

LYNDEBOROUGH BOARD OF SELECTMEN

Emergency Meeting MINUTES

July 14, 2022

Final

I. Call to Order:

Chairman Douglas called the meeting to order at 6:01 p.m., introducing the Board and explaining the need to conduct this emergency meeting is because additional evidence will be presented regarding the Cease and Desist order issued on July 13, 2022, for Lot 225-17-000 and Lot 225-18-000.

II. Introduction of Members Present:

Chairman Douglas
Selectman Chamberlain
Selectman Howe

Town Administrator Russ Boland

Public Present:

Jessie Salisbury, Building Inspector / Code Enforcement Officer Leo Trudeau, Planning Board Chairman Charlie Post, Administrative Assistant Dawn Griska, Lisa Post, Philip Mathewson of Mathewson Excavation, Spencer Tate and Sam Ingram of Meridian Land Services, Greg Strasburg property owner of both lots, Tim Sullivan, Officer Shawn MacFadzen.

III. Appointments:

IV. Community Forum and Public Comment:

V. Decision Making Actions:

a. Old/Tabled Business:

Chairman Douglas read a copy of a letter received by the Town from New Hampshire Department of Environmental Services to the property owner regarding a request for additional information about a forestry application for Map-Lot-Sublots 225-017-000 and 225-018-000. The Town never received documentation stating the additional information was provided.

Chairman Douglas recognized Philip Mathewson of Mathewson Excavation to speak to the Cease and Desist and to provide additional information.

Mr. Mathewson provided an overview of the operation for Map-Lot-Sublots 225-017-000 and 225-018-000. Mr. Mathewson stated the excavation in progress is being done to create hayfields. No material has left the site, material has only been trucked into the site. Mr. Mathewson stated Code Enforcement Officer Trudeau visited the site on July 13, 2022, asking if the work was permitted.

Chairman Douglas reminded all in attendance to go through the Chairman in order to be recognized to speak.

Chairman Douglas recognized Inspector Trudeau.

Inspector Trudeau stated he went to Map-Lot-Sublots 225-017-000 and 225-018-000 on July 13, 2022, and spoke to Hunter Mathewson, asking if permits were in place for the work being conducted. Inspector Trudeau advised Hunter Mathewson stated permitting was not his department and was not sure of the permitting status. Inspector Trudeau stated Hunter Mathewson was very professional and polite. Inspector Trudeau stated he had checked local permitting and was only able to find a permit issued by NHDES in 2004 for a wetland crossing and a temporary driveway permit issued by the Town in April of 2022. Inspector Trudeau also had a conversation with NHDES and was advised no permitting is in place from the State.

Chairman Douglas recognized Spencer Tate of Meridian Land Services.

Spencer Tate advised the Board the 2004 wetland permit was to install a 12-inch and 15-inch culverts to provide access to the lots. The work was complete and no further wetland work is planned at this time.

Chairman Douglas asked about cutting too close to the wetlands. Spencer Tate stated there is no restriction on how close vegetation can be cut on these lots, including to the edge of the wetlands. Mr. Tate further explained no State wetlands permit is required for the work currently being conducted on these lots. Mr. Tate stated there has been an EPA SWPPP plan developed, which is good from May 19, 2022 to February 16, 2027, and is on file with the Federal EPA. Mr. Tate stated an Alteration of Terrain Permit is not required because the work being conducted is for agricultural purposes and is exempt from the requirement to obtain an AOT permit. Additionally, no material has or will leave the site, material will only be brought into the site.

Mr. Tate believes the confusion about material possibly leaving the two lots in question is because Mathewson Excavation is also conducting work at 1550 Center Road (Map-Lot-Sublot 226-002-000) and 169 Pinnacle Mountain Road (Map-Lot-Sublot 220-021-000), separate from the work on the lots in question. The same vehicles are being used at all three locations and residents might be confused because the same vehicles are seen coming and going from each site.

