

**Approved Minutes
Nottingham Select Board Meeting
9/23/19**

1 Call to Order

2 Members Present: Chair Tony Dumas, Vice Chair Ben Bartlett, Tiler Eaton, John Morin, Donna
3 Danis

4 Absent:

5 Chair opened the meeting at 6:30pm with the Pledge of Allegiance.

6 Approve Manifests

7 **Mr. Bartlett made a motion to approve the accounts payable manifest of 9/24/19 and**
8 **payroll manifest of 9/23/19. Ms. Danis seconded. Unanimously approved by a vote of 5-0.**

9 Approve Minutes

10 Defer 9-9 to next meeting.

11 Action Items from Last Meetings

12 Food for election workers.

13 BOS Reports from Assigned Boards/Committees

14 *Planning Board*

15 Mr. Eaton did not have a report.

16 *Budget Committee*

17 Mr. Sterndale said they recapped town and school financials for Q2.

18 *CIP*

19 Ms. Danis said the school is working on their worksheets.

20 *300th Celebration*

21 Mr. Eaton said they are looking for volunteers.

22 *Marston Property*

23 Ms. Danis said the ground was broken. Seeding will be next year. They are continuing to look
24 for grant and fundraising opportunities. There is a small committee that created flyers and
25 information to send to businesses in the area for sponsorship opportunities. There was a table at
26 Earth Fest; they had good conversations with people. Ceremonial groundbreaking will occur on
27 9-28 at 9am at the property. Mr. Bartlett asked about seeding; the field will not be ready till the
28 following year to use. Mr. Bartlett would like to change the name of Marston Property. It was
29 suggested by Mr. Bartlett that people in town come up with names; Ms. Danis said it could be a
30 sponsorship opportunity.

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32 Town Administrator Report

33 Mr. Sterndale said there were several things for the Board to sign.

34 General Business

35 Emergency Lanes

36 The BOS met with the lawyer before this meeting. They understand that they need to follow the
37 law however they need to be cognizant with how they move forward to help all citizens.

38 Ms. Danis said there is a policy that Mr. Sterndale crafted; they need to look at that and it needs
39 to be a solid policy. The idea of ‘public benefit’ is a tricky one. There are some interesting
40 conversations to be had around public benefit which is defined as benefit to public beyond the
41 residents of an individual road. Ms. Danis said there isn’t a standard and they can’t go road by
42 road to vote. Mr. Bartlett said there is a standard. Ms. Danis said the policy needs to be updated.
43 Mr. Bartlett said they could enforce the current policy. Ms. Danis said she doesn’t think that’s
44 fair. Ms. Danis went over the Preliminary Review section of the current policy and read it out
45 loud. She said after reading it, she wonders how this board can go road by road without asking
46 the people that live on those roads to participate. Mr. Dumas said the policy was the first step in
47 naming a new EL. Ms. Danis inquired if they should be using that to determine if a current EL
48 remains an EL. Mr. Dumas said that the existing policy has a mechanism for conversation with
49 EL residents by way of the notification period given to allow for corrective actions to be made, if
50 applicable. Ms. Danis said she doesn’t think they can vote on the roads tonight. Mr. Dumas said
51 there are a handful of roads that could be eliminated from EL status. Ms. Danis said she doesn’t
52 think they can make those decisions without those people at a meeting. Mr. Dumas said there are
53 some with no houses or only 1 house. The policy does say 2 or more homes to be an EL. Ms.
54 Danis said personally they should have the policy solid and that if they do road by road, the
55 people that lives on those roads should come before the Board to discuss. She said mass
56 decisions will not be made.

57 Mr. Morin said the people that are sitting in the audience are wondering if the town is going to
58 continue to upkeep their roads. He said he doesn’t think its proper to rip the band-aid and asked
59 if they are going to work this out.

60 Ms. Danis asked if he wants a 2-year time frame or something else. Mr. Morin said if that is what
61 the Board wants, he will go along with that.

62 Mr. Dumas said if they stuck to the existing policy, there is going to be a 6-month time period
63 between any decision and enforcement. It would carry till March 21, 2020 if they made any
64 decisions tonight.

65 John Caiati said he is confused by the Board saying they want to live by the letter of the law but
66 also saying that the policy needs to be modified. Mr. Dumas said they can go by the policy
67 currently but also it could be modified by the Board in the future.

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68 Mr. Dumas stated the RSA that they are speaking of. Mr. Dumas said this is not a public hearing
69 and it was not advertised as one. After the board discusses the board business, he may open it to
70 the public for public comments.

71 Ms. Danis suggested the Board commit to a certain amount of time as status quo, then
72 update/evaluate policy, then make decisions on a road by road basis and particularly look at
73 public benefit and use betterment assessment to determine what to do with these roads.

