

LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
May 6, 2020
Final

I. Call to Order:

Chairman Chamberlain called the meeting to order at 6:02 p.m.

II. Introduction of Members Present:

Chairman Mark Chamberlain, Selectman Rick McQuade, Selectman Fred Douglas via phone, Town Administrator Russ Boland and Recorder Lisa Post. Roll-Call Votes will be taken.

Public Present: Jessie Salisbury and Charlie Post

Media Present: NONE

III. Appointments:

- 6:05 p.m. Misty Gauthier re: Citizens Hall Road No Parking: T/A Boland introduced Ms. Gauthier and indicated that she lived across the street from Citizen's Hall in Guy Reynolds old home and was here to propose to eliminate the "No Parking" requirement in front of her home and making it one way. T/A Boland consulted with the Highway Department and they recommended the one-way should go from Pettingill Hill Road toward Route 31. T/A Boland stated the electronic speed sign was put up for the last week and the data showed that there were 77 cars and the highest speed was 23 mph. Mrs. Gauthier stated she did research on the data and validity of what the sign monitors. She indicated she never saw cars go slow because they could see the sign and felt they should have put it further back from the road. She also felt there were not as many cars on the road due to people not going into work and that is when they are going fast. Mrs. Gauthier questioned the Highway Department's motive for wanting the change in direction of the one-way road. T/A Boland stated that the Highway Department has stated that the bulk of the traffic goes mainly that way. Ms. Gauthier felt that for 911 it would not make a difference which direction the one-way went. She put up slow children signs and frequently parks out front to slow people down while her children are playing and riding their bike and indicated the road narrowed to almost a one-lane road. She felt the dangerous part is up the hill. Ms. Gauthier stated it was a hardship that she cannot park in front of her house and that it was too far for family and friends to walk from the handicapped parking area to her front door and was concerned that the TDS Service person had to walk from the lower parking to her house. She felt there should not be more signs on this road. She indicated that she did not care whether it was a one-way road or not, she just wanted to be able to park on the road in front of her house.

Chairman Chamberlain informed Ms. Gauthier the Highway Department concern was going westbound at the bottom of the hill there is tight turn and no sight distance which is a safety hazard heading toward Selectman McQuade's home. There were suggestions and concerns of Mrs. Gauthier that perhaps there should be a stop signs to slow people down and that it is not a danger for her to park on the road as citizens park on the road to go to events at the town hall and felt that if it was safe for them to do so, she should be able to do so. She indicated that she has young kids and a dog and that people were slowing down because they saw the sign and indicated that 25 mph for that road is fast and perhaps it should be 15 mph and then it would not be a danger for her to park on the road and that the No Parking only infringes on her and her family and friends that come to see her. She stated she has a small driveway and a two car

garage filled with junk and that it is was an inconvenience for people to have to park in the handicap lot and walk to home and was also concerned that when her brother comes over he feels he is doing something wrong when he parks in front of her house. She felt that people park on Pettingill Road and felt that was more dangerous than her road. She thanked the Board for listening to her concerns.

Selectman McQuade thought the one-way road might work because there is trouble seeing up toward Greenfield as people try to pull out of Citizens' Hall Road their vision is obstructed by parked vehicles in front of the Village Store. Selectman McQuade also questioned whether Mrs. Gauthier had given any consideration to push her fence line back to create parking on her on land. She said no and that she is not in a financial position to do so now. She has a double fence at the lower part of her property and she asks the Town not to put snow in front of that area and she could put a driveway there but that it would be not solve the problem of parking near her home because it was a half an acre away. She was concerned that if she had a party at her house she had to coordinate with the town. She stated that when the police officer stopped, she felt that she should not have to feel like she is doing something wrong when she spends 10 minutes parked in front of her house while unloading groceries. Selectman McQuade asked if she had given any thought to creating parallel parking. She replied that if it is okay for the Town to park there (on the road), it should be feasible to work for her and her guests for the minimal amount of time they park there.

Selectman Douglas confirmed that the request was that Mrs. Gauthier wanted to park on a public way and Chair Chamberlain indicated that was correct. Selectman Douglas referred to the motor vehicle statute that says it is illegal to park on the pavement of a public way except for temporarily off loading or on loading goods or people while having flashers on. Selectman Douglas stated that if they allow someone to park within the right of way of the public way, then the liability exposure of the Town is going to go up immensely and if they allowed her to park on a public way and there is a collision, the lawyers will know that we allowed this to happen, gave permission and that is a huge liability to the Town. Selectman Douglas stated he believed that what the Town has done is to issue parking tickets, which is the least intrusive issue having to do with enforcement matters. The police department could issue summons' which is a motor vehicle violation for parking in the roadway and obstructing traffic which is how the statute reads. Mrs. Gauthier questioned why after three years has this become an issue? She stated the signs appeared in front of her house and no one had asked her what she thought about it. She stated that she is an insurance agent for the State of New Hampshire and that doesn't make sense to her and that actually she owns more land that goes into the road and stated that if there is an accident people would go through their own insurance and would not sue the town. She stated that she is not naïve to the fact that people might do this but is that enough to say that this road has become a problem when we use it for Town purposes and not for the few vehicles I am asking to park in front of my home as a taxpayer that is going to live here for years. Chairman Chamberlain informed her that this was put in place because it was becoming a hazard as far as the whole road, it was getting that you couldn't turn because vehicles were in the way, if someone was coming down the hill and turning, there was not enough room to pass. Ms. Gauthier stated that she comes lots of times from the Milford area, she is not going to name names, but they are too far on my side of the road to turn up into the road. She also stated that she started up the road from a complete stop and was already at 20 mph when she saw the sign and questioned the validity of the information coming from the electronic sign. The Chairman stated that he was more concerned with the directional information being reported and that was his reason for requesting the study. He also stated this information supported Road Agent Chase's theory that most of the vehicles were coming west to east and most of them outgoing. T/A Boland confirmed that was correct per Chief Deware and stated that it was 61 cars outgoing

