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**WEARE BOARD OF SELECTMEN
MEETING MINUTES
June 4, 2018**

PRESENT: JON OSBORNE, SELECTMAN; JAN SNYDER, SELECTMAN; SHERRY BURDICK, SELECTMAN; JOHN (JACK) MEANEY, VICE CHAIRMAN.

RECORDING SECRETARY: Naomi L. Bolton

TOWN ADMINISTRATOR: Naomi L. Bolton

GUESTS: Bruce Fillmore; Jack Dearborn; Bill Beaupre; Sylvia Beaupre; Frank Campana; Richard Butt; Jessica Nelson; Dave Nelson; Sheila Cleveland; Kevin Lefebvre; Linda Beliveau; Walter Gates; Robin Houle; Lucas Houle; Walter Farnum; Frank Sykes; Heleen Kurk; Joanne H. Rumrill; Lori Davis; Stephen Najjar.

NONPUBLIC SESSION:

Vice Chairman Meaney moved, Selectman Osborne seconded to enter into nonpublic session @ 6:40 p.m. pursuant to the authority granted in RSA 91-A:3II (a & c). A roll call vote was taken, Selectman Osborne – yes; Selectman Snyder – yes; Selectman Burdick – yes; Vice Chairman Meaney – yes. Passed 4-0-0

This nonpublic session was to meet with the Police Chief regarding personnel matters.

Vice Chairman Meaney moved, Selectman Osborne seconded to exit this nonpublic session @ 7:03 p.m. A roll call vote was taken, Selectman Osborne – yes; Selectman Snyder – yes; Chairman Hippler – yes; Selectman Burdick – yes; Vice Chairman Meaney – yes. Passed 4-0-0

Vice Chairman Meaney moved, Selectman Osborne seconded to seal and restrict these minutes of this nonpublic session. Passed 4-0-0

At 7:04 PM Vice Chairman Meaney welcomed everyone present and asked for those present to join the Board for the Pledge of Allegiance. Vice Chairman Meaney informed those present that we started out tonight at a site walk of the temporary highway garage looking at the feasibility of possibly having the food pantry move in. The Board also had a brief nonpublic with Police Chief Sean Kelly. Vice Chairman Meaney stated that next item on the list is public comment. He informed everyone that public comment is going to be held to public comment. There is not going to be questions or answers. We will take down any questions and return answers at the next meeting.

PUBLIC COMMENT:

Heleen Kurk, Mt. Dearborn Road, stated that first she would like to compliment Peter Stockhaus on the job that he did at the Stone Memorial building and surrounds on the grounds. There were many compliments during the town wide yard sale. He did a great job. We forget to thank people so she wanted to do it publicly so it would go into the minutes. The second thing, she is still waiting to hear about Article 27 and how that committee is coming along. It is now a little over a month overdue from when it was supposed to start and if it gets

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completed by February, which was the wish of the Town, we need to get going. People are away during the summer. She would like to get some sort of information on that since she volunteered. Mrs. Kurk's third thing was that it took about a year to get a new sink in the janitor's closet at the Town Hall, however the old sink is still on the floor. She doesn't understand why the sink could not have made its way to the dump. Mrs. Kurk stated that she would be glad to pick it up all she needs is the okay. She felt like that was something that could have been done by the Town.

Steve Najjar, Pondview Road, stated that he sent an email to the Board but he wanted to come in publicly and voice his concern about assessing. He stated that essentially assessing tacked on about \$10,000 to a bunch of the residents of Pondview Road this year. It was based on supposed water access which he is taking up with assessing. There was a court case where that was a question. Mr. Najjar stated that he felt when assessing does something big like that, which wasn't part of the routine assessment, those affected by any change should be notified by mail as a courtesy. They just changed the amount and put it on the tax card which he just happened to catch while showing a friend how to use the online data base by showing him his card. He wasn't notified and he is fairly upset about that. There are probably a lot of others on Pondview with the same issue. He has talked to his neighbors. It's not small action, it's kind of a big deal to him just to be good government to the residents and let them know when something gets changed so that it isn't a surprise. On another item, Mr. Najjar asked if everyone got the email that he forwarded to the Board from PLC regarding something later on the agenda. Selectman Snyder stated that she would like for him to stick around for that agenda item.

Jack Dearborn, 148 Gould Road, had some handouts that he had prepared for the Board to try to provide some information as to what he thinks is going on down on 33 B & B Lane. There is an application that has been approved for a site plan by the Planning Board on April 13, 2017. Around October of 2017 they started the permitting process with the State Department of Environmental Services (DES) for a permit. As the application to DES transpires it finally pops out a notice that was sent and posted in certain papers like the Messenger. Basically it is a standard for the permitting process for the State and they ask for public input. Mr. Dearborn stated that what set everyone's hair on fire was a three digit number, three zero zero. That is 300 tons of trash a day could be put through this transfer station. So the question becomes, what's going to be done on the 6th at 7:30 PM. Along with that there is a link that you can get that takes you to a 181 page application which is for that site. Mr. Dearborn went through the handout which indicated the following:

• Planning Board approved Site Plan on Page 17 on GeoInsight Application

General Notes:

6. Parking: There are 10 parking spaces provided in areas shown. There up to 9 employees.

17. Proposed uses of site: Recycling Distribution Center. Recycling products of C & D (construction material), MSW (municipal solid waste) all to be processed inside the existing building. All materials are to be containerized, bailed and shipped weekly to market(s). No material shall be stored outside. Outside storage of company vehicles and employee vehicles only. Only clean and empty dumpsters are to be stored outside with water tight coverings or under a waterproof roof. (Please note, no Single Stream Recyclables (SSR) listed).

