

LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
March 24, 2021
FINAL

I. Call to Order:

Chairman Chamberlain called the meeting to order at 6:00 p.m.

II. Introduction of Members Present:

Chairman Mark Chamberlain, Selectman Fred Douglas, and Selectman Bob Howe
Town Administrator Russ Boland

Minute Taker Kathleen Humphreys via phone

Public & Media Present: Jessie Salisbury, Code Enforcement Officer/Building Inspector Leo Trudeau, Art Napolitano, and Lez Ebert.

III. Appointments:

6:05pm: Gary Russell was not present for the Locust Lane Property Line Discussion

Leo Trudeau – Well Radius in Town

Code Enforcement Officer/Building Inspector Leo Trudeau was present.

Mr. Trudeau was looking into State and Town regulations regarding well radius that go under a road or other property. He read a letter from Attorney Buckley from NHMA.

Mr. Trudeau had a brief conversation with Planning Board Chairman Tom Chrisenton regarding the well radius at the Danis property on Forest Road, which proposes to go under the road. He was informed the Board already made a decision and if the Code Enforcement Officer wants to appeal it, to go through the administrative appeal process.

Mr. Trudeau discussed the verbiage: “lands precluded from development prohibited use of public roads to be included in the area of a protective well radius.” Mr. Trudeau felt that was conclusive. Chairman Chamberlain said he did not remember that wording being in the RSA. Mr. Trudeau discussed the requirement that the protective well radius be contained wholly on lot, on a recorded easement, on land that permanently precludes development, or within property setback lines. NHMA gave an opinion that a public road is prohibited within a well radius.

Wetlands and setbacks can't be built on. The DOT says you can't go into their right-of-way.

Mr. Trudeau said he was asked to get the information on this subject, and from what he received from Attorney Buckley, a protective well radius cannot go over a town right-of-way.

Mr. Trudeau said he does not want to appeal the Danis application and felt it was up to the Selectmen to decide what to do here. He added, if we don't have restrictive language, it's not enforceable. This is at least a trigger to work on specific language.

Mr. Danis' lot is a 4.767 acre lot in the only Light Industrial Zone in that section of Town and with a lot that size, Mr. Trudeau felt there is not a "hardship" where the well could have been located. In a discussion with Mr. Danis', Mr. Trudeau was informed he did not want the well in other areas of the lot because he may use that land for another building in the future and where he has it proposed, there won't be anything there. Mr. Trudeau is concerned it's very close to Winn Road. The applicant is aware of protective measures for his well. Mr. Trudeau will watch the development and installation.

Chairman Chamberlain wondered if that is where the well radius was proposed to be located when the Planning Board and Department of Environmental Services approved the lot for use as a gas station. ML 228-15.

The Board discussed the requirement of signing a waiver/agreement that the property owners are aware their well radius is in a town road.

The small lot on Mountain Road was also discussed. This well radius will be into Mountain Road and an abutting property. Selectman Douglas mentioned that this section of Mountain Road is the heaviest salted road in Town. It is in previous meeting minutes.

Selectman Douglas read paragraph 2 that states the waiver has to be recorded by the owner. Ensuring the owners, and future property owners, are aware of the situation.

Selectman Douglas asked Mr. Trudeau if what he is submitting is not covered by Planning Board regulations.

The Board of Selectmen do not have to wait until the next Town Meeting to present a Warrant Article, they can make an ordinance. They can hold a public hearing to approve it. Selectman Douglas said a new ordinance won't resolve the two issues being discussed, Mountain Road and Danis' properties, those have already been granted. Selectman Howe mentioned that even though they have been granted that does not preclude them from this by signing the form and registering into at Hillsborough Country Registry of Deeds (HCRD). In that case, the town, is released by liability.

Chairman Chamberlain would like to do something in the counter direction and that is to have the Planning Board think about this a little more to realize this statutes applies.

The Code Enforcement Officer left at 6:28 p m

IV. Community Forum and Public Comment:

Jessie Salisbury said the Historical Society has almost reached their goal of the raising the down payment needed to purchase the United Church. They would like to hire an attorney and asked if they could hire the Town's attorney (Attorney Drescher). Chairman Chamberlain has hesitations in the event that Town eventually takes the building over. T/A Boland will consult Attorney Chris Drescher.

