

LYNDEBOROUGH BOARD OF SELECTMEN
SPECIAL MEETING MINUTES
October 26, 2022
Final

I. Call to Order:

Chairman Douglas called the meeting to order at 6:03 p.m.

II. Introduction of Members Present:

Chairman Douglas
Selectman Chamberlain
Selectman Howe

Town Administrator Russ Boland

Public Present: Finance Human Resource Coordinator Paul Hebert, Fire Chief Brian Smith, and Firefighter Devin McEntee

III. Appointments: None

IV. Community Forum and Public Comment: None

V. Decision Making Actions:

a. Old/Tabled Business: None

b. New Business:

Possible Replacement of Fire Engine # 5 Discussion

Chairman Douglas thanked everyone for attending the Special Selectmen's meeting to discuss the possible purchase of a used fire engine from Armor NY Volunteer Fire Company to replace Engine 5, which has experienced a major pump failure.

Chairman Douglas recognized T/A Boland to review the documentation presented. T/A Boland advised the Board Finance / Human Resource Coordinator Paul Hebert has developed a document stating the expected expenses for the remaining time in 2022 and the possible surplus at the conclusion of 2022. With the purchase of the used fire truck, replacement of the east wall of the salt shed and the replacement of the two heaters at the Highway Garage, along with the regular expenses expected, the budget may have a surplus of \$150,000. T/A Boland advised the Board their document packet also included written opinions from the New Hampshire Department of Revenue, the Town's auditor and Attorney Chris Drescher stating the purchase of a used fire truck, given the situation is acceptable (see attached documents). Additionally, the packet includes material provided by the Armor NY Volunteer Fire Company, detailing a recent pump test and the general inspection of the truck for NY State Inspection (see attached documents).

Selectmen Howe stated given the projected cost to repair Engine 5 being as much as \$50,000, purchasing of a used fire engine in the amount of \$25,000 appears to be a good option.

Selectman Chamberlain asked Chief Smith who would be going to New York to inspect the truck. Chief Smith stated Firefighter Devin McEntee, Firefighter Tim McEntee, and Rescue Chief Milton Leavitt would be leaving Friday, October 28, 2022, to go to the Armor New York Volunteer Fire Company in Hamburg New York to inspect the truck. The cost to send the Lyndeborough representatives to inspect the truck will come out of the operating budget of the Lyndeborough Fire Department. The Lyndeborough representatives will be meeting the Fire Chief of Armor Volunteer Fire Company and the mechanic from the Armor Fire Company to conduct a pump test and general inspection of the truck. Selectman Chamberlain stressed to Chief Smith and Firefighter Devin McEntee that if the Selectmen approve the purchase of the truck, and if they believe, upon inspection, the truck is not a good purchase, they should walk away and come home.

Chairman Douglas asked if the proposed new truck will fit in the current Lyndeborough Fire Station? Chief Smith answered, yes, the proposed truck is 30.5 feet long and 9.5 feet high and will fit in the Station. Chairman Douglas asked what the cost will be to decal the truck and install radios in the new/used truck and also asked where the money will come from. Chief Smith estimates the cost for decaling to be about \$300 and the cost for radio installation is uncertain, but should be minimal. The cost for both will be taken from the vehicle repair account. Chairman Douglas reiterated the statement made by Selectman Chamberlain regarding the inspection of the truck and advised Chief Smith and Firefighter McEntee if the team feels the truck is not what we need, walk away. Additionally, Chairman Douglas stated for the team to pay particular attention to the vehicle's frame. Chief Smith stated he does believe the frame has a history of undercoating.

Vote: Selectman Chamberlain made a motion to authorize the purchase of a 1997 Spartan RD Murray Fire Truck VIN 4S7AT3892VC023767 from the Armor New York Fire Company in the amount of \$25,000, conditional on the inspection/testing and approval of representatives from the Lyndeborough Fire Department. Seconded by Selectman Howe. Passed 3-0

Chairman Douglas thanked all who participated in tonight's meeting.

c. **Items not on Agenda:** None

VI. Town Administrator Report: None

VII. Selectmen's Report:

a. **MACC Base Action & Agenda:** None

b. **Transportation Committee:** None

c. **Planning Board:** None

d. **Heritage Commission:** None

e. **Conservation Commission:** None

f. **Ambulance Advisory Committee:** None

VIII. Consent Agenda: None

IX. Information Items Requiring No Discussion: None

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

XI. Adjournment:

VOTE: Selectman Howe moved, seconded by Selectman Chamberlain to adjourn at 6:30 p.m. Motion passed 3-0.

All scheduled items having been addressed, the public meeting was adjourned at 6:30 p.m.

Next regular meeting: November 2, 2022 at Citizens' Hall at 6:00 p.m.

Russ Boland, Transcriber

Chairman Fred Douglas_____

Selectman Mark Chamberlain_____

Selectman Robert Howe_____

Russell

From: Dow, Jamie <JAMIE.L.DOW@dra.nh.gov>
Sent: Monday, October 24, 2022 7:37 AM
To: Russell
Cc: Paul Hebert
Subject: RE: Lyndeborough Truck Purchase Question

Hi Russ,
Yes, this is permissible if you don't exceed the total voted appropriations.
Thanks,
Jamie

Jamie L. Dow, Municipal Accounts Advisor
NH Department of Revenue Administration
109 Pleasant St.
PO Box 487
Concord, NH 03302-0487
Phone: (603) 230-5092/Fax: (603) 230-5947
Jamie.L.Dow@dra.nh.gov

From: Russell <rboland@lyndeboroughnh.us>
Sent: Friday, October 21, 2022 11:26 AM
To: Dow, Jamie <JAMIE.L.DOW@dra.nh.gov>
Cc: Paul Hebert <phebert@lyndeboroughnh.us>
Subject: Lyndeborough Truck Purchase Question

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Hi Jamie,

We find ourselves with a current fire truck that has just experienced a major pump failure. The cost to repair the truck ranges in price from 18K to 50K depending on how extensive the repairs would be. The Fire Department has found a used truck in NY that is slightly newer and has just been removed from service and appears to be ready to continue in service if we purchase it.