GeoInsight Application § Section II

Section II called for up to 300 tons (P7)(d) of Single Stream Recyclables (SSR), Municipal Solid Waste (MSW), Construction and & Demolition (C&D) (P5).

Example: Town of Weare Transfer Station Process 40 ton, utilizing two tractor trailer containers, of municipal waste per week (TOW PWD § B. Knapp) for a population of 9000 (approx.)

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300 tons per day would be equivalent 1800 tons (300 x 6) per week by GSW. By comparison, it would be 45 times the waste generated by the Town of Weare's 9000 population. Or a population of 415,000 or over four times the attendance of Daytona Speedway (4 x 101,000) or the population of Hillsborough County (409,000).

GeoInsight Application to Section VII (Page 137)

Paragraph 3.2 Approximately 25 single unit trucks and 5 WB-50 (tractor trailer) commercial trucks are typical on a daily basis.

GeoInsight Application to Section V (Page 76 and 77)

As proposed, GSR expects to 30 commercial trucks per day to support full operations at the Facility, which is expected to develop over time as the business grows.

Inconsistencies with the GeoInsight Section VI, Page 127 Proposed Site Layout Plan,
Drawing Number P2

The major issue is that GeoInsight has misinterpreted the Town of Weare Approved Site Plan Section III, Page 17. This creates several inconsistencies with the proposed site plan layout.

All equipment must be inside the Approximate Limit of the Compacted Gravel (1.337 acres of impervious surface).

Clearly, the Proposed Site P2 Layout has 1 Hot Load Dumpster and 10 Closed Dumpster Storage which are located within the impervious section of the property. Also, they have proposed the addition of a Portable Loading Dock and Three Proposed Closed Trailer Loading/Storage, each one SSR/MSW/C & D and a Future Office Trailer (120 x 360), not on site plan. Location of the Future Truck Scale has been moved and proposed location on P2 would require Tractor Trailers approach to leave the impervious surface and drive on the impervious surface for access.

All references to GeoInsight Proposal for GSR (33 B & B Lane) with respect to page numbers can be seen in the following link: <https://www.dropbox.com/s/02fyvk0kle3yq/Solid%20Waste.pdg?dl=0>

Recommend that the Town of Weare Select Board respond in writing by June 13, 2018, as specified in the Public Notice. Recommend that the letter be drafted by the Land Use to Town Counsel with the concurrence of the Town of Weare Planning Board for considering the above issues, as a minimum.

Jack Dearborn

148 Gould Road

Weare, NH 03281

Tax Map 411, Lot 990

Bruce Fillmore, Vice Chairman of the Planning Board and quasi abutter to this application was present. Mr. Fillmore explained that unfortunately the Planning Board doesn't have another scheduled meeting between now and the 13th, their next meeting is June 14th. So there is no time for the planning board to do anything about this and he encouraged the Board to do whatever they can to have Town counsel write a letter to DES. That would be great.

Linda Beliveau, 367 Riverdale Road was present. Ms. Beliveau stated that she has lived in Weare for 25 years. She stated that on May 17th while walking she was almost hit by a Granite State Plumbing truck on Riverdale Road. She stated that she saw her life go by her. She knows the odds of pedestrian safety are very poor in her neighborhood because excessive speed and the quantity of trucks is a perfect storm for an accident. The safety concerns on Riverdale Road go way back and yet she feels compelled to keep asking the Town to do something

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about early morning truck traffic. She stated that she has asked for the 30 MPH speed limit sign and it was granted but without enforcement there is no speed limit. She stated that she reached out to the chairperson of the Selectmen's Office and received an email from Town Administrator Bolton stating that trucks are allowed and it's unfortunate that she feels unsafe and passed her off to the police department. Ms. Beliveau spoke to Lt. Hebert. He articulated that safety was paramount to all citizens of Weare. He told her what she claimed that she already knew and what Town Administrator Bolton knows as well, and that is there is no Weare police officer on duty until 7:30 AM. Ms. Beliveau stated that without safety enforcement by police officers the road is wild. Tonight's agenda included traffic signage on Riverdale. She urged the Board to please know signage is useless without policemen on duty when these truck businesses open and traffic safety is a hazard from 4:30 AM to 7:30 AM. Also, the Planning Board has agreed to conduct a traffic study perhaps it is a good idea to wait for the results of the study to determine the best practices for street safety and signage.

Richard Butt, 90 Old Town Road stated that he knows the Board was not going to answer questions, but he would like to know if the Board is going to make a decision tonight on whether to purchase the fire chief's car from insurance. Vice Chairman Meaney stated that there will be no discussion on that tonight as it sits in front of the Town Counsel and the insurance company.