(eastbound) and 16 incoming (westbound). Mrs. Gauthier stated that by her observations, people drive in one way and out the other and suggested that perhaps both roads could be one way and again stated that “you can’t convince me that it is not safe for 911 to go through and that is all I’ve got.” Selectman McQuade explained that this would not be a quick decision. If they were to really look into this, it would be sitting down with the Road Agent and looking at everything. Chairman Chamberlain added that it would also include Chief Deware. Mrs. Gauthier asked that she be able to sit in on that discussion or receive notes because she has a passion about this and directly affects her. Mrs. Gauthier also stated she lived here for the last three years and at Town Meeting they do not park beyond her garage. Chairman Chamberlain made her aware that they will discuss this with the Department Heads for their input and will let her know when this will happen. Leo Trudeau, Code Enforcement Officer, concurred with Selectman Douglas and the State statute and the liability issue. It is a very real possibility. Mr. Trudeau stated he has been driving these roads since 1972. Mr. Trudeau always found it more convenient coming easterly on Pettingill Hill Road going toward the village and if he was coming from Wilton, he would turn up past Citizens’ Hall, go over the hill, looked carefully at the bottom as it is an uncontrolled intersection and thought something ought to be done about it, such as a yield sign or a stop sign. Mr. Trudeau also stated he would be in favor of a one-way going westerly and commented he did not know if that would alleviate the parking on a public way, he does not believe it does but would, at least, change the traffic flow and would be better with no traffic easterly over this hill. Ms. Gauthier stated that she thought it would be a two way on that end and one way back in this direction and felt that if there was really a liability for the whole town then no one can park on any road in Lyndeborough and questioned how this this a problem on this road. Chairman Chamberlain said the problem up here is because there is no shoulder and although this issue occurs on other roads in town, they are not as dense. There are other spots that are dense, such as Fire Station, and this is not our only parking problem. Chairman Chamberlain stated they would discuss it with the department heads and get back to her. She thanked the Selectman.

- IV. Community Forum and Public Comment:** Jessie Salisbury remarked what a great job Wilton Cares is doing with their Senior Dinners and mentioned that Wilton Cares is a collection of people including the Wilton-Lyndeborough Women’s Club. Jessie added she had their Chicken Cacciatore which was excellent, and the portions were enough to make two meals.

IV. Decision Making Actions:

- Old/Tabled Business

Upper and Lower Falls Purgatory Falls Parking Discussion: T/A Boland informed the Board that additional no parking signs to be added to both sides of Purgatory Road. The Police are conducting enforcement there. Milford was gracious enough to lend us an electronic sign so that people are aware that access to the falls are closed. Chief Deware was on duty from 8 a.m. until noon on Sunday. After he left, twenty cars were illegally parked with one parked right under the Milford electronic sign. T/A Boland was contacted this afternoon by someone from the Memo Foundation in Milford a group of folks in memory of young man that lost his life to gun violence. This young man used to frequent Purgatory Falls so they offered to help to clean up the falls. T/A Boland informed them he would present it to the Board but would probably not take any action until they opened the area back up because it involved moving the jersey barriers and competing people who otherwise should not be there. She was very understanding and appreciative of the prompt return phone call and told her I would call her tomorrow. Chairman Chamberlain noted that there was no one at the falls last night between 5:30 – 6:30 p.m. Selectman McQuade questioned whether the fine of \$25 was enough of a deterrent. Selectman Douglas stated that it was not about money but rather a public safety issue and felt that the fines should remain as and stated in his experience more people would go to

court to avoid paying a \$100 fine and believed that towing the vehicles would be a more effective option. Chairman Chamberlain agreed that towing was a good idea and that it would make it a lot less convenient to come to NH from Massachusetts for a hike. Selectman Douglas also pointed out it is a huge liability to the Town if there is an accident from people illegally parking in the No Parking Zone and Town does not enforce. Selectman Douglas stated if a law enforcement officer disregards an illegally parked vehicle in a No Parking Zone and an accident occurs; it is the Town's liability. Additionally, if permission is granted for resident's use as private parking in a public roadway and an accident occurs, in addition to the vicarious liability to the Town, the Town would be breaking the State statute by allowing any vehicle, including residents, to illegally park in a No Parking Zone.

