

LYNDEBOROUGH BOARD OF SELECTMEN

MEETING MINUTES

March 10, 2021

Approved

I. **Call to Order:**

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

II. **Introduction of Members Present:**

Chairman Mark Chamberlain and Selectman Fred Douglas
Town Administrator Russ Boland

Selectman Richard McQuade and Recorder Kathleen Humphreys attended via phone.

Public & Media Present: Jessie Salisbury, Marc Schwartz, Road Agent Mark Chase, Selectman-Elect Bob Howe, and Code Enforcement Officer/Building Inspector Leo Trudeau

III. **Appointments:**

6:05pm: Resident 51 Brandy Brook Road, Marc Schwartz

Marc Schwartz was present to talk about his concerns regarding the Class VI portion of Brandy Brook Road, which is not maintained by the town, in relation to his plowing creating safety concerns.

Mr. Schwartz said his Real Estate Agent and the former owners, the Grovers, said the town plowed all the way to the dirt road.

From previous communication with the Town, Mr. Schwartz was informed that is not accurate and it was suggested he hire a contractor to plow the road. His first contractor was injured before the first snowstorm while the second contractor had equipment problem during the second storm resulting in the Mr. Schwartz not being able to leave his driveway for two-days. After this experience, he has concerns that emergency vehicles might not be able to reach his family during an emergency.

Marc Schwartz is looking for the Town's help to manage that portion of road from asphalt portion of the road and continue onto the dirt section plowing past his home.

Selectman Douglas explained it is the Selectmen's charge to look into these items regarding Class V and Class VI roads. A Class V road is maintained by taxpayer's money. A Class IV is by voter's will or at the discretion of Board of Selectmen. It is important to get the taxpayer's input. If a road is petitioned to be closed, the matter has to go to Town Meeting.

History: In 1953, the Town voted to close that portion of road thus this section became a Class VI road. When it became a Class VI road, there were no houses there. The road continued to deteriorate because town did not maintain it.

Statutory laws apply here. Once a road becomes a Class VI classification, if the Highway Department does any work on that road, it then reverts back to a Class V Road. In addition, if it is abandoned for more than 5-years, it reverts back to Class VI classification.

Selectman Douglas explained a scenario on Pinnacle Road, where a landowner claimed the Highway Department maintained a culvert, which the Town did not. That case went to Supreme Court and the Town prevailed.

It was explained that the Class VI classification on Brandy Brook Road is not unique in Lyndeborough. If someone is going to build on a Class VI they have to maintain it, they need to sign a waiver. That is what happened on 51 Brandy Brook Road, the first and second owners signed a waiver. Selectman Douglas expressed his concern that the road was closed by the voters in 1953 and the current owner is asking the Selectmen to try to mitigate this.

In October 2020, the Town sent Selectman Mark Chamberlain, who is an engineer by trade, and Road Agent Mark Chase to visit Brandy Brook Road to conduct an evaluation. Their report cited serious challenges to put Brandy Brook Road back to a Class V status in relation to drainage, steep slopes, and a safe turnaround.

The previous owner had a serious washout and corrected it at his own expense.

Plowing was discussed. Even if the Town can plow that area, there is not a safe turnaround radius for a truck once it gets past the house. There are very steep slopes, which could be dangerous for the Highway crew and vehicles.

If the Town agrees to plow that road, then they will be obligated to maintain it 12-months of the year. If the Town did vote to accept the road, it would disrupt the paving plan because it would be very costly to upgrade that section of Brandy Brook Road.

Mr. Schwartz asked how he can get on the paving plan. He is willing to contribute to the project. He realized that for the most part, emergencies don't happen but he wants to do his due diligence. He reviewed the paperwork, which went back to 1996.

T/A Boland explained the process for a Petition Warrant Article to request bringing the road up to Class V standards. It requires 25 registered voters to get on the Warrant. Mr. Boland will forward the information on the process. The earliest timeframe this could be voted on is at the 2022 Town Meeting. The Board discussed if the Town can do an engineering study and write a report that includes an estimated cost, without violating the Class VI status. That way the voters would know an expected cost for the road upgrade.