Frank Campana, Quaker Street stated that for his public comment he has a complaint. The Board listened to a very well presented presentation tonight. He felt it should have been an agenda item. When the Board made a decision to reinstate the first public comment, there was a discussion about limiting it to 3-4 minutes. The gentleman tonight took 20 minutes. He is not objecting to him having his say but he felt it was inappropriate for public comment. It's certainly not appropriate for the Board either because now the meeting has been extended.

Mr. Campana stated that his comment has to do with what was just mentioned, the fire chief's car. His concern, first of all whatever that decision is going to be, that all five members of the Board really have a bias in the decision making towards departments and department heads. Mr. Campana stated that there is a former member of the Board of Firewards sitting. There is a member of the fire department sitting. There are two members who have immediate family members that work for the Town and a former policeman. Mr. Campana stated that with that, how can you separate decisions. He would like to see the Board put the taxpayers first. In regards to the car, he is very disappointed in the Board. He sat in on one meeting discussion with the car and where the funding is coming from for the car on May 21st. He wasn't sure the exact date of the other discussion, but he knows there were two discussions on it. In either of the presentations from the Fire Chief to the Board, it sounded very good to have a car and to be possibly paid for by an insurance check because of the condition of the ladder truck. Mr. Campana stated that in his opinion when the ladder truck was purchased it was an albatross around the taxpayer's neck right from the get go. He stated that he doesn't recall the cost, but it was certainly more than what the Town is getting back, \$54,000. That's his issue. The Town paid for it, the thing is junk and now you're getting an insurance check for it and the Fire Department with no discussion from the Board is looking for that money. How about the taxpayers? He felt it would be nice to have a Board member say that it would be nice for the taxpayers to get that back.

Mr. Campana stated that he sat in on the CIP presentation for 2018 in September. The Fire Department submitted requests, one for apparatus (Car 1) and the other for a fire boat. These are not being requested until 2019. Last year the fire department was successful, not with Mr. Campana's vote, in getting apparatus to be able to be purchased through the special revenue fund. Now the Fire Chief is looking to take the money from a junk fire truck and buy a Chief's car. He's already slated the expenditure for next year. Not one Board member mentioned the CIP plan and to return that money to the taxpayers. Mr. Campana asked, why does it take a schlep like me to say something to the Board. He asked the Board why don't they at least think about it. He

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absolutely doesn't get it. The Board talks about trust. Mr. Campana stated that there is no trust here. He hasn't had trust in the Town management for quite a long time, years. Mr. Campana continued, there is one member on the Board that on several occasions and rightfully so has mentioned that we have to do what is best for the taxpayers., Well is it best for the taxpayers to spend a \$50,000 check on a vehicle when it's already in a plan (CIP) to spend that. The plan is already there, why circumvent the plan. Mr. Campana stated that he doesn't get it. "The Board sees a boatload of money coming in. They aren't content with the vote this past March where the Fire Department got an enormous amount of money. They don't consider the taxpayers, they just say, give me more, give me more and we will come up with a reason why the taxpayers have to pay more. You'll come up with instead of a 6% budget increase, next year you will come up with an 8% budget next year. What do the taxpayers know, we will just send them the bill." Mr. Campana felt that the ladies and gentleman of the Board are really very, very disingenuous to the taxpayers. He stated that he will be watching and when it comes time to set the tax rate in the fall if the Board will return \$354,000. He says \$354,000 because he felt the Board could have returned \$300,000 last year with really no impact and not much of a threat of having to borrow money. He further added that when he says return money to reduce taxes, his rules have changed. He wants the Selectmen to impact the total tax rate and not just the Town's portion. He had been willing to live with impacting the Town portion but not anymore for what the Board does to him as a taxpayer. Mr. Campana stated that it doesn't require a response at all.

Tim Matheson, 80 River Road, stated that he would like to address what this project on B & B lane for the trash collection facility would have on our roads at present. The previous administration has talked a lot about truck traffic and through truck traffic. Our community is bound by seven towns. Traffic will be coming from all over. A million five hundred ton a week will be processed through that plant. His other concern is, who would police what's going in and what's going out of that facility. The soil that particular facility is on is perfect gravel. Mr. Matheson believes from the bark mulch plant next to that, the tannins from the bark leached into the well on that property, 33 B & B Lane and a new well had to be drilled. With that said sitting on top of an aquifer just doesn't seem right. This project is going to be a huge impact to all the roads. The garbage fly off will have an impact too. He wondered at 300 tons a day, you are looking at 120 roll off dumpsters averaging about 5 ton for a 30 cubic yard dumpster. It won't be the same traffic every day. He feels that this whole thing is a prelude to a sale to a bigger company. He urged to Board to do what it can do to knock this thing down. The residents on Gould Road are going to be impacted by all the juice that will come out of these trucks. His other concern was that the rodents might get into the dumpsters and then brought to Weare. This place is surrounded by too much water, it's over an aquifer and our roads won't be able to take it. It's just not a good thing.