Chair Chamberlain opened a conversation to put a plan in place for the Falls to open when ready and suggested that north of the Falls parking, it makes no sense to have parking on the side of the road due to the lack of visibility and there is not enough room to park on the west side to put parking off the pavement due to the slope and suggested leaving the blocks and trim up leaving enough room so that people could walk there and on the other side push the shoulder back so people have a place to go. It should be signed "No Parking on Pavement and Tow Zone." People will get towed if they park on the pavement. All the other signs on the west side and north should say "No Parking Tow Zone." It is clear you can park in the parking lot where there are 6-8 spaces and can park where spots are provided along the side of the road. Selectman Douglas recommended asking Mr. MacLellan of Granite State Concrete to excavate and level inside the existing parking lot and put down crushed gravel to accommodate 20 vehicles. Selectman Douglas indicated that the Police would continue to monitor the Granite State Concrete's parking lot and Highway Department would continue to have trash barrels there and remove the trash as they have been doing. Chairman Chamberlain agreed to explore this possibility. T/A Boland responded yes to Selectman Douglas's query that Highway Department equipment could expand the parking area. The Board agreed to task T/A Boland with contacting Mr. MacLellan regarding the parking area and setting up an appointment on the site with Selectman Douglas and T/A Boland. Mr. Boland to get back to each member of the Board as soon as he receives a response. Mr. Boland added Mr. MacLellan has been very considerate and cooperative.

Chairman Chamberlain checked out the upper Falls on Sunday and spoke with Greg Porter who indicated that there were some people who were parking up on the other side of Salisbury to get to the falls. Selectman Douglas commented that the Police were doing a great job with enforcement, he spoke with an officer and a resident that said she could not thank the Police Department and Select Board enough. Chair Chamberlain agreed that the enforcement has been good, there were 9 vehicles on Sunday with tickets but that they need to look into how to open this up again. Selectman Douglas agreed and also commented that it not the Town's responsibility to provide a resident private parking on a public way.

- New Business

-Police Cruiser Purchase Decision: T/A Boland stated he notified the Board independently that they were contacted by MHQ that if the vehicle is ordered now it could be as late as November or later depending on what is going on with Covid and the slow-down in production of the vehicles. Chief Deware generated a Purchase Order for consideration as we can order the vehicle now and not take delivery until we anticipated doing so in November. If we do not do that, we run the risk of getting pushed off until next year at the minimum. Chairman Chamberlain confirmed with T/A Boland that they did not have to pay for the vehicle until they receive the vehicle. T/A Boland stated the Purchase Order for Patrol PC is for computer hardware in the amount of \$1,186 and the funds are coming from the Warrant Article which has

\$53K for the project and does not require signatures as it is in the threshold of Chief Deware to sign it. The Police Cruiser does require a motion from the Board and a signature of the Chairman where indicated.

VOTE: Selectman Douglas moved, Selectman McQuade seconded the motion to sign the Purchase Order for the Cruiser in the amount of \$51,046.04. Chairman Chamberlain-Yes, Selectman Douglas-Yes, Selectman McQuade-Yes. Motion passed 3-0.

-Replacement of Stolen Electronic Speed Sign Discussion

T/A Boland stated that as the Board is aware that one of our Electronic Speed signs that was less than a year old was stolen from the Turnpike. T/A Boland said it was run through Primex and there is no depreciation. In response to Selectman Douglas's query T/A Boland indicated the deductible of \$1000 will come from a Property Liability line item in the budget and the \$2,200 will come out of the Police Department's budget and will then be credited as a revenue from the insurance company and the Police Department may have to over expend that line item in the budget creating a transparent transaction. Selectman Douglas expressed concern about the batteries, however, there was no charge for this on the invoice.

VOTE: Selectman McQuade moved, Selectman Douglas seconded the motion to accept the new Radar Speed Sign from Elan City in the amount of \$3,200. Chamberlain-Yes, Selectman Douglas-Yes, Selectman McQuade-Yes. Motion passed 3-0.

-Review of Planning Board Driveway Approval, 714 Center Road

The Board recognized Leo Trudeau, Code Enforcement Officer, who stated at the will of the Board and T/A Boland, he had a phone conversation with Attorney Dresher regarding background procedure on how to go forward with remediation of the Planning Board's decision and Attorney Dresher advised that the Board of Selectman have more far reaching power then he realized. He conveyed that the Board of Selectman cannot override a decision of the Planning Board; secondly, the Board of Selectman cannot legally ask the Planning Board to appeal a decision. Mr. Trudeau stated the two things the Board can do is, appeal directly to Superior Court which is a time-sensitive 30-day window in which to start an appeal; and option two is to request a rehearing of the appeal that the Planning Board heard for the applicant. Attorney Dresher labeled it as a "Motion for Reconsideration," and recited a couple of RSA's regarding the situation. Driveways are under the jurisdiction of the Planning Board because they deal with Public Ways and it starts at the top with the DOT and State roads and trickles down to Planning Boards and Town roads. Attorney Dresher and his son Chris, discussed a good next step and Mr. Trudeau suggested to use diplomacy in reaching out to the Planning Board to point out the occurrences of the meeting. Mr. Dresher said okay but felt the Town should start a proceeding for an appeal to Superior Court because it is time sensitive in the event the Planning Board refuses to rehear the case. Mr. Trudeau suggested to Attorney Dresher some remedial action to correct the new driveway to bring it in to compliance with adopted Town Regulations and he liked the sound of that and he asked me to provide it in writing which I drafted and emailed this morning, and forwarded a copy to T/A Boland and shared the draft with Chairman Chamberlain and all indicated they were happy with it and confirmed that Selectman Douglas and McQuade received a copy as well. Mr. Trudeau suggested they approach the Planning Board to request a rehearing and stated that he would be present at the Planning Board and was upset that he was not allowed via phone to be part of the Planning Board's Zoom Meeting on April 30, 2020. Mr. Trudeau said he will participate if there is a rehearing and will state the facts as they exist. He stated that since the Planning Board writes the regulations, he does not feel they can render the same decision on a rehearing.

