "Pete" Reed, Ridge Road, commented that he had been on the School Committee for the past 9 ½ years. He explained that Lisbon would not receive enough funds from the state to cover the overages over the EPS model or all of the co-curricular money needed for Lisbon. The state pays \$37 per student in K-8 grades, \$119 per student in 9-12 grades. Anything over those amounts must be funded with local tax dollars. If the School Committee is forced to cut in those lines, it could destroy all the sports programs. He recommended those cuts be tied to the bottom line only, not from targeted areas. He advocated for a flat budget and indicated he was not for a tax increase; many of us are on a fixed income, he said. Our track record is good and we have worked hard to maintain that, he concluded.

Dan Leeman, Burrough Road, reported that he coaches sports. He explained that other families have left due to the accreditation issues. If families are unhappy and they leave, they leave homes empty and we loose tax dollars.

Roger Cote, Ridge Road, remarked that if we don't cut the school budget and we put out that tax bill, how much of an increase would that be, as opposed to not cutting it. He pointed out that in the past residents would know what that impact would be on a \$100,000 home in our community. He said we need to understand how it equates to our tax bill; for instance, if we don't cut it the bill will be this or if we do cut it the bill will be this.

Heather Blanchard, Beech Street, explained that the EPS funding model is used to ensure that an equitable education is given to all students. She cautioned that people need to afford to live here. She, also, pointed out that schools are one of the reasons why people move to Lisbon.

Eugene "Charlie" Smith, Free Street, mentioned he served on the charter commission. He said it was intentional that the Council have a limited right to set the Lisbon School Department budget. You will find that the Council is limited to setting the bottom line either up or down.

Judy Roy, Amalfi Street, pointed out that the town hires a Town Manager and department heads, much like the School hires a Superintendent and teachers to come up with the best budget we can for the town and school. She said she worries teachers will not be able to do the best job they can for our kids. She said we put a lot of hard work into creating budgets to put them out there for everyone.

Bill Poole, Pike Street, commented that he lived in a great neighborhood. He indicated his tax bill has been higher each year for the past 5 to 7 years, along with his insurance premiums. He mentioned he loved our schools. He mentioned cuts were a reason to leave. He indicated that even though his income is going down, he would gladly pay more for a good school. He explained that he would grimace at having to take on an extra job, but that he would.

Dorothy Fitzgerald said so many things are dictated to us by the State of Maine and we have no choice in a lot of things. The state is continually reducing our local funding amounts. For economic reasons we need to attract businesses to town and that means we need a decent school system.

Sandy Wood, Upland Road, said she has lived in town since 1972, she raised 10 children here, and she supports our schools. She said our Cheerleaders hold the state title and our Football team is amazing. She encouraged the Council to attend a unified basketball game sometime. She said it is incredible to see those Special Ed kids make those baskets. She urged the Council not to give up on those kids because they need our support.

Gina Mason, Ridge Road, said she was concerned that our stats have shown us to be at a "C" average for many years. Sports are important to our kids. She explained she was concerned that we may be forgetting what is important here. We are funding great sports and an art program, when we should be looking at what we are funding academically and what we are producing. She remarked that cuts will put us further down the ladder and will not make us any better in any aspect. She indicated many move here because of our school system and our children are our future.

Larry Fillmore, Andrea Street, articulated that when the directive was put into effect, we were doing so in an effort to do what is best for the town. He indicated we are attempting to reduce the budget. When we dictate how much to raise or spend we are micromanaging, but there is fat in every budget ever created. He encouraged everyone to find those areas we can cut without reducing services or impacting educational levels. He said that's a challenge but I believe Superintendent Green can cut it; he is not saying there are no areas to cut. He reported the Council was doing a magnificent job. In the end, if the Council is not satisfied, they can send it back to the School Committee. He urged the Council not to handcuff them this early.

Jake McDaniel, Bowdoinham Road, indicated he had two children in our school system. He pointed out that he is self-employed. He said he understands line item budgeting. He urged the Council to let them figure out where they can trim the fat. He reported that football helped his son immensely. He mentioned one son is receiving

IEP assistance and urged the Council not to handcuff the School Department.

Mrs. Austin pointed out that the School Department made the following cuts to staff & programs over the past few years.

2010-2011 Cuts:

(1) 7-12 Social Studies	(1) Technology Integrator	(4) Ed Tech's
(1) 7-12 Math	(½) Industrial Arts	
(2) 7-12 English	(½) Community Resource Coordinator (Restored)	
(1) 7-12 Science	(3) K-8 Positions	
(1) Librarian	(1) K-12 Music Position	
(1) K-12 Foreign Language	(1) K-12 PE/Health Position	
(1) Guidance Counselor	(1) K-12 Art Position	
(2) 7-12 Living Skills	(1) Groundskeeper	

2011-2012 Cuts

(½) Industrial Arts (Program)  
 (1) Guidance Counselor (Restored in 2012-13) 3  
 (1) Literacy Specialist  
 (1) 7-12 Social Studies  
 (1) Social Worker  
 (1) Ed-Tech  
 (1) 7-12 Technology Integrator (Restored in 2012-13)

2012-2013 Cuts

(1) 9-12 Literacy Specialist  
 (3) Ed-Tech's  
 (1) K-8 Position

Mrs. Austin indicated the School Department cut 23 employees at the high school and brought back two, then cut 6.5 and brought back 2, and again cut 5 more positions.