Jessie Nelson, 10 River Road, stated that she is going to talk about the signage that the Board is going to be talking about later for Whitetail Development. She stated that one of the concerns is that there are a lot of 18 wheelers that go up River Road. The Planning Board is discussing a way to keep the trucks from coming down Riverdale going onto River Road. She feels it is going to be impossible to do that coming from the industrial park, especially if they are going to head toward Concord. The other thing that was discussed was to put a sign indicating "No Jake Brakes" signs which she believes needs to be done coming down Riverdale by the bridge and going up River Road. They live in a historical district according to the zoning. She feels it's very important for the no Jake brakes because if you were to come to her house for a cup of coffee you wouldn't be able to hear each other talk. It's constant and so loud. There's a crane company in the industrial park now that comes up at 4:30 in the morning. She stated that they are not supposed to be trucking that early in the morning. She would like to see another sign with certain time periods that trucks can go through there. No one polices it. The police are not there. The residents shouldn't have to run and try to get license plates or truck numbers. So if additional signage keeping trucks out of there from 7 AM to 7 PM and No Jake Brakes it would be greatly appreciated. The other issue that happens down there is the trucks that try to go from River Road to Riverdale Road have to

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make a huge swing. They are actually in the opposite lane. She is just amazed that there has not been a head on collision down there. She is wondering if there could be a 20 MPH sign or something at least more realistic posted to slow people down.

Kevin Lefebvre, 16 Depot Street, he is the only resident on Depot Street that actually lives in New Boston. He stated that every morning when he comes out at the corner it's kind of a hit or miss. It is not too bad at night because you can see the headlights. The best thing to do during the day is to give it gas and go for it and hope no one is coming. Mr. Lefebvre stated that it is a very tough area and urged the Board to really look at it especially with the proposed commercial development going in. It's going to add more trucks and more traffic to the area. He has lived in that area for over 20 years and eventually someone is going to get killed. There have been a lot of close accidents and a lot of finger waves. The police have been down there when they complain loud enough but then they don't see them again in 6 months. Mr. Lefebvre asked after listening to the discussion of the B & B project, whatever made the Town put commercial development lots over aquifers? What thought process was to put commercial development over an aquifer with an impervious 10%? That's really not much when you take a 10,000 square foot building or in the Riverdale case where there are 4 buildings that are 5,000 square foot a piece and you get 10%. 10% of a seven acre lot is $7/10^{\text{th}}$ of an acre, that's almost what the buildings are. Then the Town will give conditional uses, so why have the 10% impervious rule. A commercial development can't build on 10% of a lot, so pretty much on every commercial lot the Town is giving some sort of conditional usage to go above that 10%, which doesn't make sense.

Walt Farnum, representing Goffstown Fish & Game is present tonight to ask and see if they can get some possibility of Goffstown Fish & Game being able to maintain Melvin Valley Road. There is about .35 miles of road to their property. They would like to be able to get it so they can pass vehicles up to their farthest range. Vice Chairman Meaney asked if he has spoken to the Road Agent about this. Mr. Farnum replied that he has. The Road Agent suggested that he go and do some rock raking to see if that brought it up. That helped but they are at the point where they have some real deep holes. He stated that the next step is to come see the Board as it is a Class VI road. Vice Chairman Meaney stated that as long as he follows the specs provided by the Road Agent he didn't have any issue with it. Mr. Farnum stated that he is not looking at making it a highway. They are simply looking to make it passable for cars without them bottoming out. The Board stated that they didn't have an issue with it, they just asked that they work with the DPW Director Benji Knapp. **Selectman Burdick moved, Vice Chairman Meaney seconded to allow the Goffstown Fish & Game to upgrade Melvin Valley Road so it would be possible through their property and confirm the plan with the DPW Director. Passed 4-0-0**

Bill Beaupre, 234 Gould Road wanted to encourage the Board to write the letter for the 33 B & B Lane project, as Jack Dearborn referenced in his presentation. He stated that he fails to see where that project is of any economic advantage to the community. It will not increase property taxes. It certainly will increase road repairs to Gould Road if it gets the traffic that they are contemplating outside of what they have been permitted to do already. Mr. Beaupre asked the Board to support the Planning Board at least in making sure that if that project finally gets permitted, then it's permitted exactly the way it was presented to the Planning Board and not the way that the organization that is proposing it is planning to increase it. He didn't want to sound as if he was complaining, but the traffic is bad enough now on that road and to do what that company is suggesting it wants to do by overstating it is atrocious and he would like to see this Board support the Planning Board by writing that letter.

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Tim Matheson, 80 River Road stated that a previous remedy for the Depot Street issue and to give them a fighting chance was a convex mirror placed on the tip of the Dussault property that would allow them to see the people that may be coming from the New Boston area. That was a remedy that was done 3-4 years ago.

Lori Davis, Buxton School Road, stated that this is about transparency. She stated that transparency is all about trust and confidence in the people that you hire and that you elect. She continued by saying that it is very important that when the Town has lawsuits coming against the Town that the residents are notified. They are public documents the minute they are filed. No residents should have to be hunting for information and be doing that job on their own. The other thing about lawsuits, that paperwork is supposed to be with the Town Clerk. Our attorney a year ago recommended whether it had to do with people or not, the documents are supposed to be kept at the Town Clerk. She asked the Board to be more diligent about this. Ms. Davis stated "that some of us are very much aware of what's going on and we have documentation in hand and it would be nice if it were more transparent".

