

LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
February 9, 2022
Final

I. Call to Order:

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

II. Introduction of Members Present:

Chairman Fred Douglas, Selectman Mark Chamberlain, and Selectman Robert Howe
Town Administrator Russ Boland and minute taker Kathleen Humphreys (remotely by phone)

Public & Media Present: Marc Schwartz, Chris Brown, Mr. Mitchell, Jessie Salisbury, and
Building Inspector/Code Enforcement Officer Leo Trudeau

III. Appointments:

6:05 p.m.

Marc Schwartz (Map 231, Lot 001-000) re: Classification of Brandy Brook Road

Mr. Schwartz said he wanted to address changes and his concern is same as when he last spoke to the Board of Selectmen last October. He wants his family, and friends that come to property, to be safe. Mr. Schwartz wanted to present some tools he believes will allow the Board to help him. He presented a package to the Board.

He said he feels like a victim of the house. He appreciates that the Town willingness to plow his driveway in a medical or fire emergency. He had issues this year with plowing services. He is concerned this understanding might not be an option as the Board changes in the future.

Mr. Schwartz referenced an email from October 26, 2021, (page 3), which states the current road does not meet town standards as an emergency lane.

Mr. Schwartz said the letter submitted highlights three issues in an ethical framework and approach to understand situation and rethinking the road classification.

1. At time of purchase the map shows Brandy Brook as Class V road.

The arrow points towards other Class VI roads in area as Howe Drive and Old Coach Road. A map from 2019 shows it as Class V Road.

In a corresponded between Mr. Schwartz and the Department of Transportation, Mr. Watson wrote in their perspective Brandy Brook is a Class V road. Mr. Schwartz said, "There was no public information that I should believe otherwise. I realize there is a letter by the Giese's in 1994 that was brought to my attention. I would have no intention of looking for a letter."

2. RSA 674:41

Relative prior to an issuance of a building permit that the resident should record a Record of Liability at the Registry of Deeds.

Mr. Schwartz said he did not see any letter in his package from his real estate agent that indicated the previous owners had that arrangement with the Town. He

acknowledged that T/A Boland produced the letter from the property file. He looked at what they offered in 1994 and was it in the deed. He asked his agent to look at the deed to see if there was an addendum. He felt it was a misstep that the Town needed to verify the Guise's adjusted their deed to make future individuals aware of this arrangement of the Town.

3. RSA 231:3

City or Town accepts from the State a Class V highway property taken under RSA 230:14. That is usually eminent domain.

RSA 229:5 was discussed relating to a highway shall not lapse to Class VI by not being maintaining for more than five-years. (Mr. Swartz believes this is not the case for a state highway and in this context).

Mr. Schwartz felt that in the last 28-years there was plenty of opportunity to set the record straight. He noticed repeated efforts by past owners (Grover and Purcell) attempted to change the classification of Brandy Brook. These attempts could have been a reminder to update the town maps. He pointed out that Mr. Watson's (NHDOT) email on Oct. 26, 2021 indicates the Town, as of 2017, has not updated their records. Mr. Schwartz said the records have not been updated since 1994 when they sent their letter to the Town.

Mr. Schwartz felt the attempt in August to put up a sign that it is a Class VI road does not help him.

Chairman Douglas asked if the RSA said the resident might do this and the town to verify. The answer was, "Yes". Selectman Douglas asked if everyone agrees that road they are talking about is not a state highway. Mr. Schwartz said, "It was at one time". It was acknowledged the road was discontinued and reverted back to town. According to the RSA, after not being maintained for five years, it reverts back to a Class VI road. It was mentioned that this is the other missing RSA.

Chairman Douglas asked if their real estate agent or themselves looked in the property file. The answer was no. Chairman Douglas asked if the Waiver of Liability was in the file and the answer was yes.