They had communicated with a State Senator Ricciardi who offered to help find local funding for the project.

Brandy Brook Class VI Road Section Discussion

T/A Boland had a correspondence with Brandy Brook Road resident Marc Schwartz regarding information on bringing the road up to Class V status as well as information for the Petition Warrant Article process. Road Agent Mark Chase and Chairman Mark Chamberlain were cc'd on the memo.

Class VI Road Policy Discussion

The policy regarding Class VI Roads has not been accepted by the Town. This will be on the April 21, 2021 agenda as well as a discussion regarding the release for Class VI Roads. Chairman Chamberlain said these two releases should be designed to be recordable. It was noted there was a lot of debate on this topic in 2008-09.

Selectman Douglas asked if the Town is still subject to State Statute that Class V road reverts back after 5-years of no maintenance or if you stick a shovel in a Class VI then it reverts back to a Class V road. It was felt by Selectmen Douglas that because of previous case law and a previous case the Town was involved with (Pinnacle Mountain road) this would apply.

New Business:

Appointment of Board Officer

Chairman:

VOTE: Chairman Chamberlain moved, Selectman Howe seconded to appointment Fred Douglas as Chairman for the next term. Motion passed 3-0.

Assign Selectmen to Boards and Commissions

Budget Committee:

VOTE: Chairman Douglas moved, Selectman Chamberlain seconded to appoint Selectman Howe to the Budget Committee. Motion passed 3-0.

Planning Board:

VOTE: Chairman Douglas moved, Selectman Howe seconded to appoint Selectman Chamberlain as the Selectmen's Rep to the Planning Board. Motion passed 3-0.

Ambulance Representative:

VOTE: Selectman Chamberlain moved, Selectman Howe seconded to appointment Fred Douglas to the Ambulance Committee and T/A Boland as a second representative. Motion passed 3-0.

MACC Base:

VOTE: Chairman Douglas moved, Selectman Howe seconded to appoint T/Alt Boland as a representative for MACC Base. Motion passed 3-0.

Emergency Operation Center:

This will continue with all Board members and T/A Boland as emergency reps.

NRPC Transportation Committee:

VOTE: Chairman Douglas moved that Mark Chamberlain, based on his knowledge and education, be appointed to the NRPC Transportation Committee. Selectman Howe seconded. Motion passed 3-0.

Heritage Commission:

VOTE Chairman Douglas moved to have Bob Howe appointed as the actual member and Mark Chamberlain as the Selectmen's Representative. Selectman Chamberlain seconded the motion. Motion passed 3-0.

Conservation Commission

VOTE: Chairman Douglas moved, Selectman Howe seconded that Mark Chamberlain, based on his background as an engineer, be appointed to the Conservation Commission. Motion passed 2-1.

Reappointment of Committee, Commission & Land Use Board Members during COVID-19 Discussion

The Board discussed the safest way to interview the reappointments and agreed to a questionnaire instead of having face-to-face interviews. The Selectmen were asked to submit their questions by next week.

Review of 2021 Town Meeting

The office received a correspondence from Burton Reynolds regarding the Petition Article for the Solar Exemption at Town Meeting, the small crowd, and to revisit it next year. T/A Boland said it is his belief if we were to revisit it next year it we would have to rescind the Article, we can't put it out for another vote on the Petition Article presented in 2021. T/A Boland added, "We are in communication through our contracted assessor with DRA. Our contractor assessor believes it is not on the entire tax bill. We will obtain a ruling from DRA"

The figures T/A Boland provided of \$540,000, which is currently out there in value, multiple by the total tax break equals \$11,000. The school, county and state education would not be excluded, it would just up to the municipal. We are waiting on response from Linda Kennedy of DRA. That would knock it down substantially but we want to validate that first. It is unsure if the petitioners knew that. They all will receive letters next week regarding the required forms that need to be filed.

The Town Office will be sending out RPFs for the carpet replacement, for the portable radios and other things in the budget. The Board discussed the IT vendors for the security cameras and if they would want to go with a third company. It was discussed, due to cost, to maybe only install a camera in one building at this time. Chairman Douglas mentioned that many crimes are solved utilizing security camera footage.