DEPARTMENT HEAD/COMMITTEE ITEMS: None

TRAFFIC SIGN INSTALLATION – WHITETAIL DEVELOPMENT: Mike Dahlberg, from Keach-Nordstrom Associates was present. Mr. Dahlberg stated that he felt that most of the Board was aware of the proposed site plan down off of Riverdale Road for the Whitetail Development. One of the items from the Planning Board was, they asked the applicant to secure permission from the Board of Selectman to install signage at the intersection of Riverdale Road and North Riverdale Road for truck traffic to use Route 114, no truck traffic through Riverdale, and then no Jake brakes allowed. That is the request and should they be successful in obtaining that approval from the Planning Board, they would like permission to install the signs. The signs would be put as you come out of Oil Mill Road onto North Riverdale Road as well as on sight before the traffic gets to Riverdale Road. **Vice Chairman Meaney moved, Selectman Osborne seconded to allow Mike Dahlberg, representing Whitetail Development to work with the Public Works director to put signs up at the intersection of Oil Mill Road and Riverdale Road to prevent traffic from going down Riverdale Road to River Road and to restrict the use of Jake brakes. Passed 4-0-0**

DISCUSS ACCESS OFF ROUTE 77 TO SYKES LAND: Robin Houle was present. She stated that they are looking to build a house on property located on Map 202, Lot 001 (formerly Sykes). They understood it was a Class VI road but at the Zoning Board hearing it came up that it was a driveway so she is really confused as to how to describe the road. Vice Chairman Meaney asked if this was the road that goes up to 137 Concord Stage Road, which is the log cabin. Ms. Houle replied yes. Vice Chairman Meaney stated that has always been a right-of-way to his knowledge. It has never been a town road. It was always written up as an easement and right-of-way to that back lot she is referring to. The Board asked Steve Najjar, Vice Chairman of the Conservation Commission to speak.

Mr. Najjar stated that what we are talking about is town owned, fee owned land that was formerly owned by Frank Ferrante, and sold to the Town of Weare as part of the 600 or so acre Eastman Conservation Area. Subsequently the Town transferred development rights to Piscataquog Land Conservancy (PLC) which the Board was provided an email from them. Mr. Najjar stated that in a prior email to the Board and Town Administrator Bolton was that this needs to go to Town Counsel. There is clearly a right-of-way to the parcel Ms. Houle is talking about to the highway that's described. Mr. Najjar was looking at plan #30373 in the Hillsborough County Registry of Deeds which was Sykes to Ferrante, Bob Todd did the subdivision. Unfortunately in notes of the plan it is just a right-of-way. It doesn't say anything about utilities, which is his concern. The Town's deed is book 7705, page 999. The deeds do refer back to the plans but Mr. Najjar thinks

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there are a couple of problems there and where PLC is the easement holder they've gone ahead and emailed the Board. The email came from Jordan Bailey, the conservation easement steward and she included a few things, but basically there are no improvements allowed. Mr. Najjar felt that as the person that holds the right-of-way there are some inherent rights and he felt that this is going to get really sticky. In looking at the easement the Town transferred all development rights and this right-of-way wasn't clearly put into that easement for whatever reason. According to today's zoning we can only service two lots from a shared driveway and this would actually be servicing three lots, those two plus the Town land. It's not a Class VI it never was. A few years ago the Town did a logging job and at the end of the logging job they gated the road to the field and then the road that goes straight up the hill, so there are two gates in there now. Mr. Najjar stated that one thing he would be cautious of and that is whatever the Town does, they would need to work with PLC and the Town attorney. It seemed to Mr. Najjar that the owners have a pretty clear right to drive up and down that right of way but any improvements that need to be made including utilities, are going to be a huge concern unless they are going to be off the grid. Mr. Najjar stated that what he is saying is that if the intent is to build up the road, they probably can't put it on Town property, so hopefully they can work around that somehow.

Town Administrator Bolton stated that she received an email from Attorney Bill Drescher as he was familiar with this lot and activity because of the May 1st zoning application. The email from Attorney Drescher reads as follows:

"I have briefly reviewed several documents on line at the Registry as well as several others that were provided by Chip. I have not completed a comprehensive check of the title which, if you want me to do, will take more time.

However, based on the materials provided I believe that a preliminary view of the situation supports the conclusion that the owner of Map 202, Lot 001 (Sykes) is the owner of an access easement over a 50' wide strip of Map 201, Lot 3 5.1. The bed of the easement is shown on recorded Plan No. 19649.

*This easement was conveyed to Franklin T. and Catherine J. Sykes by a deed from Richard L. and Mary F. Sykes on November 16, 1999 as part of the deed recorded at Book 6182, Page 1849. The deed was a deed to Lot 1 as shown on Plan No. 19649. The terms of the easement, which was conveyed '... in common with others, **for the construction, use and maintenance of an access way over land of the grantors ...**'. (emphasis supplied).*

The owner(s) (at the time) of the parent tract from which both the easement and Lot 1 were derived appear to have been M/M Richard L. Sykes', in turn, conveyed the parent tract which eventually became owned by Ferrante.

