

**LYNDEBOROUGH BOARD OF SELECTMEN  
MEETING MINUTES  
February 9, 2011**

**I. CALL TO ORDER**

Chairman Brown called this meeting to order at 6:00 p.m. on Wednesday, February 9, 2011 in the large meeting room in Citizens' Hall.

Those persons present were as follows:

**Members**

**Present:** Steve Brown & Arnie Byam

**Staff**

**Present:** Jim Bingham (Town Administrator), OIC/Captain Tom Burke

**Public**

**Present:** Jessie Salisbury, Lee Mayhew, Larry Boisvert

**Media**

**Present:**

**Recorder:** Kate Thorndike

**I. Agenda Items**

- 6:05 OIC/Captain Tom Burke-taking oath of office.
- 6:10 Appointment - Non-Public RSA 91-A:3 II (b) candidate interview
- 6:45 Appointment – Kent Perry, Road Agent report
- 7:00 Appointment – Jacob Boette presenting a petition for the town to keep the property on Center Rd.
- 7:30 Citizens' Open Forum**
- 7:45 Town Administrator Report:
  - Public Hearing on budget Feb. 10
  - Repairs to meeting room-update
  - Glass Factory Road – possible zoning violation
  - PD update – Capt. Tom Burke
- 8:00 Appointment – Brendan Philbrick, to discuss matters of concern to him
- 8:30 **Old Business:**
  - Budget update
  - Town Warrant – exemption articles, PD addition article, etc.
- 9:00 Non-Public RSA 91-A:3 II (a)
  
- 9:20** Review & signing of warrants and documents

**II. Adjournment 9:30**

**OIC/Captain Tom Burke-Oath of office.**

**Chairman Brown** gave OIC/Captain Burke his Oath of Office

**Captain Burke:** I've been in law enforcement for thirty years, FT patrol commander Captain in the town of Bedford where I spent 24 full time years. The last nine years I've been a Deputy Sheriff with Hillsborough County as the supervisor of the Manchester District Court and currently still working there on a part time basis. I've spoken with the Lyndeborough officers, met with the Wilton Chief, set up an appointment to meet with the Wilton/Lyndeborough principal re: athletics involvement. One of the officers wants to get involved with softball another one wants to get involved with the baseball program. The officers are very receptive and the residents are very supportive. You will be seeing a lot of activity around the school. We've already done some directive patrol. I expect to see the cruisers in the area of the school during opening and closing hours. I know there have been complaints about speeding vehicles through there and the officers have been put on notice. The enforcement efforts are going to be raised a bit including property checks while residents are away. Thanks very much. I look very forward to this opportunity.

**Non-public Session RSA 91-A: 3 II (b) *Hiring***

**Selectman Byam** moved to go into a non-public session regarding personnel under the provisions of Non-public Session RSA 91-A: 3 II (b). **Selectman Brown** seconded the motion, so moved.

**VOTE:** Selectmen Brown and Byam voted in favor, and Selectman Brown declared the motion to have carried unanimously (2-0).

The Board then went into nonpublic session, as recorded separately, at 6:21 p.m. The Board returned to public session at 7:15 p.m.

Selectman Byam moved and Selectman Brown seconded that the Board of Selectmen seal the minutes from the just concluded Non-Public meeting. There being no further discussion, Chair Steve Brown called for the vote. Voting in favor: Selectmen Brown and Byam. Chairman Brown declared the motion carried.

**Appointment – Kent Perry, Road Agent report** (*Road Agent Perry was not present*)

**Appointment – Jacob Boette presenting a petition for the town to keep the property on Center Rd.**

Jacob Boette presented his petition to the Board:

- very good fishing spot and has the opportunity to be a good park
- A lot of local folks use that pond.

Steve read the petition...signed by 36 people. He updated the audience on the current status of the property. He told Jacob Boette that the Board would review the situation, have a discussion as a Board and let everyone know. **AB:** Possibly the ConCom could take it over if the town chose to keep it.

**Larry Boisvert:** You could put an easement on it as well.

**Kevin Boette:** This is kind of a tear down house and you want to make sure that whoever buys it does just that and doesn't just drive in and start living there.

**Larry Boisvert:** I want to make an announcement about my intent to, over the next five years, put together a documentary on the history of Lyndeborough. We will be pursuing grants. People have a lot to say and are excited about the project. There will be personal interviews. I want to tie all the facts together and will be contacting all of the departments.

### **Citizens' Open Forum**

Kevin Boette announced his intention to run as a write in for the open Selectman seat.

**AB:** I would like to see the old town hall plowed out please. **Lee Mayhew:** The shoveling at the library has been excellent.