Selectman McQuade commented that it was a well thought out case. Chairman Chamberlain stated he would answer a direct question because he was present at the April 30, 2020 Planning Board meeting but will not render an opinion because he participated in the meeting. Selectman McQuade questioned the cost to start the appeal process with Superior Court and T/A Boland said there are lawyers' fees and that Attorney Dresher said the clock stops if there is a rehearing by the Planning Board. T/A Boland noted that if the Planning Board granted the rehearing the clock would be reset to the 30-day period to appeal to the Superior Court and will have an answer on the rehearing at the end of the week with suggestions on how to bring the driveway into compliance. Selectman McQuade liked how this has been laid out but feels they should start the appeal process. T/A Boland reviewed the Boards' option of waiting a week to hear if the Planning Board grants the rehearing before starting the appeal process. Chairman Chamberlain questioned if the Code Enforcement Officer has a problem with the other driveway and he stated he did but intentionally did not speak of it in this address because the other driveway is absolutely grandfathered as it has been in use right along and has never stopped being in use. Mr. Trudeau advised as a code issue there is a terrible lack of sight distance and as we have talked about informally to put a permanent barrier within the section of the Town right-of-way and then they would have a stub driveway and would be able to meet every bit of the demand for handicapped access in and out of the house. If they correct the entrance angle of the new driveway, which should be easy to do for a cost of under \$1K as there is just one rock and a forsythia bush there and confirmed to Selectman McQuade the west driveway is the grandfathered driveway. He stated the zoning issue is Section 200.01 the Abandonment Clause and indicated that Administrative Assistant Ms. Griska, read and interpreted to be that the driveway was abandoned as it had not been in use for 30 plus years and indicated the pictures of the driveway were from when there were horses and buggies in the yard but stated he did not discuss this with Attorney Dresher. He stated his purpose was to request that the Selectman appeal to the Planning Board and specifically the Chair for a rehearing. He stated his right as Code enforcement Officer was infringed upon and was not allowed to participate in the meeting by phone and therefore could not speak to zoning issues. Selectman McQuade asked why he was not allowed into the meeting and Mr. Trudeau stated that he was given a phone number and code to access the meeting which when called said "this Meeting I.D. Number does not allow you into the meeting." He stated he tried again and texted Chairman Chamberlain after the meeting had started on April 30 and was given the phone-in number and got the same response that I was "not allowed in." Mr. Chamberlain indicated that he gave Mr. Trudeau the number that was posted on the front door of Town Hall. Selectman Douglas had the opportunity to review the thumb drive and minutes of this meeting and does think there were procedural issues that took place and should not have by a Code Enforcement Officer being told that he could not attend the meeting and second of all there were motions made according to the minutes, never seconded and then went on to a different subject matter or different question and different motion. Mr. Trudeau confirmed that he heard it on the audio and read it in the minutes. Selectman Douglas stated there was a lot of testimony given by the applicant or the person that was speaking for them regarding how long it had been since the driveway had been used. Selectman Douglas added he plowed that driveway in 1980s and 90s and the only driveway entering the property was the one furthest west which is the one that has been used along. The one closest to the Rose Farm the one to the west was operational. The one to the east that has since been redone was closed off, it was all lawn, it was not used for anything and I never plowed it. Selectman Douglas hoped that the Planning Board would take it into consideration that Mark Chase met with Mr. Fish and the driveway permit that was issued in the application for the newly constructed driveway was contingent on closing the original driveway to the west as was told by the Road Agent who stated that the new driveway had better sight alignment than the old driveway and told the applicant the old driveway would have to be removed and the applicant understood that. Selectman Douglas stated that the denial of the driveway was due to

