

LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
November 11, 2015
FINAL

Members Present: Chairman Fred Douglas and Selectman Mark Schultz. Selectman Lee Mayhew joined a portion of the meeting via a phone conference at 7:05pm.

Staff Present: Town Administrator Russ Boland

Public Present: Alstead resident Rich Nalevanko, Alstead Selectman Joel McCarty, Conservation Commission Member Mike Decubellis, Conservation Commission Chair Sharon Akers, Clayton Brown, Trustee of the Trust Fund Members Gary LeBlanc and Stanley Greene as well as Steve Stokes, with Mackenson Company and David Mayes with Mackenson Company.

Media Present: Jessie Salisbury and Ashley Saari

Recorder: Kathleen Humphreys
The meeting was called to order at 6:02 p.m.

Consent Agenda:

Review and signing of consent agenda items

- a. AP Warrant 11/11/15
- b. Payroll 11/12/15
- c. 2015 Tax Levy
- d. Pole Petition/License
- e. Non-Public Minutes 10/28/15
- f. Meeting Minutes 10/28/15
- g. Records Retention Policy

VOTE: Selectman Mark Schultz made a motion to accept the Consent Agenda. Chairman Douglas seconded the motion. Motion passed 2-0.

Appointments:

6:05pm Hearing: Acceptance of FEMA Funds for the reimbursement of the January 26, 2015 snowstorm and acceptance of funds for overpayment of Social Security contributions.

In accordance with RSA 31:95-b The Town of Lyndeborough Board of Selectmen will hold a Public Hearing on Wednesday, November 11, 2015 to accept FEMA funds in the amount of \$10,392.32 for Winter Storms 2015 and \$13,031.18 for reimbursement of Social Security funds due to a payroll adjustment. The Public Hearing will take place at 6:00 p.m. at Citizens' Hall. All interested parties are encouraged to attend.

Chairman Douglas opened the public hearing at 6:00 p.m. by explaining the reason for the public hearing and why those funds were received.

Chairman Douglas asked if there were any members of the public that would like to comment on the town receiving these funds. No members of the public came forward to speak.

VOTE: Selectman Mark Schultz made a motion to accept the FEMA funds of \$10,392.32 for the winter storm of January 26, 2015. Chairman Douglas seconded the motion. Motion passed 2-0.

VOTE: Selectman Mark Schultz made a motion to accept a refund to the Town in the amount of \$13,031.18 from the Social Security Department due to a payroll adjustment. Chairman Douglas seconded the motion. Motion passed 2-0.

At 6:09pm, Chairman Douglas closed the public hearings.

New Business

2015 Tax Rate Setting

The Lyndeborough Board of Selectmen in conjunction with the State of New Hampshire has set the 2015 property tax rate for the Town of Lyndeborough. The new tax rate is \$25.29 per thousand of assessed value, a decrease of \$0.4 from 2014.

Jurisdiction	2015 Rate	Change from 2014
Town	\$7.80	-.65
County	\$1.26	+.13
Local Education	\$13.96	+.48
State Education	\$2.27	no change
Total:	\$25.29	-.04

Chairman Douglas noted that nothing in the town will suffer. They went through the budget and set the tax rate accordingly. Chairman Douglas thanked the staff for their work.

Town Administrator's Report

-The flag pole in the Village is now illuminated and the 110 outlet for the Christmas tree has been installed. Lighting in Citizens' Hall has been revamped.

-The sand pile is about 90% complete on Schoolhouse Road. The sand is being transported to the highway garage.

-The curtain restoration at Center Hall has been completed by "Curtains Without Borders". The curtain was seen earlier today by residents during the Veteran's Day Observance. The Board thanked the people and committees involved.

-Resident Rick McQuade is interested in purchasing a locked mailbox. The mailbox is no longer used at the fire station and Mr. McQuade would like to pay \$50 and use it at his new business, The Village Store. The Board concurs.

-Health care costs have gone up 6.5% for 2016. The Board directed the Town Administrator to sign and return the form.