Decision Making Actions:**Old/Tabled Business:****7:00 p.m. Road Agent Mark Chase re paving plan 2021**

The Board discussed the paving plan and budget with Road Agent Chase.

After a discussion, it was agreed to hold off on the work on the 2nd NH Turnpike because the price quoted was promised to be the same for the following year. The Board does not want to delay the work on Center Road. Other projects discussed were the approach to Winn Road, Gulf Road, Center Road, engineering projects on Glass Factory Road and Cemetery. The Board would like to invite the paving contractor to a meeting to discuss paving projects.

The ten-wheeler hit a deer earlier today and the department is working on the required paperwork.

Road Agent Chase was asked to straighten out a few street signs: the chevron sign by Dan Holts, the sign at the Crooked S and Mountain Road intersection, the 4-way intersection sign by Sneider's and a sign by Jessie Salisbury's house. It was reported the sign on Center Road and Curtis Brook is missing.

Selectman Howe asked why Cider Mill Road is closed and he was informed it was because someone else was plowing it and the Board authorized it to be closed and would be a liability issue. Muddy roads were also discussed.

T/A Boland reported a resident who typically calls to complain actually called to provide a compliment on the roads. It was agreed the new work schedule has been helpful.

b. Items not on Agenda:

No items.

V. Town Administrator Report

The new tanker truck should be delivered tomorrow to the Highway Garage.

The Federal Systems Awarded Management Certificate was renewed until March 2022. This is critical for receiving the \$66,000 grant for the fire truck. The Fire Chief needs to keep an eye on deadlines: within 15-days of delivery, the new truck needs to be in service and within 90-days after deliver the old truck needs to be destroyed.

The Inter-Municipal Agreement proposal from Ambulance Advisory Committee was discussed. We were notified the State dissolved the Ambulance Association. The attorney is working on the paperwork for it to go back to the original towns at 55%, 25%, and 25% ownership of the building. Currently, the building is being covered by private insurance. Lyndeborough has a concern if the operation moves to the Wilton Fire Station and how that is separated.

The Board discussed House Bill 111, which passed a House Committee 19-2. It would hold municipalities, employees, public officials, police officers, etc. liable and wipe out any immunity. It was discussed, if a decision was based on knowledge and good faith, people could still come back and sue the town or individuals. There is a similar bill in Washington, DC more pointed towards law enforcement.

BROAD BAND EXPANSION DISCUSSION

Residents Art Napolitano and Lez Ebert were present.

T/A Boland said he had a conversation with TDS. On December 2, the Town sent out a request for information to TDS and Consolidated. T/A Boland is expecting a call back from Scott Brooks of TDS.

There are 68 customers, on the other side of the mountain, that do not have fiber optic. They supply 25-2 and if you are not 25-3 or better they are considered "under-served".

There was a lengthy discussion regarding fiber options. Internet assess has been a problem, especially during the pandemic. Other discussions included plastic fibers

products, which are cheaper. If a contract is awarded to a company that does not have pole rights, it could take years for them to be able to get on the poles.

VI. Selectmen's Report

a. MACC Base Action & Agenda

The Town received a letter from John Shannon, Milford Town Administrator inviting us to discuss dispatch needs. The meetings are April 26th at 6:00 p.m. or May 10th at 5:30 p.m.

Selectman Douglas asked for clarification on which dispatch the letter refers to as it was not clear. He also mentioned the Milford Warrant Article did not pass therefore Lyndeborough is working off MACC Base now.

T/A Boland attended the MACC Base meeting today.

b. Transportation Committee

Selectman Chamberlain participated in a TAP selection sub-committee.

c. Planning Board

The Board met on March 18, 2021. They approved the application for Mike Danis, aka the old sawmill on Forest Road, which is the only lot in that section of the Light Industrial Zone. The building will be about 60x40 feet for his construction business. They make a lot of cabinetry and have about 2-4 employees. One of the biggest concerns was lighting. A condition added was to have nighttime security lights have cut-off times. They approved the waiver to require the plan to be recorded at the Hillsborough County Registry of Deeds. Selectman Chamberlain said he disagreed with the waiver because it was based upon financial expenses, which should not be considered a hardship.

d. Heritage Commission

The Commission will meet this Friday

e. Safety Complex

No items to discuss.