The Board and Road Agent Chase reassured the property owner that if there is an issue with getting an emergency vehicle out to his property, they would call in a plow to open the road or driveway up to allow for emergency vehicle access. It was noted that many of the Highway Department personnel are also volunteer fire fighters and would be first responders with communication abilities during an emergency or snowstorm.

Selectman McQuade inquired about an estimated cost for an engineer study for a road like that. Chairman Chamberlin estimated in the range of \$1,000-\$2,000 while a drainage study could cost a lot more.

Selectman Douglas asked Road Agent Chase if he knew how many rods Brandy Brook Road is. The answer was a two-rod road, which equals 33 feet. The steep embankment was discussed. The drainage issue is due to the railroad and a gully that dumps water

into the river. There is limited drainage and no easements. It drains under the road into another sharp drop off.

Selectman Douglas asked Mr. Schwartz if he was aware of any documents that classified this portion of Brandy Brook Road as a Class VI road when he purchased the home and was this disclosed to him? Mr. Schwartz responded, "No". Selectman Douglas asked if he has taken any steps to go back to the previous owners/real estate agent, who are obligated to bring this to your attention. Mr. Schwartz said, "Yes" but their response was they are not required to bring up anything outside the house. Selectman Douglas asked if he got an opinion from legal counsel and the answer was, "No". He has not pursued it legally yet but is looking for a solution with the Town.

Selectman McQuade requested the resident notify the Lyndeborough Fire Department that he lives on a Class VI road so they can notify 911.

Marc Schwartz left at 6:45pm (45:40)

Building Inspector Leo Trudeau re: Well radius within Town Right of Way

Building Inspector/Code Enforcement Officer Leo Trudeau was present.

Building Inspector/Code Enforcement Officer Leo Trudeau researched the State regulations. Various documents discussed a protective radius of a drinking water well shall not go under a roadway or under other's properties. There are reasons for this to be exempt. If a well is constructed, certainly a deep bedrock well, then that protective radius and all those rights just go away. If extra lengthy of steel casings are put in with specific criteria then a drinking water well can literally be right next to the edge of road and go under the radius of 75 foot and go under the road and under other people's properties. It has been addressed by the State in WE600-05 and it is allowed.

The Town wouldn't be preempting a State Law. The Town can adopt a regulation regarding the radius and setbacks from wetlands, septic systems, roads, and other things. The regulations from the State say if a well is constructed in a certain way, and that will require inspection, it is allowed. The Town can be more stringent.

Chairman Chamberlain is working on a draft for Protective Well Radius within the Town right-of-way and town properties.

A few properties are a concern such as a small lot just past Hunter's Cot on Mountain Road, which proposes the well to be just a few feet from the road, in a highly travelled and salted section. Also, new construction at the intersection of Winn Road and Forest Road.

Code Enforcement Officer Trudeau said he can take on the role of inspections. He also mentioned if the Town does not have a code, then there is nothing to enforce.

Selectman McQuade mentioned the way some systems are installed now are different. They are hammering the casing into bedrock and grouting it. They go down an additional 20-40 feet into the bedrock. Certification requirements by installers was discussed.

It was discussed to consult legal counsel or NHMA as well as invite the Planning Board Chairman to come before the Board of Selectmen to discuss well radius.

Road Agent Mark Chase re: Paving Plan for 2021

Road Agent Mark Chase was present.

The Board discussed the paving plan with Road Agent Chase. They also discussed engineering cost for Glass Factory Road and Center Road, which is estimated at \$40,000.

John Pomer presented a plan for Putnam Hill Road and Glass Factory Road to deal with the railroad trestle, which addresses re-grading a section to make it a level crossing above the tracks at an 8% grade. This will be discussed at the next meeting and Mr. Pomer will forward the information.

Chairman Chamberlain attended a Zoom Meeting with the Transportation Committee earlier today, including a presentation on maintaining gravel roads, which was interesting.