Deed to Town

Ferrante deeded the property to the Town in 2006 by a deed recorded at Book 7705, Page 0999. There are several important things to consider regarding this deed to the Town:

- *The deed to the Town conveyed the tract with no conservation restrictions. It was a deed to fee simple of the entire tract.*
- *Whether expressed in the deed or not, the conveyance to the Town was subject to the Sykes easement that was created in 1999.*

Deed of Easement to PLC

The deed of the conservation easement to the PLC occurred in 2007. The deed to the conservancy established restrictions on the use of the property being conveyed. However, that deed (to the PLC) was and still is subject to the Sykes easement.

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I have not checked but I presume that the conveyance to the PLC was supported by a town meeting warrant article authorizing the BOS to convey the property interest that the conservation easement consists of, since, under normal circumstances, the BOS is not authorized to convey interests in town real estate without town meeting authority. [De Rochemont v. Holden, 99 N.H. 80, 105 A.2d 43 \(1954\)](#)

There is a statute which authorizes the BOS to convey town real estate but it must be enabled by a vote of the town meeting. (RSA 41:14-a)

In any event, assuming the BOS was entitled to convey the easement to the PLC by a proper vote of the town meeting, that conveyance was obviously subject to the Sykes easement which preceded it in time by eight years.

*The Sykes property was obviously created to be a single family houselot and the easement in question to support that use of the property as shown on Plan No. 19649. The words of the easement ‘... **construction, use and maintenance** ...’, obviously connote the right to modify the condition of the easement right of way in a manner to support the intended use of the dominant property (the Sykes Lot), which would, in my opinion under NH law, include the right to improve the easement to the extent necessary to make use of the lot for its intended purpose. **Sakansky v. Wein, 86 N.H. 337, 339, 169 A. 1 (1933); also see Duchesnaye vs. Silva, 118 NH 728; 394 A2d 59; (1978).***

Request before BOS

My understanding is that the BOS is considering a request by Sykes for a waiver of RSA 674:41, pertaining to the issuance of permits for construction on lots that lack frontage on a Class V or better street.

I offer no opinion on whether the BOS should or should not grant the waiver on the basis of the merits of the application. However, it is my opinion that the PLC claim that the conservation restrictions preclude Sykes from improving the easement right of way should NOT be a basis for denying that request. On the basis of the limited research that I have conducted, Sykes enjoys an access easement that is not limited by the restrictions contained in the deed from the town to the PLC, at least to the extent of the right of way to the public road. If the PLC contends that they have better information, then that issue should be resolved in a civil dispute between the PLC and Sykes, without the involvement of the Town. I hope the foregoing is of assistance to you and trust that you will let me know if you have any further questions.

Bill Drescher”

Steve Najjar stated that he is here talking as a member because the Conservation Commission haven’t had a chance to meet. He wanted to clarify a couple of things. First if you go back to the actual warrant article for that property, it included transferring an easement, right in the warrant he thought. Then subsequently there’s been another town warrant to allow the transfer of an easement on any conservation or Town forest, so as far that question that’s pretty easy to track that down. Mr. Najjar stated that typically the conservation commission for land use questions has not gone to Attorney Drescher but has gone to Mitchell Muni Group or whatever they are now. Town Administrator Bolton stated that she saved money by going to Attorney Drescher as he was already involved when the applicant went to the Zoning Board on May 1st. Mr. Najjar further stated that he was not sure who got notified in the Town but the Conservation Commission didn’t get notified. He thinks that the only thing that needs to be clarified, although he agrees with everything Attorney Drescher said there as far as the access, is the installation of utilities. He would like to see if the Town could come to an agreement without wasting money and arguments that would be great. Mr. Najjar stated again that he is really concerned about the actual utilities because he doesn’t think that’s there, so it may take an attorney to answer that specific question. **Selectman Osborne moved, Selectman Snyder seconded to approve this request, in approving this waiver, the BOS is mindful that the PLC claims that the applicant may not improve the right of way in question. This approval does not constitute any decision regarding the claim of the PLC, as the terms and**

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conditions of the conservation easement as they pertain to the Sykes easement is a private civil matter between the PLC and the applicant. However, for the purpose of this application, the BOS indicates that the applicant has provided evidence to indicate that he has an easement which appears to include the right to construct and maintain the access easement, which easement was created prior in time to any of the conservation restrictions on which the PLC relies. Passed 4-0-0

Ms. Houle asked for the next step. Vice Chairman Meaney stated that she should speak with the Building Inspector.

MEETING MINUTES:

May 21, 2018 Minutes: These minutes were tabled until the next meeting.