### **Town Administrator Report:**

**-Public Hearing** on budget Feb. 10: Here tomorrow night. Additional discussion followed re: changes.

**-Repairs to meeting room-update:** removed all of the plaster. They are following up with wallboard and a coat of plaster. They will also put on a coat of primer. It will take about two weeks. I am contacting HDC to find out what color and they will prime it as well.

**-Glass Factory Road** – possible zoning violation: Letter in the read file regarding unregistered vehicles and a second driveway. He brought up the point that there seem to be many other properties with more than one permitted driveway. He will be contacting the office in the spring to look at the driveway situation. Overall there may be a larger issue of town-wide enforcement of unregistered vehicles.

**-PD update-Captain Tom Burke:** **Captain Burke** again updated the public on his intentions for the Lyndeborough PD. I've reviewed the Police Study Report and have noted the areas of most importance to the town residents including having a Lyndeborough officer respond to emergency calls and also police and school involvement. "Cops and Jocks" program which I started in Bedford was very successful. We are expanding the part timers so we can augment the full time guys and support community policing. I want to provide the coverage that the town's people have requested. The officers that I've spoken with seem very receptive to the philosophies that I've been speaking about. As previously mentioned I do expect a high presence around the school and also welcome community involvement. Shift overlap to spread out coverage without affecting the budget. We are in the process of getting everybody up to speed and out on the street. Anxious to put together a professional, community oriented department in the town of Lyndeborough. There have also been some very qualified, certified, full-time officers in other jurisdictions who've expressed a strong interest in coming to Lyndeborough. I plan to meet with all surrounding police administrators and hopefully build a relationship with Milford as well since they are a 24/7 department. Greenville is very receptive to helping us a working with us as a town. We all

need each other. Hopefully a month from now, I'll be able to come in here and give you a more specific outline of goals that we're working on as well as those that have already been met.

**Brendan Philbrick:** What kind of change do you think the people were looking for?

**Captain Burke:** It is my impression that there have been some bumpy roads in terms of the Lyndeborough and the town residents are looking for a more active police department, involved with the youth of the community.

**BP:** Will the Selectmen give you the opportunity to make your own schedule?

**Captain Burke:** Yes, as long as I stay within my budget. I have a lengthy experience in many different forms of scheduling where we can get more coverage during critical periods utilizing two officers simultaneously. Obviously, there is a budget that I have to stay within and I plan on doing that. I've got a history of being very frugal.

*The discussion continued on several different areas including staffing and Mutual Aid*

**Appointment – Brendan Philbrick:**

*Mr. Philbrick met with the Board for a second time to express his opinion on several matters involving the police department and the Board of Selectmen including some of the following:*

-Request for information from Mr. Philbrick re: expenses to date spent on town council re: Basinas incident as well as dollar amount spent on council re: new PD, as well as dollars spent on outside agencies, funds spent on manpower and funds spent on current private investigator.

-Information about the private investigator recommended by town council who was hired to investigate the allegations made against Donald Sawin and who he is.

-The findings of that investigator and whether or not the Board of Selectmen will release any of those findings or make any time of statement. *The Board will be discussing exactly what details they release on that investigation. It is a personnel matter.*

-Alleged conflict of interest and alleged punitive measures doled out against Kevin Maxwell.

**SB:** *That is based on what information, Mr. Philbrick?* **BP:** *The punitive measures would have been time lined since Mr. Maxwell started his investigation.* **SB:** *Time lined by whom?*

**BP:** *Well, Mr. Maxwell has a pretty good idea what's been dealt out to him besides having the OIC removed from him, his schedule where he doesn't have two days off, don't have coverage during the busiest days, removing the police cruiser from him, etc.*

**SB:** *Are you here speaking for him?*

-**Mr. Philbrick's** opinion of an alleged cover up in 2 investigations against different select people.

-Jim Basinas versus the Board and the Town of Lyndeborough and the elimination of the Chief position as voted in by the town and varying opinions.

-The Board's obligation to protect personal and personnel information and the limitations that creates in terms of what they can and can't talk about. However, the individual involved can decide whether or not they want the information made public.

-The internal investigative process and how it works.

**Chairman Brown** clarified that these are allegations not crimes and it is the Board's obligation as the employer to investigate them where sometimes they are true and sometimes they are not. **BP:** Why didn't you call the State Police? **SB:** It did go to State Police and County Attorney.

**AB:** How would you suggest a Board handle allegations like that? We reached out to two agencies to try and protect tax dollars. They both turned it down.