“sight distance of the current driveway” and that is why they closed it off after. Mr. Trudeau understood how that it could be interpreted that way but thought a judge might say there is no language there that says definitely construction of a new one means the decommissioning of the old one. Selectman Douglas stated that Road Agent Chase would have to testify to his discussion to that and was told that the applicant, Mr. Fish, understood that. Selectman Douglas stated that Mr. Chase was trying to accomplish better safety and access to Center Road by allowing Mr. Fish to put in what is perceived as the new driveway. Selectman Douglas went on to say that under no circumstances the driveway he wanted to open up without a permit, falls under the grandfather clause and stated that he would be willing to testify that the driveway has been closed off since late 90’s early 2000’s and Mr. Trudeau agreed and stated he would also testify to that fact. Mr. Trudeau surmised that if this goes all the way to Superior court, Mr. Chase would have to testify to that but feels confident that presenting the letter to the Planning Board would result in a rehearing. Selectman Douglas stated that most of the Planning Board members voted for it because they thought it was grandfathered in. Mr. Trudeau indicated that Attorney Dresher was adamant that it was clear that it was not grandfathered. Selectman Douglas expressed his concern that the Planning Board took the position they did after the Code Enforcement Officer had concerns and the Highway Department’s Road Agent denied it for obvious reasons and felt if they were hanging their hats on the fact that this was grandfathered then they are wrong. Selectman McQuade stated that it was well said and supported this letter. Chair Chamberlain informed Selectman Douglas that a Planning Board Alternate was in the room and was a witness to what transpired and invited Mr. Post to speak. Mr. Post indicated that the applicant’s representative said that it had not been grandfathered because a year had passed. Had I been able to vote I would not have supported it. Mr. Post questioned whether the Planning Board Chair could make the decision for a rehearing on his own. Mr. Post also agreed with Selectman Douglas that during the Planning Board discussion it was very meandering on the proposal and at the end when it was discussed whether there should be a paved apron since the dirt driveway abutted the road, should there be a paved apron to protect the road, it was stated by the members of the Planning Board that they did not do that anymore. Mr. Trudeau added that it happens to be required by regulations. Selectman McQuade thought it was also because the driveway sloped in instead of sloping out which was the reason that was given. Mr. Trudeau responded that was the reasoning that Mr. Fish used, however, it is still required and stated if it slopes down from the public way it does not need to be as deep, 5 feet versus 25 feet. Selectman Douglas questioned the statement when the apron was brought up that the apron was required by code, it was Mr. Ducabelis, he believed, that stated that they do not have to do it because we have not done it before. Selectman Douglas stated that does not make it right now and they are not singling anyone out, they are trying to have consistency of regulations now. Mr. Post stated that he could see on the camera that Mr. Chase was irritated by the decision and Selectman Chamberlain stated Road Agent Chase did speak up at the meeting. Mr. Post offered Mr. Trudeau that he could come to our house to use the computer for the next meeting and Mr. Trudeau replied that he does have a computer and that was not the case and that he would be present at Citizens’ Hall for the Rehearing. Selectman McQuade added that the in the Planning Board’s final decision to allow the driveway with the stipulation that the existing driveway be in one direction into the property that there was no way for the Town to enforce that if the property is sold. Mr. Trudeau stated he thought this was a ridiculous outcome of what they decided to do. Selectman Douglas suggested that that sign is a joke as there is no possible enforcement action of that sign by law enforcement if someone pulls in or pulls out the wrong way and there is an accident and stated it is precautionary issue and not enforceable. Selectman McQuade questioned the liability to the Town by making that request of the homeowner if there is an accident there in the future and because it was a recommendation of the Planning Board and if put Lyndeborough on the hook. Mr. Trudeau surmised it probably depends on the severity of the accident and the judge that is hearing it. Selectman Douglas stated it goes back to the

verbiage that is used in civil suits all the time, vicarious liability, somebody knowing something is wrong and they do it anyway, your exposure is incredible and you have a duty owed when you know something is wrong and a person turns right because it say “right-hand turn only” and the person turns right and pulls out and get t-boned, that person is going to come right back to the meeting minutes and say this was a requirement, unenforceable but required, it is wrong. Mr. Trudeau asked the Chair to please consider presenting this either this letter to Paul Best, Chair of the Planning Board and give it a week and hope that we get a response. Perhaps if Attorney Dresher’s office presents it on their letterhead and there is some added language regarding time sensitivity. If we don’t get a timely answer then it is up to this Board to decide to proceed to Superior Court. Mr. Trudeau does not recommend threatening the Superior Court issue to the Planning Board as he does not like backing anyone into a corner and would rather appeal to the better angels of their nature and be hopeful. He stated that this can be fixed for low cost. Chairman Chamberlain questioned if Attorney Dresher was getting back to Mr. Trudeau and Mr. Trudeau replied that he did not know but that he did not feel it was appropriate to ask him what he was going to do next but if the Board wants him to stay on it he will and would be happy too. He also said he has a good working relationship with Attorney Dresher and Chris Dresher communicate easily and well. T/A Boland suggested that if the Board wants to ask for a Rehearing rather than a re-drafted letter, make a motion to direct the Code Enforcement Officer to notify the Planning Board Chairman that you want that hearing reconsidered which will get the ball rolling. Selectman Chamberlain will recuse himself because he would like to continue to speak at the Planning Board. Selectman McQuade agreed with T/A Boland’s suggestion and questioned if Selectman Douglas heard and concurred with Mr. Boland’s statement and he agreed. T/A Boland stated for the record that Road Agent does not feel that he is not obligated to sign off on that decision and Chairman Chamberlain replied that Mr. Chase had informed him of that. T/A Boland informed the Code Enforcement Office that initial contact with Chair Best can be done verbally but should be followed up in writing. Mr. Trudeau asked if the Board wanted him to present the letter to Mr. Best and Chairman Chamberlain stated the intent of directing him to go to the Planning Board Chair included presenting the letter so that he understood it and both Selectman McQuade and Douglas agreed. Mr. Trudeau stated he would have an informal conversation with Chair Paul Best, make the grammatical corrections and present the letter. Chair Chamberlain asked Mr. Trudeau to add in your introduction in the first paragraph of the letter “as directed by the Board of Selectman on May 6, 2020.” Selectman Douglas suggested that he give Chair Best the letter and not to engage in any discussion so that nothing is taken out of context. Mr. Chamberlain agreed with Selectman Douglas’s recommendation. The Board thanked Mr. Trudeau for his good work.

VOTE: Selectman McQuade moved, Selectman Douglas seconded a motion to direct the Code Enforcement Officer to make contact with the Planning Board Chairman to advise him that the Board of Selectman is hereby requesting Lot 234-06 driveway authorization issued by the Planning Board be reconsidered. Chairman Chamberlain-Abstention, Selectman Douglas-Yes, Selectman McQuade-Yes. Motion passed 2-0.

- Items Not on the Agenda:

Chairman Chamberlain reported that he had spoken with Andy Roeper and Steve Brown regarding being the NRCP and T/A Boland stated both had declined. Chair Chamberlain is looking for recommendations as to who can do this; there are two positions and they are looking for Planning Board and Select Board experience for that position. Selectman McQuade suggested Arnie Byam and Selectman Douglas agreed. Chairman Chamberlain suggested Burton Reynold and T/A Boland said he would reach out to him and Selectman Douglas agreed.