MANIFESTS:

Vice Chairman Meaney moved, Selectman Osborne seconded to order the Treasurer to sign accounts payable and payroll checks dated June 7, 2018 as included in the following manifests:

Payroll Manifest	\$ 58,327.81 (Weekly payroll)
Fire Department Payroll Manifest	\$ 7,965.11 (May monthly payroll)
Accounts Payable Manifest	\$ 101,441.75
TOTAL	\$ 167,734.67

The following manifests were previously ordered to sign at the May 21, 2018 Board of Selectmen meeting:

Payroll Manifest \$ 52,955.37 (weekly checks dated 05/31/18)

Accounts Payable Manifest \$ 49,996.53 (checks dated 05/31/18)

Passed 4-0-0

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Vice Chairman Meaney moved, Selectman Snyder seconded,

As there is no Selectmen's Meeting scheduled for Monday, June 11, 2018,

Please vote:

To order the Treasurer to sign payroll checks dated June 14, 2018 estimated to be about \$65,000.00. Furthermore, to order the Treasurer to sign up to the amount of \$60,000.00 for accounts payables that cannot wait until the next scheduled meeting of June 18, 2018 without incurring late charges or interest. Reports and actual check amounts will be reported to the Board of Selectmen by inclusion on the Manifest Memo at the next scheduled meeting. Passed 4-0-0

### ADMINISTRATIVE REPORT:

Hawkers & Peddlers Ordinance: This item was moved an agenda item in June or July with Chief Kelly. Town Administrator Bolton stated that she is going to schedule it for the July 2<sup>nd</sup> meeting.

Joint Loss Management Committee: The next meeting is scheduled for June 20, 2018 @ 11 AM

Tax Deeded Property for Auction: Town Administrator Bolton stated that she put a package of information from 3 different companies in all of the Selectmen's boxes for review. Chairman Hippler has not had a chance to review it as he has been gone. The three companies were St. Jean Auctioneers; Paul McGinnis; and NH Tax

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Deed and Property Auctions. The Board would like to take the time between meetings to review the information and have this as an agenda item for the next meeting on June 18<sup>th</sup>.

Committee (Article 27): Town Administrator Bolton stated to get this off the ground as has been mentioned for the past couple of meetings, she would look at the calendar availability for this conference room; reach out to the interested people with a few dates, get a date selected and let them get started. The Board agreed that would be the best way to get it started.

Part Time Minute Taker for Planning Board, Zoning Board and Conservation Commission: Town Administrator Bolton has asked to be run one more time with the Library newsletter and then go with the applicants we have to begin the process. There are 3 current applicants.

Harassment Training Scheduled for Wednesday, June 6<sup>th</sup>: Town Administrator Bolton wanted to remind everyone that the Harassment training is this Wednesday, June 6<sup>th</sup>. The 5:30 PM ó 7 PM session will be held at the Safety Complex Training Room.

Granite State Recycling Application with DES Public Hearing: Town Administrator Bolton stated this public hearing is scheduled to take place in this room beginning at 7:30 PM. Selectman Snyder asked if this conference room is truly going to be big enough. Town Administrator Bolton stated that she was going to be here and that DES would have to make that determination as it was their meeting.

Draft RFP for Bell Tower Project, rot on the rakes, hourly rates for plumbing and electrical: Town Administrator Bolton informed the Board that this RFP was put out with a deadline being today @ 4PM. No bids were received for the bell tower, rot on the rakes and hourly rate for the plumbing. Two bids were received for the electrical RFP. The Board would like to put it back out with a new deadline of June 18, 2018. Town Administrator Bolton asked for clarification of put it back out to bid or just extend the deadline. There would be a cost to putting it back into the newspaper. Selectman Snyder stated that she would like to extend it. She would also like all electricians in the Town be sent an email informing them of the RFP. Town Administrator Bolton stated that she doesn't mind doing that but what happens if someone gets missed and puts up a commotion because they didn't get an email. Town Administrator Bolton stated that she would be happy to take the vendor/contractor list that Merry Rice keeps and notify any vendor on that list. They have taken the time to be included on the vendor/contractor list so those could be reached. Selectman Snyder replied that some people could have been told ahead of time to look for it in the newspaper and others weren't either. Town Administrator Bolton stated that she felt that people are just busy right now.

JP Pest: JP Pest installed baits and monitors on Wednesday, May 23<sup>rd</sup>. A follow up visit by JP Pest was done on May 30<sup>th</sup> and yielded one catch.

Clinton Grove Under Pinning: Selectman Burdick stated that the contractor that she has talked to will be getting a quote together for the underpinning. This same contractor looked at the windows and verbally gave her a price of \$3,000 for the actual windows and \$1,160 for labor to install the windows. Selectman Burdick stated that he will try to do it by fall. Town Administrator Bolton stated that according to our purchasing policy it is over \$1,000 so we would need 2 other quotes.

Town Office Roof leak and insulation and TA office and walls: Selectman Snyder stated that she is working on a quote for these two projects.

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Security Camera Project @ Safety Complex (Police): Town Administrator Bolton is waiting on a reply from Hooksett regarding the RFP of their camera project in the police department and will follow up again.

Temporary DPW Garage Facility: Town Administrator Bolton stated that the Board had the site walk earlier this evening, but a larger discussion really needs to take place so that a firm decision can be made in an effort to be fair to the Food Pantry people. The Board will put it on the next agenda on June 18<sup>th</sup>.

Safety Complex: Roof and Compressor Room: Town Administrator Bolton stated that the Board needs to select a separate night to go over as a group to meet with the two chiefs regarding the compressor room. At the same time the roof can be looked at as well. The Board felt that June 19<sup>th</sup> at 6 PM would be best for all those present.

GC or Project Manager for 2019: Selectman Osborne stated that this current list would not be included in having a GC or Project Manager. They felt that it would be for the next year and that there should be money appropriated for this position for 2019.