**Captain Burke:** I don't know anything about this case but as far as protocol goes, if there is an allegation of a criminal wrongdoing by a police officer normally the AG's office handles that. If it is merely a behavioral, or SOP violation or non criminal, they're not going to get involved with it. Usually in a large department, Internal Affairs would handle something like that. Counsel was right in assigning it to a third party. As far as protocol, this is the way it is handled. I don't know about this case specifically but state police is eager to pursue criminal cases and obviously they did not believe that was the situation here.

-Common law Incompatibility and recusal: (Mr. Philbricks read definitions of common law incompatibility and recusal out loud and expressed his opinion that Mr. Sawin was not following the proper process of recusal).

-Leave of absence and the duration of eighteen months.

-Timeline...**SB:** There is information that you have and information that you don't have. You can come to false conclusions without all of the information. Since you don't have all the information, it is a matter of your perspective versus our perspective. I don't fault you for it and understand it to be your opinion.

#### **-Conflict of Interest**

**BP:** You don't have an illusion of conflict of interest, Mr. Brown. You have one.

**SB:** It is your right to have your opinion. I'm trying to understand what it is that you would like us to do?

**BP:** So, you and Mr. Byam haven't talked about maybe having Donnie Sawin step down?

**SB:** No we don't have that authority. It was a vote made by the town. **BP:** Of course you do. You could motion to ask him to step down. **SB:** I believe you are incorrect and no, we have not had that discussion. Arnie and I can't force Donnie to recuse himself. That is up to him.

**BP:** Do you think that Superior Court could force a recusal? **SB:** I don't know.

**BP:** There is a letter of suspension to Kevin Maxwell that was signed by Donald Sawin. You don't find that outrageous, Mr. Brown? **SB:** No, I don't. It was a personnel matter discussed in public so I can talk about it. It was the third time and it resulted in the suspension. It was inappropriate behavior and demeanor.

**Tanya Philbrick:** That is very subjective. **SB:** Yes it is. We are the Board that was elected by the town to make those decisions and you may or may not agree with them. We have a different view.

**SB:** You are tying one investigation and the behavior of a police officer together and they are not connected. They are separate issues.

**SB:** *It takes two Selectmen to make a decision. There were two other signatures on that letter so Donnie's involvement had no impact on the outcome.*

**BP:** *Do you think we're going to do anything about this conflict of interest? Have you asked Attorney Drescher about common-law incompatibility?*

**SB:** *This PD Administrative/management dynamic is all new. We're trying to work our way through this. There has been and continues to be a collective attempt to figure out and tune that relationship. I respect your opinion. We will get you the information that you've requested.*

**BP:** *Thank you, Gentlemen. SB: Thank you, Sir. I appreciate the dialogue and the civility.*

**Old Business:**

-Budget update: *Discussion included the PD/Citizens' Hall Addition, Capital reserve funds as well as some other changes.*

-Town Warrant – exemption articles, PD addition article, etc.

The Board discussed some discrepancies with the exemption articles that were voted in last year at town meeting. The Board acknowledged those differences but also decided that the exemptions would remain as voted in by the legislative body as presented at the March 2010 town meeting.

**Non-public Session RSA 91-A: 3 II (a) Personnel**

**Selectman Byam** moved to go into a non-public session regarding personnel under the provisions of Non-public Session RSA 91-A: 3 II (a). **Selectman Brown** seconded the motion, so moved.

**VOTE:** Selectmen Brown and Byam voted in favor, and Selectman Brown declared the motion to have carried unanimously (2-0).

The Board then went into nonpublic session, as recorded separately, at 9:15 p.m. The Board returned to public session at 9:30 p.m.

Selectman Brown moved and Selectman Arnie Byam seconded that the Board of Selectmen seal the minutes from the just concluded Non-Public meeting. There being no further discussion, Chair Steve Brown call for the vote. Voting in favor: Selectmen Brown and Byam. Chair Brown declared the motion carried.

**BOARD OF SELECTMEN'S WORK SESSION**

The Board reviewed documents pertaining to the operation of the Town, approving various items as listed below.

**III. ADJOURNMENT**

All scheduled items having been addressed, Selectman Brown moved to adjourn; Selectman Byam seconded the motion.

**VOTE:** Chairman Brown called for a verbal vote on the motion. Selectman Byam seconded. Chairman Brown then declared the meeting to be adjourned at 9:45 p.m.

Date: February 9, 2011  
Kate Thorndike, Recorder

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Steven M. Brown, Chairman

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Arnold A. Byam, III

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Donald R. Sawin

***Approved by the Board of Selectmen on March 9, 2011***