- V. **Town Administrator Report:** The DERA grant for the Volvo has been filed and we received documentation they are in receipt of it. Now we are waiting to see how that plays out.

There was correspondence with Chris Brown in regard to logging and Intent to Cut, and he is well aware of the that before he starts logging he has to submit a plan but his latest email said he had not figured it out and stated he will keep the Board informed.

T/A Boland had a conversation with Walter Holland about Memorial Day and he said they are trying to make a decision whether they will have a limited ceremony but will know more by the May 20, 2020 Selectman's meeting and if there is a total cancelation that will give us plenty of time to notify everybody.

The Highway Department effective May 11th will go to a 10-hour shifts. They have most of the roads graded. They will be working on Salisbury Road with Mount Vernon next week. The two teams will be working together with Mount Vernon paving their end. T/A Boland questioned Selectman Douglas as to where the pavers are in Francestown. Selectman Douglas said they are off-site and a contractor is finishing up. Chairman Chamberlain stated there are holes in Wilton Road that need to be addressed before they pave it because it is down into the base. They need to cut it out and replace what is there in-kind which involves putting gravel back, compacting it and putting two inches of asphalt down so there is not a weak point. Selectman McQuade suggested that they should let it settle before they pave it.

There is a little glitch in the DERA Grant in regards to the Fire Department, T/A Boland spoke to Board members independently and noted that this is why meeting minutes are so important. The State of New Hampshire sent back to the Fire Chief the minutes of the January 15 along with the Certificate of Authorized signed by me and notarized on January 21, 2020. If you refer to the minutes of January 15 at the bottom of the page, it says Selectman McQuade made a motion, Selectman Douglas seconded to allow T/A Boland to sign off on the DERA Clean Diesel program and to allow Fire Chief Smith to make contact with them. Everyone T/A Boland spoke to recollected that the motion was to authorize the Fire Chief and myself to sign off on the grant so in consultation with Chief Smith, I had him contact his D.E.R.A contact because he said he thought T/A Boland could just sign it but that would entail it coming back to the Town going through the resigning process, reauthorization and re-notarization and a new motion tonight won't do it either because then they will turn around and say that you signed it prior to having the authorization. So seeing that everyone had the same recollection that the motion was to give us equal authority, I propose the motion in your packet that I make a motion to clarify the motion made; seconded and passed on January 15, 2020 authorizing T/A Boland to sign off on the DERA Clean Diesel Program and to allow Brian Smith to contact them. This motion and vote are on Page 1 of the January 15, 2020 minutes. The true intention, clarification of the motion was to allow either of T/A Boland or Fire Chief Brian Smith to sign any needed documents including the contract with DERA Grant Program. Chairman Chamberlain recollection is that we said either/or can do it similar to signing off on the Dump Truck. Selectman Douglas stated that the intent was that either one of them could do it. The Fire Chief's contact at DES said if you saw fit to make a clarification motion similar to this, it would provide clarification and we would not have to go through the process of signing the contract again. T/A Boland said that if it needs to be accelerated, he will contact Lisa. We have until September to get all the final paperwork in and told them they could anticipate in on the 21st after your next meeting.

VOTE: Selectman Douglas moved, Selectman McQuade seconded the motion that is in writing, verbally communicated to us on this date by the Town Administrator Russ Boland as written verbatim: "I make a motion to clarify the motion made; seconded and passed on January 15, 2020

authorizing T/A Boland to sign off on the DERA Clean Diesel Program and to allow Brian Smith to contact them. This motion and vote are on page one of the January 15, 2020 minutes. The true intention/clarification of the motion was to allow either T/A Boland or Fire Chief Brian Smith to sign any needed documents including the contract with DERA Grant Program. Chair Chamberlain-Yes, Selectman Douglas-Yes, Selectman McQuade-Yes. Motion passed 3-0.

T/A Boland learned in the last day that Emergency First Responders, Police Officers and Fire Fighters are going to receive Hazardous Duty Pay starting on May 4, 2020, however, it is still in the planning formation and we have not received any solid final information. Full-time employees, defined as over 30 hours per week, will receive \$300 per week and a part-time employee either Police or Fire will receive \$150 per week and non-certified medical people at the Fire Department will receive \$50 per week. This is in the formation stage and the list server was lite up with all the managers and Town Administrators trying to figure out how this is going to work. We would be reimbursed by the State, it is not part of NH Retirement System, but we do not have that concern because we do not have any full-time Group II employees. The taxes and benefits would have to come from the Town and be reimbursed from the GOFERR from the State. There are a lot of unanswered questions and the Police Department is going to run up \$600 per week and does not know about the Fire Department but could be over \$1000 per week and it is an 8-week period and none of this is budgeted now. I talked to our auditor and she says there is a way for us to account for that and wanted to make the Board aware. I don't have a lot of information or solid information at this point but I will keep you up to date as we move along.

You all have in your packets the budget at the 33% mark of the year, we are 23% spent. The revenues at the 33% mark we are 22% received. That is not as bad as that sounds as we get a lot of the revenues, or have in years past, received the revenues in the middle or toward the end of the year. As far as the expenses we are at 23 % at 33% of the year, although good, we cannot celebrate that too much because many of our projects, such as paving, come at the end of the year. We are keeping an exceptionally close eye on that.