Selectman Howe said he is not sure the exact year that road was rerouted to where it was now. At that point, Clayton Brown or Earle Bullard was the road agent. There was a pole put across that road and the one that went over the bridge. They were closed subject to gates and bars. Those poles just rotted away. Nothing was done there until the Giese's purchased the property, which was probably 1963, until the 1990s; it was never maintained. The RSA may give us some other information.

Mr. Schwartz felt this is a path for the Town to find a way to help him.

Selectman Chamberlain would like to review that RSA. Chairman Douglas asked if the Waiver of Liability was put in the property file and not the deed. Selectman Chamberlain said they cannot edit the deed. They can file the waiver at the registry. T/A Boland said the policy now is to record a Waiver of Liability at the Registry of Deeds.

The Board would like to ask Town Counsel's opinion. This could take time.

**6:30 pm Chris Brown re: Locust Lane Driveway Easement Update
Map 232, Lot 038-000**

Chris Brown was present to talk about the engineering efforts for the Locust Lane driveway for the lot he is building a home on. He presented a drawing. The drawing shows a roughed in road to the top in higher elevation. It showed the slope of the driveway. It is broken down into different lengths. Chairman Douglas asked in the future to send any documents, such as a map, to the Board ahead of time for review.

Mr. Brown wants the Town property drainage to be as suitable as possible. The slopes are steep where they cut through. The easement is only 30-feet wide in which to work with. There was a significant cutting. They are looking at options to stabilize the slopes. They propose widening the easement beyond the 30-feet to help with the side slope of the driveway. A main concern and that is a Town portion of the property and how to deal with the first section of the driveway.

Selectman Chamberlain said they had discussed to come out beyond the pad. Mr. Brown said they are considering moving it down a bit further and widening the bottom. The plan shows a 30-foot wide easement. It gets wider below the concrete pad.

Chairman Douglas asked if they plan to remove a lot of gravel so it's level or a different slope. C. Brown said they would like to widen the entrance to the road to provide the ability for a better slope on the driveway side and to decrease the slope towards the road. They are steep. The Board and Mr. Brown discussed options, the slopes, drainage and the driveway. Four additional trees need to be cut. He felt that wall blocks or concrete would not look natural there. They would like to have the Board's opinion so they can have their engineers modify the plan.

Site Walk: February 12, 2022 at 9:00 a.m. Meet at the Town Barn.

IV. Community Forum and Public Comment:

Upcoming event: In 1823, Marquis de Lafayette did a farewell tour. The Lafayette Artillery Company has been invited to a ceremony on May 20, 2022 at 2:00 p.m. at the New Hampshire State House.

Decision Making Actions:

Old/Tabled Business:

2022 Town Report Update

The Board reviewed the proposed cover for the Town Report. They suggested moving Lee Mayhew's memorial plaque to the top and enlarge the image and put the two vehicles on the bottom of the page.

Woodward Road Subdivisions E-911 Addressing

The Town has contacted all affected parties regarding address changes and they all agreed. Screen shots of emails were provided. Chairman Douglas read the RSA.

VOTE: Selectman Chamberlain made a motion, Selectman Howe seconded, subject 231:133-A to approve 12 Western Way for the existing Chrisenton residence, 65 Tower Road for the existing Chrisenton-owned cell tower, 24 Laurel Lane for the existing Mader residence, 44 Golden Road for the Meigs residence currently under construction, 68 Western Way for the Brown residence currently under

construction, 125 Western Way for the Dupont residence currently under construction, and 65 Picabo Street for the existing Chrisenton outbuilding, as addresses for the sole purpose of emergency services response, and does not speak towards other related topics that are still under consideration. Motion passed 3-0.

The E-911 map needs to be updated. This must meet standards in a timely manner. The homeowners can put up temporary signs. All permanent signs need to adhere to the Town format for signs, as well as MUTCD.

T/A Boland said the homeowners would like a document from us to help with their address change efforts, such as submitting information to their credit card companies and so forth.