Chairman Douglas asked if product is being removed from 169 Pinnacle Mountain Road and 1550 Center Road? Mr. Mathewson stated a full truck may go to the Dutton Road lots and then leave Dutton Road empty and go to Pinnacle Mountain Road site, fill the vehicle with material and deliver it to the Center Road property. Mr. Mathewson stated he asked his truck drivers if their trucks had been checked when they were leaving the Dutton Road site. The Drivers reported someone had stood in the roadway and asked to check their load. Mr. Mathewson was not sure who the person was checking the trucks. Mr. Mathewson stated someone climbed up on the truck and visibly checked to see if the truck contained product.

Chairman Douglas recognized property owner of the lots in question, Greg Strasburg. Mr. Strasburg feels there is confusion surrounding the work being conducted and he has nothing to hide and wants to be open and compliant with all requirements. Mr. Strasburg does not want to cause problems he feels this was all a misunderstanding.

Inspector Trudeau stated he wanted the truck drivers' names referenced by Mr. Mathewson. Chairman Douglas denied the request.

Chairman Douglas recognized Spencer Tate to recap his position of the lots in question. Mr. Tate stated an excavation or alteration of terrain permit is not required because no material is leaving the site and the site work is being done for agricultural purposes. At a meeting held at noontime today at Citizens Hall it was learned the temporary driveway permit issued on April 13, 2022, may have been intended for forestry use but the permit does not state that nor does the permit have an expiration date. Given the topic of the driveway permit will be discussed at the Planning Board on July 21, 2022, Mr. Tate feels the permit should remain in place until at least the Planning Board meeting. No wetland permit is needed as the permitted work of 2004 was completed and no other work is planned at this time. The Federal EPA SWPPP plan is on file and currently valid.

Chairman Douglas asked Mr. Tate if there is a requirement for the Federal, State and Local authorities to copy each other? Mr. Tate advised there is no regulation that he is aware of for the agencies to copy one another.

Chairman Douglas asked if the Board members had any questions. Selectman Chamberlain asked if flaggers have been used as required by the temporary driveway permit. Mr. Mathewson stated flaggers have not been used.

Selectman Chamberlain asked Mr. Tate about the 10,000 square foot restriction in impervious area in Env-Wq1502.44. Mr. Tate stated it did not apply because no building is planned at this time.

Selectman Howe stated he has no questions specific to this case but is disturbed all the agencies involved do not have an obligation to communicate with each

other. This situation might have been avoided if the Federal and State agencies had copied the Town.

Selectman Chamberlain reviewed the importance of the watershed located at these two lots and emphasized the importance of erosion control.

Spencer Tate advised he conducted an inspection of the site today and suggested a small addition to the erosion control system in place.

Chairman Douglas recognized Inspector Trudeau. Inspector Trudeau wanted this question and answer in the minutes. Inspector Trudeau asked if any material has left the lots in questions. Inspector Trudeau believes there may have been some confusion regarding stump chips or stones leaving the site.

Chairman Douglas asked if any material has left the site.

Mr. Mathewson stated nothing has left but if chips or stones left the site that might be acceptable. Mr. Mathewson does not remember stating any material left the site.

Chairman Douglas recognized Greg Strasburg.

Mr. Strasburg stated he is not aware of any product leaving the site.

Chairman Douglas recognized Sam Ingram.

Sam Ingram stated at the meeting at Citizens Hall this afternoon he said stump chips and stones left the site and he was not correct in making that statement.

Chairman Douglas recognized Tim Sullivan.

Tim Sullivan stated he is the owner of the Center Road and Pinnacle Mountain Road properties being discussed. Mr. Sullivan stated material has been moved from Pinnacle Mountain Road to his property on Center Road and that is not illegal. Mr. Sullivan asked that the fact he was never asked any questions regarding his properties and the moving of material prior to tonight's meeting be placed in the minutes.