-Mountain Road Improvement. Kevin Leonard is scheduled before the Board on December 9, 2015. Residents will be sent public notification letter notifications about the meeting.

-November 19, 2015 at noon is the employee Thanksgiving dinner.

-The Volvo will be picked up on November 12, 2015. The transmission lines needed to be replaced. A discussion to add pressure washing the vehicle maintenance program will be implemented now that water is available at the town garage.

-Guard Rails were installed on Cram Hill Road and Brandy Brook Road.

-The 2016 employee holiday schedule was set.

6:15 p.m. Appointment: Clayton Brown regarding Center Hall Lamp

Clayton and Polly Brown would like to donate a historic replica of a lantern that used to adorn the outside of Center Hall in honor of Warren Murdough aka Shinner. Mr. Brown showed photos of Town Hall from 1919 that had the lantern.

VOTE: Chairman Fred Douglas made a motion to allow Clayton and Polly Brown to proceed with a replica lantern for Town Hall in memory of Warren Murdough. Selectman Schultz seconded the motion. Motion passed 2-0.

The Board thanked Mr. Brown for his generous donation. The Brown's agreed to notify the Selectmen when the project is completed because the Selectmen would like to be in attendance when the light is dedicated.

6:25 p.m. Conservation Commission, regarding town owned property Lot 209-2.

Conservation Commission Member Mike Decubellis and Chair Sharon Akers were present. The Commission would like to know if the town would be interested in using Lot 209-2 as public access to Mr. Hager's lot that the Piscataquog Land Trust will be putting an easement on in the near future. According to the Conservation Commission, the only legal public access to the property is through Scout Road but the road is completely washed out and eroded due to 4-wheeler use and the road has sunk about four feet down. The town owns Lot 209-2 which is 22 acres and abuts the future easement on Rose Mountain. Scout Road is a Class VI road. This is also the head water of Dunklee Brook which runs to French Brook.

The Conservation Commission is recommending a Warrant Article to take over the property as a Town Forest to protect the headwater stream and for access to the conservation land.

Mr. Decubellis handed out information on what a Town Forest is, the RSAs titled Chapter 31, Powers and Duties of the Town, Town and City Forests as well as the 2002 Goals of the Master Plan; Chapters IV and VII.

Selectman Douglas asked if this was the old Demaris property. Mr. Decubellis did not have that information and is not sure if there is an abandoned house on the property. Mr. Decubellis reported that PLC will gate the road to eliminate 4-wheel traffic and future damage. Mr. Decubellis mentioned in the future, the town can change the status to Trail A or Trail B. The land would also allow parking as well as access.

The Master Plan recommends to protect steep slopes and high elevations from inappropriate development and to ensure the public has future access to the high elevations because they are a gem to the town.

Mr. Decubellis does not believe the town can sell the property to the Conservation Commission because they have a fiduciary responsibility. The Conservation Commission can buy an easement for \$1.00. An easement is the only way to make it permanent. PLC has agreed to take the land under easement with no charge to the town. Typically there are fees for future maintenance.

In 2011, Society for the Protection of NH Forest had a sandpit on Schoolhouse Road which they offered to the ConCom and the town voted to accept for \$5,000 and now it's under the town management. The lot had about \$85,000 in gravel, which the town uses resulting in cost savings on gravel.

The Conservation Commission will work with the Town Administrator on a warrant article for Town Meeting 2015. The Board will support the warrant.

7:10 p.m. Appointment: Trustees of the Trust Funds

Steve Stokes, advisor for Mackensen Company; David Mayes, President and Chief Investment Officer for Mackensen Company; Trustees of the Trust Fund members Stanley Greene and Gary LeBlanc were present. Selectman Mayhew was part of the conversation via telephone.

Selectman Mayhew had two questions:

1. Is Mackensen Company working in accordance with the Town of Lyndeborough Trustee and Management Policy and if not what needs to happen?
2. Is there a contract with the town and Mackensen Company? If they are not in a contract relationship are the Trustees interested in seeing if they can get a better return with other companies?