Owner	Type	Map-Lot-Sublot	Old Address (if applicable)	New Address
Chrisenton, Tom & Ginny	Residence	230-008-000	42 Woodward Road	12 Western Way
Chrisenton, Tom & Ginny	Cell Tower	230-006-CEL	170 Woodward Road	65 Tower Road
Mader, Bret & Donna	Residence	230-005-001	65 Woodward Road	24 Laurel Lane
Meigs, Anna	Residence	230-004-000	NA	44 Golden Road
Brown, Steve & Maria	Residence	230-006-001	NA	68 Western Way
Dupont, Phil & Sharon	Residence	230-024-000	NA	125 Western Way
Chrisenton, Tom & Ginny	Outbuilding	229-004-000	NA	65 Picabo Street

Chairman Douglas asked if this change gets sent to the HCRD. This will be verified.

2022 Budget and Warrant Article Review

T/A Boland reviewed the budget changes. They restored \$90,000 to the paving line and removed \$5,000 from the executive line for the phones with the hope to use ARPA money. The result is a 4.6% increase, \$78,771 over last year (*check figure*)

Selectman Chamberlain asked to keep in mind they artificially lowered the budget by paying for the warrant articles with the Unreserved Fund Balance and they can't do that every year.

VOTE: Selectman Howe made a motion to accept the budget presented by Budget Committee in the amount of \$2,406,865. Selectman Chamberlain seconded the motion. Motion passed 3-0.

VOTE: Selectman Chamberlain moved to accept the portion of the Warrant Article in 2022 as presented tonight. Selectman Howe seconded the motion. Motion passed 3-0

b. New Business:

No items

c. Items not on Agenda:

None

V. Town Administrator Report

Mr. Mitchell was here tonight to discuss his abatement situation, which is ongoing. The new assessor recommended meeting with the assessor from Wilton and bring this to a

conclusion. Reducing the Lyndeborough assessment is not an equitable situation in this case. Both towns need to agree that neither town has a total assessment. The towns of Lyndeborough and Wilton should agree on an acceptable percentage of the parcel. There should be a decision prior to the BTLA hearing, which is March 10th.

Our assessor spoke to Mr. Haywood, Wilton's assessor, and he indicated he is willing to work with him as long as the Wilton Board agrees to it. It was discussed to contact the Wilton Board to get permission for the assessors to meet to resolve this.

Chairman Douglas said that from the map our assessor submitted, it seems that most of the property and buildings are in Lyndeborough. Surveying the property was discussed. T/A Boland said that the town line may need to be identified. The assessed percentage needs to be agreed upon.

Mr. Mitchell asked if this land in Lyndeborough, which is 2.2 acres, can stand alone. The answer was it cannot because it is one deeded lot. It was suggested to deal with the abatement before the BTLA hearing in which Mr. Mitchell claims Lyndeborough has an incorrect assessment.

Mr. Mitchell said he likes the idea suggested by our assessor for percentage of entire lot by town as fair. "I want to pay a fair tax. I think Wilton is getting more of your taxes."

VOTE: Chairman Douglas moved we direct T/A Boland to contact the Town Clerk to prepare the paperwork to alleviate the \$1,400 and have it ready for this Board to execute at the next meeting, if we choose to do this. Selectman Howe seconded the motion. Motion passed.

Chairman Douglas said this action does not negate the fact that we still have to correct this. He suggested surveying the town line. He would like to know if Wilton will be part of the cost factor.

The One Ton Dump Truck is up at Dodge dealership.

Highway Salt Shed: The engineering came through for the un-damaged section. Code Enforcement Officer Trudeau will contact Wally Holt to formulate an estimate and can forward this to the insurance company. Tim McEntee was not available. The engineer wants to see all the bracing done as soon as possible.

T/A Boland attended a meeting for ARPA updates on Jan 27th. They have a standard deduction of \$10 million. It was discussed to refile at the end of April to the Federal Government.

Renewed our FAM (?) with the Federal Government, the IRS and DOT.

The price for the Highway Garage dumpster increased from \$135/month to \$180/month. They cancelled the current contract and hired another company, paying \$79/month for a smaller dumpster.