Chairman Douglas said he will be checking on the legality of moving material from one property to another property that are not contiguous as he has experience with lots that are joined and the moving of material.

Tim Sullivan reviewed his understanding of the subject by repeating his previous statement.

Chairman Douglas recognized Greg Strasburg.

Greg Strasburg stated he apologized for any misunderstanding and just wants to do the right thing. Chairman Douglas advised Mr. Strasburg he has nothing to apologize for and that he had done nothing wrong. This situation was brought on in large part by Federal and State agencies not having the obligation of letting the Town know about permitting activity. Chairman Douglas stated the Board had no alternative but to issue the Cease and Desist given the information they had to work with.

Chairman Douglas addressed the temporary driveway permit and the fact it was not specific to forestry and did not have an expiration date and thus is still in effect.

Chairman Douglas asked if the Board had any other information or questions regarding the Cease and Desist. Selectman Howe stated no and Selectman Chamberlain stated no.

Chairman Douglas asked if anyone in the audience had anything else to add.

Administrative Assistant Griska asked for the flagger to remain in place on the temporary driveway permit.

Chairman Douglas asked why a flagger was required in the first place given the very limited traffic on Dutton Road.

Administrative Assistant Griska stated the flagger was a requirement because of the concern for sight distance.

The Board discussed the flagger requirement and given the low volume of traffic on Dutton Road and the fact the trucks involved sit higher than a car, giving them increased sight distance, no flagger will be required.

Chairman Douglas recognized Mr. Mathewson. Mr. Mathewson stated no tractor trailers are used on this job and there has been no reported incidents with the trucks entering or exiting the site.

The Board discussed the need for signage both on Dutton Road and Center Road. Mr. Mathewson stated signage makes sense and he will add signage.

Chairman Douglas recognized Planning Board Chairman Charlie Post.

Chairman Post stated in working with Sam Ingram the Board should consider lowering the speed limit to 25 miles per hour on Dutton Road.

Chairman Douglas recognized State Representative Lisa Post.

Rep. Post inquired about the condition of Crooked S Road as compared to Dutton Road. All agreed to discuss this at the conclusion of the current topic. Additionally, Chairman Douglas asked Rep. Post to take note of the confusion caused by Federal and State agencies not having an obligation to copy the Town in their actions.

Chairman Douglas recognized Police Officer MacFadzen.

Officer MacFadzen suggested signage be placed at the corner of Dutton and Center Road stating trucks entering and exiting. All agreed.

Chairman Douglas recognized Inspector Trudeau.

Inspector Trudeau feels his integrity was under assault this evening and is willing to be put under oath regarding that he did hear someone state stump chips and stones left the site. Sam Ingram stated he did make that statement but it was not correct and was made prematurely on his part, before knowing all the facts.

Chairman Douglas asked the Board if they had any additional questions or comments. Hearing none Chairman Douglas stated he would entertain a motion.

Vote: Motion by Selectman Chamberlain seconded by Selectman Howe to rescind the Cease and Desist for Lot 225-17-000 and Lot 225-18-000 issued on July 13, 2022, based on new evidence. Passed 3-0.

Chairman Douglas reviewed the concern of lack of communication with the Federal and State Government with Representative Post. Rep. Post reviewed a wetland bill she has submitted that hopefully will help resolve the problem.

The Board discussed the improvements needed to the temporary driveway permits.

b. New Business: None

c. Items not on Agenda: None

VI. Town Administrator Report: None

VII. Selectmen's Report: None

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: None

XI. Adjournment:

Vote: Motion by Selectman Chamberlain seconded by Selectman Howe to adjourn the emergency meeting at 7:16 pm. Passed 3-0

All scheduled items having been addressed, the public meeting was adjourned at 7:16 p.m.

Next regular meeting: July 27, 2022 at Citizens' Hall at 6:00 p.m.

Russ Boland, Transcriber

Chairman Fred Douglas _____

Selectman Mark Chamberlain _____

Selectman Robert Howe _____