Selectman Douglas the support from the Federal Government through the State such as the Block Grant and Rooms and Meals, my understanding as of yesterday, it is highly likely that the money for this year is going to come in. The problem for the State is going to be in 2021 and asked if that was T/A Boland's understanding. T/A Boland replied yes as their Fiscal Year starts in July and stated we have received our second quarter Block Grant. Selectman Douglas stated we need very cognizant of this when we set the budgets this year because he understands the money will not be there next year. Chairman Chamberlain stated it was definitely going to be a concern for the revenues next year and personally is not convinced we are going to get everything this year and T/A Boland expressed he shared this fear.

Selectman Douglas asked T/A Boland to recite to the other Board members the concerns what we talked about in brief on 501(c)(3) with the Ambulance Association. T/A stated that the Ambulance Association failed to file with the Attorney General's Charitable Trust Unit the 501(c)(3) paperwork. Selectman Douglas has been following this carefully and is very concerned about it. There have been emails going back and forth but no one is taking responsibility, no one is standing up and saying I have the paperwork let's file it. To the contrary, they have had several resignations, one was Rob Cole and he sent an email stating that he is no longer associated with them and recommends they file the paperwork. T/A Boland sent an email back to the Town Administrator in Wilton and he said it was not him but a gentleman out of Temple named Paul Jordan who has the paperwork. It is a mess and he does not know if anyone is really handling it at this point. Selectman Douglas said the paperwork has not been filed as appropriate and put us on notice that if it was not followed through with, we will be put on notice

and the Board of Directors would be ordered to go to Concord in front of the AG's office. It was conveyed and the Town Administrator of Wilton was aware of it and was working to find out what happened and basically has been dropped again. Selectman Douglas found out recently that still nothing has been done. If it is not filed appropriately, members of the Board of Directors of Association, or whoever is in charge including me will be subpoenaed. He is now waiting for the paperwork, the backup stuff that had not been done, and what was filed and what lapsed so I can deal with it. Apparently, there are only two members of the Board left that are members of the Board which is Kelly-Sue Boissonnault and myself and Temple is basically out of it. T/A Boland said he would send an email to Paul Branscombe heightening our concern. Selectman Douglas reiterated that he wants the paperwork that had been generated since we were put on notice two months ago. Chairman Chamberlain stated it was longer than that now and found it was November 14, 2019 and we had discussed going ahead with the quiet title to solve the ownership problem and is sure that has not been done either. Selectman Douglas indicated that there may be some that would like to see this thing dissolve if it comes down to a vote. It is going to have to come to a vote, do we want to maintain this Association or not and it is his opinion that they should maintain it. However, if the only other person on the Board from Wilton votes to dissolve it, now what do we do because we don't have a tie breaker. He stated he needs the paperwork to have a meeting with Kelly-Sue Boissonnault and get this resolved. Chairman Chamberlain stated they need to do the paperwork to take Temple out of the Association and Selectman Douglas added that they have to change the organizational structure. Chairman Chamberlain agreed and stated they needed to resolve the underlying issue before we can move forward to that and Selectman Douglas stated they may be able to file both together contemporaneously with one another on the 501(c)(3) if that is the way it is voted and notify them that Temple is no longer a member and stated he will keep them informed and need the tangible paperwork.

Selectman Douglas stated that anything to do with the Corona Virus issues under the Cares Act from the Federal Government is reimbursable and indicated that T/A Boland is keeping a log of everything that may be associated with it, including the signs and the labor that went along with it, even the Police Officers' time and confirmed it with T/A Boland. Chairman Chamberlain saw the invoice for the signs and T/A Boland pointed that out. T/A Boland stated that Ursula is the one that is keeping track of that information.

VI. Selectmen's Report

a. MACC Base Action & Agenda

T/A Boland stated he attended a Zoom Meeting the other day. It is fairly obvious that Milford is going to continue to look to try and go out on their own. They are going out with another RFP to see if they can get better pricing and other communities are looking to see if they can expand MAAC Base and want to have a longer term intermunicipal agreement.

b. Transportation Committee

Chairman Chamberlain reported that they are going to try to conduct a "Go to Meetings" next Wednesday and see how that goes.

c. Planning Board

Chairman Chamberlain reported that aside from the driveway issue there were several items for informational purposes for subdivision, for two lots and he finds one to be an issue and so far no one has filed paperwork except for Cooper who has filed paperwork to administratively remove the 2015 "no further subdivision" note, and we are researching to see what methodology if we were to do it or decide whether to accept the application. If we accept the application, it will be the next meeting and then will hear it the following meeting which would be June. The issue Chairman Chamberlain has with it is the third shot and he keeps digging the bits and pieces out

and that is against our master plan of having a subdivision plan of the whole thing. He agreed and we have it on tape that he agreed to the language for the “no further subdivision.”

d. Heritage Commission

Chairman Chamberlain said they had a very good meeting and Bob Howe came and Jessie noted that Bob Rogers did not. They did not follow the agenda but covered everything. It was Bob Howe first meeting and we appointed him without having him appointed yet because we haven't figured it out yet but to the Covid issue we are going to bend the rules and swear him in when it is convenient. Jessie Salisbury stated the Howes have agreed to take over the gardens at Center Hall. Chairman Chamberlain said it looks good already. Jessie noted that the Lyndeborough Center sign by the flagpole is bowed. Chairman Chamberlain asked if Greg could look into that. T/A Boland to agreed to look into that.