74 Mr. Dumas asked about betterment assessment.

75 Ms. Danis said the road is evaluated and the town determines what is required to bring it up to
76 standards. The homeowners are assessed a fee to bring it up to standard which is paid over time.
77 Then it could become a town road when the improvements are made.

78 Mr. Sterndale said it would take affect once the road is up to standard.

79 Mr. Bartlett asked what about roads owned by multiple owners.

80 Ms. Danis said it would be up to abutters to take it to the Board. If 50%+ of the residents don't
81 want the road upgraded/accepted by the town, then it would not be. Mr. Bartlett asked if
82 everyone agrees and the town accessed a fee, what happens to those residents who don't pay.
83 Ms. Danis said it may be attached to taxes. Mr. Dumas said it may be a lien. Mr. Sterndale said it
84 would be collected like taxes: it would be a supplemental tax and it would be divided up amongst
85 the people who live there. Mr. Sterndale said the standard could be different than a new road; it
86 doesn't have to be as stringent. Mr. Dumas asked about time frame for the improvements to be
87 made. Mr. Sterndale said he thinks it is 10 years. Ms. Danis said there would be a prioritization
88 amongst the roads. Mr. Dumas said they would not include roads with no houses on them.

89 Mr. Morin detailed how it would be done: a small 'tax' would be paid by the residents who live
90 on that road to fix their road. The tax would be added to their taxes. He said that most of the
91 roads have been upgraded already so maybe the tax wouldn't be that much per resident.

92 A member from the audience said that he thinks it is raising just those people's taxes that live on
93 those roads.

94 Mr. Dumas said the term 'private road' means 'not a town road.' It doesn't mean no one can go
95 down it.

96 The same audience member as above asked how many building permits were put on that road.
97 He doesn't believe the residents should be taxed. Mr. Dumas said you are entitled equal
98 treatment under the law.

99 A member from the audience said he bought his house 3 years ago and had he known about the
100 road issue he would not have bought here. He said the board was going to do a study. Ms. Danis
101 corrected him and said that it was a realtor who was going to share information, and he did not.

102 Mr. Eaton said he hears what everyone is saying. This is an issue that none of them want to talk
103 about. If you move to a development, you have to pay an association fee till the road is accepted

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104 by the town at a town meeting. He understands what the people who live on lake are saying but
105 he also understands people who live in developments who are getting their road up to code and
106 paying for road upkeep themselves.

107 Eric Jennings wanted to know about the law that required each road to be a certain amount of
108 width. He said the board is driving a wedge in town.

109 Ms. Danis said that people are told when they move into a development with an association that
110 they have to pay dues; people were not told that they had an association or had to pay when they
111 bought on the lakes.

112 Mr. Eaton said they have to figure out how to do this legally.

113 A member from the audience said the law was enacted in 1996. Ms. Danis said in 2011, EL
114 roads were designated at that time by the Board.

115 Mr. Jennings said he would like to know if they are going to make a decision tonight. He wants
116 to know when the law was passed. Mr. Dumas said it was passed in 2011 for the EL by the
117 previous board. Mr. Jennings left.

118 Ms. Danis said the policy in 2011 was vague and the public benefit was applied loosely. Legally
119 that is where the discussion should start. She said they should include the people that live on
120 those roads. There has to be a benefit above and beyond those who live on that road: this ties to
121 expending public funds. The law states the town should not expend funds on roads that are not
122 town approved.

123 A member from the audience said they have using the public funds for a long time. He said he
124 doesn't have kids attending the school and he has to pay for school. Ms. Danis said that someone
125 paid for his education. The member of the audience continued to say he doesn't have an issue
126 with paying for schools but asked if that was for public benefit. Mr. Dumas said that the law
127 stated that public benefit is defined as providing a benefit to the town that exceeds what the
128 residents receive.

129 A member of the audience asked if someone before 2011 could be grandfathered in. Mr. Dumas
130 said no.

131 Nancy Smart said they need to be careful using that definition of public benefit. Mr. Morin said
132 that they need to abide by the law; someone in town can sue because they are maintaining the EL
133 roads.

134 Mr. Dumas said the town roads were accepted by the town so they are town roads. The town is
135 responsible for the town roads. Mandie Desroches said her road is open to the public.

136 Kevin Jordan said there is an implied acceptance because the town has been taking care of them;
137 he said they should just make them town roads. Ms. Danis said they cannot do that. Ms. Danis
138 said that the lawyer said there is no implied acceptance and the town is not at risk for that. Ed
139 Minyard said the town still may be sued; there is a wedge because of this issue. He said he hopes
140 a resolution can be made. Mr. Dumas said he hopes a resolution can be found as well.