VI. Selectmen's Report

a. MACC Base Action & Agenda

They were notified the Town is installing another phone line on February 23rd. Our IT Department will be assisting. The MACC Base Director resigned, effective March 1st.

b. Transportation Committee

The Committee met today. There was a presentation for Federal Infrastructure Investments and Jobs Act. There are a lot of unknowns on how funds can be used. What stood out to Selectman Chamberlain was the Rural Surface Transportation Grant. The information will be out the first quarter of this year. There is substantial bridge and rail money available. It is unclear if it can be used for the Glass Factory project.

c. Planning Board

The Board will meet next week. They are putting together conditions of approval for the Boisvert Airsoft Permit. The NRPC Circuit Rider and Town Counsel will work with the Board to write conditions that are enforceable and much clearer. For example, the permit called for a special event permit, but we never provided a process or permit form.

There is a subdivision and lot line adjustment for Tom Chrisenton. Kevin Boette's subdivision amendment was not noticed so he will not be on this meeting. The Warrant amendments were dropped due to a notification error.

d. Heritage Commission

They discussed the Hadley Mill documentation, additional signage for next year. The Town history project is still moving forward. They talked about reinstating the GIS mapping project for cellar holes and stone culverts.

e. Conservation Commission

The Commission will meet tomorrow night. They will discuss the lack of a Warrant Article for the proposed wetlands buffer.

VII. Consent Agenda:

VOTE: Selectman Howe made a motion, Selectman Chamberlain seconded to accept the Consent Agenda for February 9, 2022. Motion passed 3-0.

VIII. Information Items Requiring No Discussion

The Road System Maintenance Survey done by NRPC has been completed. It has recommendations. Unfortunately, the person who did the work left NRPC before the Town could meet with him.

Code Enforcement Officer Leo Trudeau said regarding granting conditions it has been the history of Planning Board to arrive at conditions then wash their hands of any responsibility nor provide oversight of the conditions. That is how things go lost in prior conditions, no body follows through. He asked whose responsibility is it and said, if it is code enforcement then it's mine. If an applicant is to seek a permit then whose responsibility is it to perform that? It seems to him the body that requires the conditions should oversee it.

Selectman Chamberlain said in the Boisvert case there are two things that have to be made crystal clear. #1. Special events permit. #2. Annual report. In both cases, appropriate forms and a process have to be established. The report can include comments from the police department and code enforcement officer to verify if there are any complaints. Ramifications for permit violations need to be established.

Mr. Trudeau asked hypothetically about private roads that cross areas that are a Class VI public road.

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

Adjournment:

VOTE: Selectman Chamberlain made a motion, Selectman Chamberlain seconded adjourn at 7:49 p.m. Motion passed 3-0.

Next regular meeting: February 23, 2022 at Citizens' Hall at 6:00 p.m.

Kathleen Humphreys, Transcriber

Chairman Fred Douglas _____

Selectman Mark Chamberlain _____

Selectman Robert Howe _____

February 9, 2022 Consent Agenda		
Item #	Item Title	Approved
1	AP Warrants – February 1 & 8, 2022	Yes
2	Payroll Warrant – February 7, 2022, through February 20, 2022	Yes
3	VALIC ACH Payroll Warrant – February 7, 2022, through February 20, 2022	Yes
4	Request to Execute 2022 Town Warrant	Yes
5	Request to Execute Land Use Change Tax (LUCT) Levy & Warrant – Timothy W Sullivan And John Harrison LLP (220-021-000)	Yes
6	Request to Approve Issuance of Timber Yield Tax Levy & Warrant, Chrisenton (21-279-01T, Map-Lot (228-001, 229-002, 229-003, 229-004, 229-005, 229-006, 229-007, 229-008, 230-005, 230-005-002, 230-007, 230-008, 230-008-001 & 230-024)), Accessed Via Woodward & Beasom Roads	Yes
7	Board of Selectmen's Public Meeting Minutes – January 26, 2022	Yes