Selectman Douglas question if they will be ordering flags for Memorial Day and T/A Boland responded they have already been delivered. He stated that Dawn and Walter Holland took care of that and there is one extra flag that a citizen ordered and reimbursed us and thought perhaps it was Burton and stated the one flying in the Village is a new flag and up at Center was pretty tattered and Chairman Chamberlain replied that he thinks it has been replaced.

e. Safety Complex

No items to discuss.

Consent Agenda: See Below for May 6, 2020.

There was discussion regarding the Intent to Cut and T/A Boland stated that the it will be issued but the enforcement action will be through the driveway permits. Selectman Douglas questioned why they have to issue it if he has not fulfilled his obligation. The four obligations are legibility, back taxes and two other items. T/A Boland stated it has been explained to him that Intent to Cut is no more than a tax obligation notification not an enforcement mechanism for us.

VOTE: Selectman McQuade moved, Selectman Douglas seconded the motion to accept the Consent Agenda dated March 6, 2020. Chairman Chamberlain-Yes, Selectman Douglas-Yes, Selectman McQuade-Yes. Motion passed 3-0.

VII. Information Items Requiring No Decision

Chairman Chamberlain stated there was a quote for \$22K for a bird net in the salt bay and T/A Boland took the liberty of denying that and thanked them for providing the estimate and will move on to other alternatives and noted that they have put in a decoy.

Chairman Chamberlain notice that they put up new intersection signs at Johnsons' Corner and Center and wished they had put them up to meet code and noted they are a little low and are supposed to be seven feet to the bottom of the sign. Selectman McQuade questioned whether they used the wrong size delineator post. Chairman Chamberlain stated that many of these sign get put in way to low and end up getting hit and need to put the signs in per MUTCD because if there is an accident there someone could point to the signage being improperly installed and that will be a liability for us and has seen that happen before.

Chairman Chamberlain came across the Recycling Center is starting their new hours on Sunday, which means they are not open on Sunday. We traded Sunday for early hours on Tuesday so that people who are going to work early could stop there and take care of their trash, but they made the 6:30-9:00 a.m. for Seniors so now there is no time for anyone who is working for a living.

What they should have taken was the Friday 8-11 a.m. The whole point of having the early one was to counter act the fact that Sunday was not available any more. T/A Boland stated he would include all the towns.

Chairman Chamberlain stated that there is zero in the budget in the fuel for the Fire Department. T/A Boland indicated that it usually does not get reconciled every month and that it is an Administrative item. Chairman Chamberlain stated in the budget hearing it was discussed that they needed to do that, Selectman McQuade noted that there were supposed to be fuel slips. Chairman Chamberlain's concern if there is a bunch of stuff hanging out there it is difficult to see where we are at in the budget if we don't have those numbers.

VIII. Non-Public: RSA 91-A:3 II (c&l)

VOTE: Selectman McQuade moved, Selectman Douglas seconded to go into Non-Public Session under RSA 91-A:3 II (c&l). Roll Call: Chairman Chamberlain-Yes, Selectman Douglas-Yes Selectman McQuade-Yes. Motion carried 3-0.

VOTE: Selectman McQuade moved, Selectman Douglas seconded to exit the Non-Public Session at 8:54 p.m. Roll Call: Chairman Chamberlain-Yes, Selectman Douglas-Yes Selectman McQuade-Yes. Motion carried 3-0.

IX. Adjournment: 8:54 p.m.

VOTE: Selectman McQuade moved, Selectman Douglas seconded to adjourn at 8:54 p.m. Roll Call: Chairman Chamberlain-Yes, Selectman Douglas-Yes Selectman McQuade-Yes. Motion carried 3-0.

All scheduled items having been addressed; the public meeting was adjourned at 8:54 p.m.

Next regular meeting: May 20, 2020 at Citizens' Hall at 6:00 p.m.

Lisa Post, Transcriber

Chairman Mark Chamberlain_____

Selectman Fred Douglas_____

Selectman Richard McQuade_____

May 6, 2020 Consent Agenda

Item #	Item Title	Approved
1	AP Warrants –April 28 & May 5, 2020	YES
2	Payroll Warrant – April 20 through May 3, 2020	YES
3	Request for Approval of Intent to Cut Application (20-279-01T) (M-L 232-038) – Accessed Via Locust Lane	YES
4	Request to Approve Issuance of Timber Yield Tax Levy & Warrant, Wilkins (19-279-05T, Map-Lot 206-026 & 206-015)	YES
5	Request to Approve Issuance of Timber Yield Tax Levy & Warrant, Boisvert (19-279-14T, Map-Lot 237-014)	YES
6	Request to Approve Issuance of Timber Yield Tax Levy & Warrant, Barisano (19-279-15T, Map-Lot 234-037)	YES
7	Request to Approve Elderly Exemption Application – (M-L 228-004)	YES
8	Request to Approve Veterans’ Tax Credit Application – (M-L 227-029)	YES
9	Request to Deny Property Tax Exemption Request – NE Forestry Foundation (M-L 202-005 & 203-005)	YES
10	Request to Deny Property Tax Exemption Request – United Church of Lyndeborough (M-L 231-004)	YES
11	Board of Selectmen’s Public Meeting Minutes – April 22, 2020	YES
12	Board of Selectmen’s Public Meeting Minutes – April 29, 2020	YES