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141 Mr. Dumas said that the Board can't make all these roads town roads; there are laws and
142 procedures to follow. He said there are just as many people in town that will say that the town
143 shouldn't take on those roads.

144 There was discussion on how to approve roads. Mr. Morin said they are trying to satisfy the law
145 but also help those who live on EL. A member from the audience said the town has been taking
146 money from the residents (through taxes) who live on EL and they get minimum service, if any.
147 He said there are problems that were not fixed on the roads.

148 Pamela Kelly asked if roads were brought up to standard, how would they become roads. Mr.
149 Sterndale said that with betterment assessment, the residents would ask the town to appropriate
150 money and the town would vote to accept this request at town meeting. The property owners
151 would then have to pay back that money through the additional tax collected on their taxes. Then
152 once the money has been collected done, it will be become a public road.

153 Les Thompson asked what is new that wasn't there before that is prompting the board to change.
154 Mr. Dumas said there are many elements to the answer. He continued: the beaver dam burst and
155 destroyed the bridge which stranded 50 Nottingham families who lived on the other side of it.
156 The Board voted to fix the bridge that was in Raymond which leads to these 50 families even
157 though the bridge was not in Nottingham. Raymond said it was a private road and they were not
158 going to fix it. The Board voted to make those repairs regardless of the legality or illegality. At
159 the time, it was brought to light that taxpayer money is spent on private roads. Any one person
160 who wants to nitpick this topic can sue the town so that is why they decided to make it right for
161 the whole town.

162 Frank Carey said there have been many meetings, when is there going to be a decision and what
163 level of maintenance will they receive while this will be going on. Real estate transactions and
164 homeowner insurance will be affected. Mr. Dumas said you can get a mortgage if your road is a
165 private road. He said he called 3 insurance companies; he said if you are more than 5 miles from
166 fire dept, you get a higher rate but being a non-town road does not prevent you from getting a
167 loan or mortgage. A member from the audience disagreed.

168 Paul Malden said they shouldn't be worried about if they will be sued because the town plows
169 the ELs. Ms. Danis said the Board has a reason to be paranoid about being sued.

170 Ms. Danis said they understand the concerns and they are rehashing instead of moving forward.

171 Someone asked would maintenance continue while they are deciding. Ms. Danis said they don't
172 know.

173 Andy Martin asked why the Board is taking the narrowest view of public benefit. Mr. Dumas
174 said it is being guided by attorneys. Mr. Martin said there could be a much wider view of public
175 benefit. Mr. Sterndale said the law said there has to be a public need for the roads such as
176 emergency vehicles have to use the roads to get to other roads.

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177 Dee-Ann Decker asked about cul-de-sacs and dead-end roads; there is no public benefit. She
178 knows that those roads are up to code. Mr. Bartlett said that the cul-de-sacs are classified town
179 roads.

180 Mr. Bartlett said he was pushing for a conclusion a few meetings ago. He said it's time to move
181 forward. He wanted to have an immediate resolution but after talking to attorney, he said he
182 doesn't feel that way now. They should enforce what is the policy now.

183 **Mr. Eaton made a motion to continue the service the town has provided to emergency lanes**
184 **for a period of 24 months (2 years) and effective immediately, the Board of Selectman will**
185 **work with a committee made up of citizens who live on affected roads. Ms. Danis**
186 **seconded.**

187 Mr. Bartlett said this is one community, and he wants to come to a resolution that benefits all.
188 Ms. Danis said she agrees with Mr. Bartlett that they shouldn't kick the can down that road. Mr.
189 Bartlett said it should not take 2 years. He thinks they can come to agreement by the end of
190 winter/springtime. In the meantime, he said they would continue status quo.

191 Ms. Danis said there was potential for turnover in March for the Board. She suggests done by
192 March 1. Mr. Bartlett said he agrees with that.

193 Mr. Eaton said if they can be done by March, he would be thrilled. He said they should form a
194 committee with people who live on these roads.

195 Mr. Morin asked what the committee would be discussing.

196 Ms. Danis asked if Mr. Morin is in favor of what Mr. Eaton said. He said he is not. He wants all
197 the roads to be approved. Ms. Danis said they need to take steps to get there. It's too big of a leap
198 to say that all roads will be approved, Ms. Danis said.

199 Rick Harmon said there should be an equal committee with lake people and non-lake people.

200 Robert Weygant said there could be a question whether these people want their road to be
201 accepted as a town road. If they decide they don't want to become a road, then they should no
202 longer be maintained.

203 Someone said asked about what taxes will drop when they stop maintaining private roads. Mr.
204 Dumas said they don't track dirt vs. paved maintenance roads. He said you shouldn't have to
205 track what you are spending for EL since you shouldn't be doing it anyway.