Gordon Brown Buildings: Selectman Snyder handed the Board a bid that she received for the labor only of painting of the roofs. This project has to wait as Selectman Burdick is waiting for a phone call back from the company that had offered to donate the paint/materials. This bid will wait until we get an answer back on the materials donation.

### **CORRESPONDENCE/OTHER BUSINESS:**

Selectman Burdick stated that she went through this whole thing with B & B Lane. She stated that first of all the Planning Board should probably not have approved it in the first place because Article 25 of the Zoning Ordinance states that the purpose is to foster the diversification of the Town's economic base by encouraging small scale light service industries, light manufacturing firms to locate in Weare according to the Weare zoning ordinance a collection storage transfer facility is not stated as a permitted use in an industrially zoned district. The other is the hours of operation just stating 5 AM in the morning until 10 PM at night. Also, Article 29 the Aquifer Protection article is to protect preserve and maintain existing and potential groundwater supplies for adverse developments or unwise land use. That's one of the articles in the Master Plan. She doesn't think the Planning Board really looked at any of this stuff. Selectman Burdick's concern is that if Planning Board is making decisions like this and they should be looking directly at the Weare Zoning Ordinances for that zone, read it in its entirety and comply with it. She doesn't think that was done. Selectman Burdick stated that you have articles written and nobody's following them. Vice Chairman Meaney stated that he would like to see what the minutes of that meeting said specifically. Vice Chairman Meaney stated that regardless he feels that the Board should have a letter put forth. The Selectman can't undo what the Planning Board has done. All we can do at this point is to send a letter to DES with the Board's concerns requesting to have them be held to the same standards that the Planning Board set forth in their approval. Town Administrator Bolton stated that Mr. Dearborn's point is that there are additional inconsistencies from what the Planning Board approved to what is being asked to be approved at DES.

Selectman Burdick further added that as a select board we should be making sure that these different boards are following these rules. If they're going to be voting on stuff then they need to be looking at all of this before they make a decision. That's not even stated in Article 25 and they have allowed it which should have never happened. The Town is not getting any money out of it either. They are paying taxes but whoever owned the building would pay taxes. Beyond that the Town is getting nothing but a lot of road traffic; a lot of noise; a lot of wear and tear in that area; if they do get approved they will bring in a lot of mess down there, rodents; odors and hazardous stuff. On top of that you are going to have waste all over the sides of the road which won't do

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much for the people that live down there and their house values. Selectman Snyder stated that she is in full agreement with Selectman Burdick but felt that there was something else on that article 29 regarding the aquifer that stated that everyone had to be notified. They only let the direct abutters know. Selectman Burdick felt that if something like this was going to be discussed that everyone within a one mile radius of the project should be notified. Selectman Snyder stated that she didn't think people were aware of what was going on. Selectman Burdick stated that she didn't know anything about it until she saw it in the Messenger. Selectman Snyder echoed the same. Selectman Burdick stated that she felt the 300 tons per day is just ridiculous.

Selectman Burdick asked to have the Planning Board come in and address it. We need to tell them that this needs to be done; we just can't be making up things and agreeing to this stuff and not following the articles. She stated that obviously they are not doing their job because they needed to check into stuff. Selectman Burdick asked if the Planning Board and Zoning Board can come in and make a presentation on things like this because the same thing happened down in Riverdale. They have a commercial development going in and they are right on top of an aquifer. Selectman Burdick feels that other Boards need to be more responsible because it causes a lot of grief here for us and for the people around these projects too. **Selectman Osborne moved, Selectman Snyder seconded to have the Town Attorney write a letter to DES attention to Michael Nork regarding the B & B Lane project and have it stated that it needs to adhere to the standards that the Planning Board granted permission. Passed 4-0-0**

Town Administrator Bolton received a letter from the State NH Division of Forests to inform us that they are planning a harvest on the Vincent State Forest in Weare. This will be done in late 2018. The Town will be notified while the process is going on. Town Administrator Bolton will scan the letter and map and share it with the Board and post this notice on behalf of the State.

### NONPUBLIC SESSION:

**Vice Chairman Meaney moved, Selectman Snyder seconded to enter into nonpublic session @ 9:04 p.m. pursuant to the authority granted in RSA 91-A:3II (a & c). A roll call vote was taken, Selectman Osborne – yes; Selectman Snyder – yes; Selectman Burdick – yes; Vice Chairman Meaney - yes. Passed 4-0-0**

**Vice Chairman Meaney moved, Selectman Osborne seconded to exit this nonpublic session @ 9:30 p.m. A roll call vote was taken, Selectman Osborne – yes; Selectman Snyder – yes; Selectman Burdick – yes; Vice Chairman Meaney - yes. Passed 4-0-0**

**Vice Chairman Meaney moved, Selectman Snyder seconded to seal and restrict these minutes of this nonpublic session. Passed 4-0-0**

**Being there was no further business to come before the Board, Vice Chairman Meaney moved, Selectman Osborne seconded to adjourn at 9:31 PM. Passed 4-0-0**

### ADJOURNMENT

A True Record.

*Naomi L. Bolton*

Naomi L. Bolton  
Recording Secretary