Trustee of the Trust Fund Stanley Greene provided background information on how they got to this point. About two-years ago the town was invested Public Investment Pool for the State of New Hampshire. The returns were minimal. At that time the trustees received an inquiry from Warren Mackensen, who worked with other towns. Lyndeborough Trustees looked at them, other companies and talked with other towns, then made the decision to work with Mackensen & Company.

Mackensen & Company is not in custody of the town's money, they provide a service. The Trustees have been happy with the rate of return and the services. Mackensen had a Security Exchange Commission violation involving advertising rates of returns for which they were fined and the problem resolved. Two weeks ago the State issued a cease and desist. Mr. Greene felt the company has been forthright and honest. These violations occurred prior to Lyndeborough retaining Mackensen & Company Services.

Mr. Greene answered Selectman's Mayhew's second question and felt they were investing in the middle of the road and felt they have not had a lot of risk but a good rate of return. The Trustees will submit the Trustee Policy to the Board.

Chairman Douglas asked the Trustees, "With everything they have seen to date, you are comfortable with where we are today?"

Mr. LeBlanc has concerns.

Mr. Mayers explained there was advertisement done that used performance information in which the numbers were generated by using a standard software tool called "Morning Star".

They ran hypothetical portfolios. The problem resulted that they did not use a sufficient amount of disclosures in the advertisement. "This is hypothetical performance information" was not listed on the page but other disclosures were but regardless it was not sufficient enough. He explained additional disclosures in person during meetings with the Lyndeborough Trustees.

Mr. Greene said he was comfortable with what he saw at the time. Mr. LeBlanc felt the approach the Trustees selected was not necessarily spelled out on the advertisement.

According to Mr. Mayers the SEC order had Warren Mackensen's name on it. Mr. Mayers said the SEC saw every letter the company sent out.

Selectman Mayhew had concerns the company was unaware of the rules. Mr. Mayers said the advertising stopped in 2012 and they have not engaged in that type of advertising since.

Chairman Douglas asked if the town's funds are secured funds and would the town get their money back if the company folds. The answer is there is risk if the fund goes down because they are with mutual funds with no guarantee. It was explained that \$250,000 could be invested in a bank and insured by FIDC. The town was getting .01% at PDIP. The Trustee's thought was to ride the middle of the road for a better return but to also secure the money. Mr. LeBlanc said there were quarters the town lost money but in the long-run the town has had a positive gain. The Trustees went to the Selectmen previously to discuss investing a little bit to keep up with inflation.

Chairman Douglas asked again, "Are you comfortable today with what has happened, going forward." Mr. Greene said he is. Mr. LeBlanc does not want to confuse the town's investment objectives vs the company they are working with. If you remove the risk in the market place and just focus on if the company are we comfortable doing business with this company. Mr. LeBlanc has yet to hear an answer as to if the SEC has looked at the letter, he held up the letter, that Mr. Mayers signed and would the SEC say this is acceptable advertisement. The answer from Mr. Mayers was, "I can't answer for the SEC. They have seen every letter we sent out." Mr. LeBlanc's answer is, "I'm not 100% comfortable right now listening to what I am hearing but at the same time everything they have done for us as far as we have had questions. Everything we've dealt with has been positive. If they are up to the SEC muster I'm okay going forward with it."

Chairman Douglas asked if the Trustees can contact the SEC to answer Mr. LeBlanc's question on if they have seen the letter and have endorsed the letter. Mr. LeBlanc said the SEC letter stated that Warren Mackensen signed all the letters in question. Mr. Mayers has not signed this letter in questions.

Selectman Schultz asked for the Trustee's Policy which will be emailed to the Board.

Selectman Schultz asked if the town money is more secure if they go back to the bond bank. He has concerns about money being there for CIP equipment. Mr. LeBlanc mentioned as the fund comes due they become less aggressive so the money will be there.

On Nov. 19, 2015, Mackensen Company has a meeting with the State Attorney General's Office with Terry Knowles.