206 Ms. Danis proposed a period of time that is status quo and then evaluate the EL policy and then
207 look at roads on how to improve and explore betterment assessment.

208 **Mr. Eaton withdrew his motion.**

209 Mr. Sterndale said if there was a committee, it would be a public one and there would be
210 minutes. The meetings would be in public. The committee would have to include a couple
211 members of the Board. Ms. Danis asked if there is was no committee but have representatives to

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212 participate in road evaluations. Mr. Bartlett said the roads have been evaluated already. Ms.
213 Danis said Mr. Sterndale and Shawn have evaluated the roads but haven't given the residents
214 specific conclusions. Mr. Bartlett said they need action.

215 Mr. Bartlett suggested fixing the policy and go road by road. He said they can wait till March 1.
216 Ms. Danis said they could have a new Board; Mr. Bartlett said that could happen. Ms. Danis said
217 she herself was willing to pay that betterment assessment tax. Mr. Morin said these roads didn't
218 have these options to get the roads up to code; he said he would be in favor of the betterment
219 assessment. Mr. Dumas said they would have to prioritize the roads if they went with betterment
220 assessment option. Mr. Morin said he would be in favor of paying a small amount so that the
221 roads wouldn't have to go to a town vote where it could be voted down because they were not up
222 to the current standard. Mr. Dumas noted that Mr. Bartlett and Ms. Danis said that they have
223 made similar points. Ms. Danis said she would like people's input for these roads.

224 **Barb Constin** asked about public benefit. Mr. Dumas clarified the definition. Mr. Morin said he
225 believes it's important to have public benefit.

226 Mr. Dumas said he liked Mr. Bartlett's and Ms. Danis' ideas.

227 Mr. Sterndale asked if they wanted to set a standard for the EL. Mr. Dumas said the lawyer said
228 they could come up with standards that were lower than normal classified roads due to when they
229 were created.

230 Ryan Melchionno asked about a different tax rate for the lake residents. He asked if there was a
231 credit those residents could be given due to their roads not being maintained as well. Ms. Danis
232 said they can't do this. Mr. Bartlett asked if Mr. Melchionno meant that maybe they could tax
233 them at a lower rate. Mr. Melchionno suggested the town cover the engineering, survey and
234 easements costs and the residents cover the costs.

235 **Ms. Danis made a motion that the Board commits to maintaining the Emergency Lanes as**
236 **is for a period of 12 months. That by March 1, the Board updates and finalizes the EL**
237 **policy and conducts road by road EL evaluations relative to that policy with input from**
238 **road residents while simultaneously exploring the better assessment option and creating a**
239 **definition of standards for class V roads.**

240 **Mr. Bartlett seconded.**

241 Mr. Morin asked what the outcome would be. Ms. Danis said she would like to see a betterment
242 assessment outcome. Mr. Dumas said to exclude the roads with no homes on them. Mr. Morin
243 asked if these roads would be standard roads then. Mr. Bartlett said yes, once the roads are met
244 with the standards that the Board creates. Ms. Danis asked Mr. Morin if he had an alternative; he
245 said he did not. He didn't want to have this discussion again in 12 months. Mr. Dumas suggested
246 developing a definition for classified roads to be different for existing roads vs. new roads. He
247 suggested adding that into the motion.

248 **Ms. Danis withdraw her motion.**

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249 **Ms. Danis made a motion that the Board commits to maintaining the Emergency Lanes as**
250 **is for up to a period of 12 months. That by March 1, 2020 the Board updates and finalizes**
251 **the EL policy and conducts road by road EL evaluations relative to that policy with input**
252 **from road residents while simultaneously exploring the better assessment option and**
253 **creating a definition of standards for existing class V roads.**

254 **Mr. Bartlett seconded.**

255 **Unanimously approved by 5-0.**

256 Fred Howe said he was in favor of betterment assessment. He asked how soon the Board will
257 evaluate the roads. He would like to volunteer on Shore Drive.

258 Ms. Danis said they start with review of EL. Mr. Dumas agreed.

259 Mark Lefebvre said the level of maintenance on EL has gone down substantially. He believes the
260 plows will buckle because lack of fill. He wants them maintained like they were done years ago.
261 Mr. Morin said the town only has to keep these roads passable as EL but if it is a town road,
262 these issues will go away.

263 **Appointments**

264 **Review Action Items for Next Meeting**

265 Review of EL roads. Food for election workers. Plowing Contracts. 9/9/19 minutes

266 **Adjourn**

267 **Mr. Bartlett made a motion to adjourn at 8:40pm. Ms. Danis seconded. Unanimously**
268 **approved by a vote of 5-0.**