The NRPC does two free Road Surface Maintenance Analysis a year. They go through the roads, every ¼ mile and do a report on the conditions of the roads plus generate a projected maintenance cost so the Town can project out the cost. Currently, they do not have a project scheduled for this spring yet. Road Agent Chase felt it would be advantageous.

Mason just had an analysis done which helped them explain to residents why they do so much work on certain roads. In addition, it pointed out other problems.

IV. Community Forum and Public Comment:

No comments

V. Decision Making Actions:

Old/Tabled Business:

The dedication plaque for Putnam Pond, in honor of Lee Mayhew, will be held on Memorial Day weekend. Selectman McQuade would like to attend and asked to be notified.

b. New Business:

No items.

c. Items not on Agenda:

No items.

VI. Town Administrator Report

T/A Boland informed the Town Assessor that the town will not be doing measuring and listing 25% of the Town this year. The Town will be sending out an RFP for assessing this year as the current contractor's contract concludes in 2021.

A citizen voiced a concern about paving Herrick Road. They discussed calcium use to help with the dust problem.

The Hazardous Mitigation plan is good for another five-years as it has been accepted by both the State and Federal Government.

T/A Boland provided information to the Board that Wilton email is currently down.

A sample ballot is available. The room is set for Town Meeting and the sound system is being set-up.

Selectman Douglas wanted to acknowledge Bob Howe for stepping up for the office of Selectman. He is pleased Bob will share this experience with the Board.

Bob Howe replied that it is important and that he feels he owes it to the Town. He grew up here. He wants to continue with a sense of community. He felt that there is a lack of sense of community today.

Chairman Chamberlain thanked Selectman Rick McQuade for the last 3-years on the Board. He was a good member and brought a lot of experience and a good range of information. Selectman Douglas also thanked Selectman McQuade.

Selectman McQuade said that everyone should serve at least one term and see how the Town is run. He said the other members and T/A Boland taught him a lot and brought him up to speed. He's happy that Bob Howe is coming on board and said he will be a great addition to this team.

VII. Selectmen's Report

a. MACC Base Action & Agenda

The Warrant Article in Milford did not pass.

b. Transportation Committee

There was a Zoom meeting to approve the 2023-2032 Ten-Year Plan. The Committee is looking for three volunteers to be on a sub-committee for TAP project scoring.

c. Planning Board

The Planning Board had a work session on March 4th. Code Enforcement Office Leo Trudeau attended. They discussed site plans and are exploring a major and minor subdivision regulations. They discussed agriculture and agritourism. There are a few different schools of thoughts. They worked on updating the Rules of Procedures.

d. Heritage Commission

The Commission will meet at the end of the month. Bob Howe is a full member and the Commission would like him to remain a member and not be a Selectmen's Representative.

e. Safety Complex

No items to discuss.

Consent Agenda:

VOTE: Selectman McQuade moved to accept the Consent Agenda. Selectman Douglas seconded.

Roll call: Selectman McQuade, yes; Selectman Douglas, yes; and Chairman Chamberlain, yes. Motion passed.

VIII. Information Items Requiring No Discussion

None

IX. Non-Public Session RSA 91-A:3 II
None

X. Adjournment

VOTE: Selectman McQuade moved to adjourn at 8:07 p.m. Selectman Douglas seconded.

Roll call: Selectman McQuade, yes; Selectman Douglas, yes; and Chairman Chamberlain, yes. Motion passed.

Adjournment:

All scheduled items having been addressed, the public meeting was adjourned at 8:07 p.m.

Next regular meeting: March 24, 2021 at Citizens' Hall at 6:00 p.m.

Kathleen Humphreys, Transcriber

Chairman Mark Chamberlain

Selectman Fred Douglas

Selectman Richard McQuade

March 10, 2021 Consent Agenda		
Item #	Item Title	Approved
1	AP Warrants – March 2 & March 11, 2021	Yes
2	Payroll Warrant – March 8 through March 21, 2021	Yes
3	Board of Selectmen's Public Meeting Minutes – February 24, 2021	Yes
4	Board of Selectmen's Non Public Meeting Minutes – February 24, 2021	Yes