Mr. Mayers explained more about the insurance issue. "In the investment arena, you are outside of the FDIC. You are at a bank that is loaning the money out and there is risk if the bank does

poorly in loan portfolio. These accounts, the securities that you hold; mutual funds and exchanged funds are registered to the town at an independent custodian, National Advisors Trust Company. At National Advisors Trust you have SIPC Security Investment Protection Corporation coverage of up to \$500,000 cash and additional securities through the Lords of London. If you have issues with us, the securities are in the town's names and we can be out of the picture. They can easily be transferred to another company."

National Advisors Trust is headquartered in Kansas City.

Selectman Schultz asked David Mayers if he was part of the company when the incident happened. Mr. Mayers responded he was not part of the management team when the letters were sent out but he was employed with the company. Mr. Schultz also asked is Warren Mackensen is currently affiliated with Mackensen & Company. Mr. Mayers responded he is not affiliated.

Mr. LeBlanc asked if the entire operation was vetted by SEC. The answer was there was a complete audit in 2012 in which this advertisement disclosure incident was discovered. It was the only issue found. The company does not do regular audits. The last audit previously was 2000.

T/A Russ Boland asked to be walked through how the money travels with the company. David Mayers explained, "A deposit is made by check or electronics transfer directly to National Advisors Trust Company. If the deposit is made by check, it is processed and photocopied and a record kept. It is sent with a deposit notice or deposit instructions, mostly by FedEx to National Advisors Trust. It's deposited in the account on their end. Once the money is there we can initiate trades to buy the securities on their platform in accordance with the investment policy."

Updates are sent directly to the Trustees. Confirmation is through National Advisors Trust and they hold the record of the shares in that particular fund. Behind National Advisors Trust (NATC) is Fidelity National Financial Services as a custodian for NATC. The money is held on record as the books by National Advisors Trust Company and also on the books at Vanguard and Fidelity.

T/A Boland wanted to know what insurances we have to know the money was actually invested. The answer is the Trustees have on-line access to National Advisors Trust Company to check the balances, holdings, activities and can access statements directly.

Stan Greene confirmed he checks the site monthly and looks at the statements at NATC.

Stan Greene asked what the Board's comfort level is. Chairman Douglas has concerns on how a professional agency could overlook the SEC to the point the attorney general's office gets involved. He added, "The Trustees are entrusted to do the right thing by the Town of Lyndeborough and the citizens and their money."

Selectman Schultz is still not comfortable. He has concerns to be associated with a company who has had a large fine made against them. Selectman Mayhew is still a skeptic.

David Mayers said they fully accept the mistakes they have made. There were other companies who made the same mistake with Morning Star. They own their mistake and are trying to move forward.

The Trustees of the Trust Fund will provide the performance of the funds to the Board.

Community Forum

Representatives for the town of Alstead visited tonight's meeting to observe and ask questions: Alstead Selectman Joel McCarty and Rich Nalevanko who is on the Town Administrator Search Committee.

Mr. McCarty and Mr. Nalevanko asked questions to Russ Boland and the Selectmen on how the role of a town administrator works in Lyndeborough and about the office structure. They discussed the hiring process, job descriptions and qualification suggestions and listened to advice from Mr. Boland and the Board.

Jessie Salisbury addressed extra chairs at Center Hall and wanted to know if the Selectmen would approve the Heritage Commission selling some of the extra chairs. They would like the stage to remain uncluttered now that the curtain has been restored.

Jessie Salisbury mentioned the next historical sign made will be for South Cemetery at the Civil War Monument and to recognize it as the oldest cemetery.

Adjournment:

All scheduled items having been addressed, the public meeting was adjourned at 8:22 p.m.

VOTE: Selectman Schultz made a motion, Chairman Douglas seconded, to adjourn at 8:22 p.m. Motion passed 2-0.

Date:

Kathleen Humphreys, Transcriber

Fred Douglas
Chairman

Selectman Lee Mayhew

Selectman Mark Schultz

APPROVED BY THE BOARD OF SELECTMEN ON DECEMBER 9, 2015