Kirsten Kenny, graduate from Lisbon High School, said she was passionate about Lisbon, although she does not currently live here. She mentioned how fortunate she was, as compared to her sister, to have had the opportunity she had to so many great programs, which are gone today. She said her sister is thinking about not going to Lisbon. She remarked how much she loved this community. She pointed out that everyone is here because we all want the best for the community.

Marcey Crosskill, Ferry Road, explained that there are places to cut. Last year the School Committee talked about cutting the SRO officers and that may have to happen this year, but they are vital to the students and teachers every day. They handle difficult situations daily for teachers who have to address behavioral issues with special needs children. They are an essential part of keeping our schools safe. If these officers were not there these duties would fall upon the staff causing a direct impact on the staff and students.

Hannah Stretch, Lisbon High School student, remarked how important the drama club, sports, and other programs were to her. She said they all have helped her stay in school.

Roger Cote, Upland Road, commented that he remembered serving on the Council; that it was not that much fun. He asked the Council to remember the older generation is struggling to pay their taxes. He indicated that he would not want to take a home away from an older person. It can be difficult to heat their homes or buy food to feed themselves. He commented that the Council should remember to represent this group as well.

Kathi Yergin, Highland Avenue, informed the Council that she was proud of her "C" school, that her four children have gone on to college, and that she is proud of them due to the Lisbon School system. She said she too was on a fixed income, but reminded the Council that our school is at the heart of Lisbon. She mentioned that she looked forward to seeing her grandchildren attend school here and that taking \$600,000 away from the school system will affect all of the children who come out in a different way.

Natalie Thomsen, Lisbon High School student, said drama is the reason she stayed in school.

Dustin Wood, Lisbon High School student, said he is a senior this year and that cutting \$600,000 from the school



system would upset the students and teachers. He said he didn't know where he would be without those teachers. He urged the Council not to cut the budget.

After more comments, Councilor Bickford thanked the residents for attending this meeting and for their input. He expressed how hard being a Councilor really is. He indicated he has two grandchildren who attend a charter school, but that's their mother's choice. He said if I do vote to cut the school budget \$600,000, it will be up to the School Committee and Superintendent Green to decide where there cuts are to be made.

Councilor Crafts said the Council is listening. He said I understand it, but I am going to stick to what I believe in.

Councilor Pesce congratulated the students who spoke; it's not easy. He said he remembered in 2009 when cuts were made, he was sitting in advocacy and students were protesting outside; we felt the cuts. He explained that he had attended every single Council meeting at the time and that he too became concerned about the direction of our future. He pointed out that this was a difficult decision to make because he wanted to see that the students have what they need and at the same time make responsible choices for the citizens in the community. He pointed out the Council wanted the School Department to know up front what to expect for final approval so they could make responsible decisions as well.

Councilor Pesce announced the Budget Public Hearing will be held on April 21 and at that time residents will be invited to offer their opinions as well. He thanked those who attended again.

## **APPOINTMENTS**

### **APPOINT FINANCE DIRECTOR**

**VOTE (2013-60)** Councilor Bickford, seconded by Councilor Metivier moved to appoint Edward Karass the new Finance Director for the Town Of Lisbon. **Order passed - Vote 6-0.**

## **COUNCIL COMMUNICATIONS**

Councilor Pesce reported that he met with Councilor Lunt, Lisa Ward, Diane Barnes, and Ryan Leighton about trash. They agreed to send out three requests for proposals 1) sell the Transfer Station, 2) curbside pick up no sort/curbside pick up sort, and 3) a pay-as-you-throw service. He announced the Council will schedule a public informational night to see what residents would like.

Councilor Pesce remarked that he contacted the Androscoggin County Sheriff who indicated that he had not interacted with anyone in Lisbon about contracting Sheriff Services for the Town of Lisbon. The Council has not gone down that road.

## **EXECUTIVE SESSION**

*(Taken Out Of Order – See Beginning Of Minutes)*

## **ADJOURN**

**VOTE (2015-62)** Councilor Bickford, seconded by Councilor Metivier moved to adjourn at 9:42 PM. **Order passed – Vote 6-0.**

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Twila D. Lycette, Council Secretary  
Town Clerk, Lifetime CCM/MMC  
Date Approved 03-17-2015