The question is; is it permissible to purchase the used truck from the operating budget as long as we do not over expend the bottom line of the budget. We believe this is possible because we have under expended in many other areas which would cover the cost of the truck which is approximately 30K ?

Our attorney believes this action is allowed but advised to check with DRA to make sure.

Look forward to hearing from you and have a Great Weekend.

Thank you,

Russ

*Russ Boland
Town Administrator
Selectmen's Office
Lyndeborough NH
603-654-5955 ext. 223
rboland@lyndeboroughnh.us*

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Russell

From: Russell
Sent: Friday, October 21, 2022 11:03 AM
To: Chief Fred Douglas; Fred Douglas (fgdouglas@outlook.com); Mark Chamberlain; Bob Howe
Subject: FW: Fire Truck purchase

Below is an opinion from Chris Drescher regarding the purchase of a used fire truck. I will also check with DRA and our auditor.

Thank you,

Russ

*Russ Boland
Town Administrator
Selectmen's Office
Lyndeborough NH
603-654-5955 ext. 223
rboland@lyndeboroughnh.us*

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From: Christopher Drescher <cdrescher@cbzlaw.com>
Sent: Friday, October 21, 2022 9:56 AM
To: Russell <rboland@lyndeboroughnh.us>
Subject: Fire Truck purchase

Russ,

First let us start with the general rule, which is **NH RSA 32:8** (in full):

"No board of selectmen, school board, village district commissioners or any other officer, employee, or agency of the municipality acting as such shall pay or agree to pay any money, or incur any liability involving the expenditure of any money, for any purpose in excess of the amount appropriated by the legislative body for that purpose, or for any purpose for which no appropriation has been made, except as provided in RSA 32:9-11."

So, the next step is to analyze if purchasing a used truck (*in lieu of repairs*) can fit into exception. NH RSA 32:9-11 all deal with emergency expenditures and transferring appropriations, however, the key factor is relative to spending money 'in excess' what has been appropriated.

Here, that is not the case. The money is there and the only remaining concern is whether the Town can spend money that has been appropriated for repairs and 'repurpose' the money for a used truck purchase.

The term "purpose" is defined (*in relation to Municipal Budget Law*) under NH RSA 32:3 (V):

“Purpose” means a goal or aim to be accomplished through the expenditure of public funds. In addition, as used in RSA 32:8 and RSA 32:10, I(e), concerning the limitation on expenditures, a line on the budget form posted with the warrant, or form submitted to the department of revenue administration, or an appropriation contained in a special warrant article, shall be considered a single “purpose.”

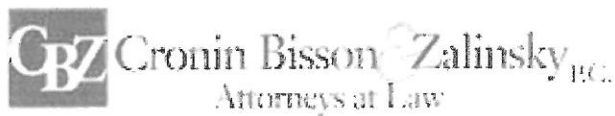
So, the real question is whether the *purchase* of the used truck can be fall under the purpose of a *repair* – I presume there have been appropriations for repairs. You indicated that the cost of the used truck is comparable to the cost to repair the newer (*but more used*) truck that just failed. I can make an argument either way. Most likely the expenditure for the used truck will hold up. After all, the ‘repair’ is to ensure the Town has a fire truck, which is essentially for life and safety, and the cost of the used truck is similar to the cost of the repair to the failed truck. There is no long term/multi-year debt being assumed.

One thought is to run this by the DRA and get their take – since it would be the DRA who would come after us if we are wrong.

I hope this helps,

-Chris

Christopher Drescher, Esq.
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Manchester, NH 03104
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Russell

From: Tyler Paine <tpaine@plodzick.com>
Sent: Friday, October 21, 2022 11:40 AM
To: Russell
Cc: Paul Hebert
Subject: RE: Lyndeborough Truck Purchase Question

Hi Russ,

Given the situation, I believe this would be permissible, especially if the overall budget of the Town has not been over-spent. Please let me know if DRA feels any differently about this. Have a great weekend!

Tyler Paine, CPA

Manager
Plodzick & Sanderson
193 North Main Street
Concord, NH 03301

(603) 225-6996

Plodzick.com

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From: Russell <rboland@lyndeboroughnh.us>
Sent: Friday, October 21, 2022 11:28 AM
To: Tyler Paine <tpaine@plodzick.com>
Cc: Paul Hebert <phebert@lyndeboroughnh.us>
Subject: Lyndeborough Truck Purchase Question

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Hi Tyler,

We find ourselves with a current fire truck that has just experienced a major pump failure. The cost to repair the truck ranges in price from 18K to 50K depending on how extensive the repairs would be. The Fire Department has found a used truck in NY that is slightly newer and has just been removed from service and appears to be ready to continue in service if we purchase it.

The question is; is it permissible to purchase the used truck from the operating budget as long as we do not over expend the bottom line of the budget. We believe this is possible because we have under expended in many other areas which would cover the cost of the truck which is approximately 30K ?