Consent Agenda:

VOTE: Chairman Douglas moved, Selectman Howe seconded to accept the Consent Agenda as printed. Motion passed 3-0. (see below)

VII. Information Items Requiring No Discussion

Selectman Bob Howe said he heard that some residents commented that Town Meeting was not well published this year. T/A Boland said it was in the newspaper and posted on the Town's website, the Village Store, Center Hall and at the Lyndeborough Post Office. The Election and Town Meeting were at its regular time in March. Chairman Douglas said he spoke to a few people who said they were not attending due to COVID.

Excavation Concerns

Resident Ray Humphreys said he sent an email to the Administrative Assistant Dawn Griska regarding Map 247, Lot 32 off Center Road. He noticed equipment growing over the past few weeks and now a crusher is there and work being done. He stopped at the property but did not see an excavation permit displayed. The property was posted, "No

Trespassing” so he didn’t go on it. He was on the Planning Board when Granite State was before them and with his field of work, he knows a permit is required.

He said it is obvious there is excavation happening on the property. There is a crusher, a screen, bulldozer and other equipment. He wanted to ask if this came before the Planning Board for approval. He also mentioned tree cutting on Map 246, Lot 1. Selectman Chamberlain said that nothing has come before the Board for the last year.

Chairman Douglas asked if it looks like the equipment is just parked there or if it is farmland. Mr. Humphreys said the property is listed to Holt Brothers Excavation. He said they built or modified a pond recently, large stones were placed around the pond and material moved. He noticed there was no silt fencing used. He knows it is not legal to do this work in the State without a permit and there are extensive State Permitting procedures.

Selectman Howe said that pond has been there for 50-60 years with the Holt Brothers. Mr. Humphreys said he is aware the pond has been there but there are now stones on the berm that were not there previously. They have been doing a lot of work there. Chairman Douglas said he noticed the trees were cut, which leaves that area opened to view from the road. Since there is no Environmental Control Devices for siltation into the pond, maybe the Conservation Commission need to look into it.

On Map 246, Lot 01 there is an excavator and small dozer sitting there. It looks like they did cutting and it looks like wetlands along the bus parking area. This is on the upside of the property, along Lemire’s property.

Mr. Humphreys said when he looked up the property assessment it does not indicate there is a building on the property but this building can be seen from the road and it has electricity. It is a pole barn style building. He said that the lack of assessing the building is lost tax revenue. Unreported excavation is also lost tax revenue for the town.

Mr. Humphreys said this is so blatant; it is bare earth and a pond with rocks being placed around it. He is all for improving your property but it has to be done under the State purview.

Action Items: Ask the Code Enforcement officer go to the pond location to look at it and take photos. Have the assessor answer the question regarding the pole barn or equipment shed.

VIII. Non-Public Session RSA 91-A:3 II (a & I)

VOTE: Chairman Douglas moved, Selectman Howe seconded to enter into a non-public session at 8:29 p.m. Motion passed 3-0.

VOTE: Selectman Howe moved, Chairman Douglas seconded to exit the non-public session and return to the public meeting at 9:21 p.m. Motion passed 3-0.

VOTE: Selectman Howe moved, Chairman Douglas seconded adjourn at 9:21 p.m. Motion passed 3-0.

Adjournment:

All scheduled items having been addressed, the public meeting was adjourned at 9:21 p.m.

Next regular meeting: April 7, 2021 at Citizens' Hall at 6:00 p.m.

Kathleen Humphreys, Transcriber

Chairman Fred Douglas

Selectman Mark Chamberlain

Selectman Robert Howe

March 24, 2021 Consent Agenda		
Item #	Item Title	Approved
1	AP Warrants – March 23, 2021	Yes
2	Payroll Warrant – March 8 through March 21, 2021	Yes
3	Request for Execution of 2021 NH DRA Form MS-232	Yes
4	Board of Selectmen's Public Meeting Minutes – March 10, 2021	Yes