

Final



**WEARE BOARD OF SELECTMEN
MEETING MINUTES
April 19, 2021**

PRESENT VIA ZOOM: FREDERICK W. HIPPLER, CHAIRMAN; JOHN (JACK) MEANEY, VICE CHAIRMAN; JONATHAN H. OSBORNE, SELECTMAN; SHERRY M. BURDICK, SELECTMAN; JOHN VAN LOENDERSLOOT, SELECTMAN

TOWN ADMINISTRATOR/ZOOM HOST: Naomi L. Bolton

GUESTS VIA ZOOM: Frank & Mary Jo Campana, Police Chief Chris Moore, Conservation Commission Chairman Andy Fulton, John Rauscher, Travis Corcoran, Marc Phillips, Vanessa Hippler

Chairman Hippler called the meeting to order at 6:34 pm., welcomed those via zoom to the April 19, 2021 Weare Board of Selectmen Meeting. Chairman Hippler roll called the Board members, all present.

PUBLIC COMMENT:

Travis Corcoran, 275 Quaker Street, began with questions for the Board regarding the April 6th ZBA meeting.

1. How will the Board of Selectmen explain/prevent the Town Administrator from violating RSA 91-A:2 in the future, not allowing more residents attendance?
2. How will the Board of Selectmen explain/prevent the Town Administrator from violating RSA 91-A:2 in the future, expelling Mr. Corcoran/or others from meetings?
3. Does the Board of Selectmen agree the ZBA decisions on April 6th are legal and valid? When is the next ZBA legally compliant meeting?
4. What is the reason Chairman Dearborn delayed the variance hearing as Attorney Christopher Drescher is alive?
5. Why was the attorney dying given for the reason for the delay?

Selectman Burdick requested Travis Corcoran send an email with a copy of his questions.

Police Chief Moore spoke in reference to Free Speech in public meetings, see below:

“A goal of the Weare Police Department is to keep the peace. This includes providing a safe environment for Town business to be conducted while also ensuring the constitutional freedoms guaranteed to citizens are maintained. A situation recently unfolded where a question was posed to WPD on what action could be taken against a citizen who was disorderly through verbal disruption during a public meeting.

WPD obtained the opinion of WPD Police Legal Counsel and the Town Attorney, both concur disruption of a public meeting is grounds for disorderly conduct under RSA 644:2 III (b) and (c) *Disorderly Conduct* RSA 644:2 III (b) and (c) *Disorderly Conduct*

644:2 Disorderly Conduct. - A person is guilty of disorderly conduct if:

III. He purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

- (b) Disrupting the orderly conduct of business in any public or governmental facility; or
- (c) Disrupting any lawful assembly or meeting of persons without lawful authority.

To help explain how the courts have interpreted balancing a citizen's right to free speech against the government's interest to conduct business in an orderly fashion, WPD is referencing three resources found on-line:

- New Hampshire Municipal Association *Public Meetings and Freedom of Speech: When Do Citizens Have a Right to Speak?* There is no absolute right to speak at a public meeting. Certain statutes create rights to speak at public hearings under certain circumstances for example, under budget hearing RSA 32:5 or a zoning board of adjustment hearing under RSA 676:7 and violation of these rights may in some instances be a violation of constitutional due process law.
- ACLU, Washington Branch *Know Your Rights Regarding Public Comments and Other Speech at Local Government Meetings.*
 - **If a public comment period is provided, can the body limit the discussion to certain periods?** Certain local government meetings are considered limited public forums. This means that a city council can enact viewpoint neutral place, time and manner restrictions on speech if there is a legitimate and compelling government interest. The Courts have said that imposing restrictions to preserve civility and decorum are necessary to further the forum's purpose of conducting public business.
 - **Can a local government body provide for public comment but restrict obscenity or disruptive conduct by speakers?** If speakers are being actually disruptive or threatening at any time during public hearings, their speech may be restricted by the governmental body.
- NH Office of Energy and Planning *Free Speech at Public Meetings-The New Hampshire Right to Know Law*, this pertains to RSA 91-A that Mr. Corcoran referenced. *Meetings Open to the public*; no one has a right to disrupt a meeting or to speak without being invited. Chapter 91-A only gives a right to attend, not a right to participate.
Right to Know: Does not include the Right to Speak. Chapter 91-A does not give any person a right to speak at a public meeting. If someone is disrupting the meeting or interfering with the board's business, the chairman can order the person out of the room, with the help of the police officer if needed. There is a responsibility to conduct a meeting in an orderly manner. When a defendant

continues to interrupt and refuse to come to order, the chairman has the authority to order him or her from the room.

Due process Rights to Public Hearings. Constitutional right to be heard during a public hearing concerning a matter which affects a person's property rights. It is not related to the First Amendment. It is related to the right not to be deprived of property without Due Process.”

Police Chief Moore will post his statement of information on the Police website. Meetings need to be conducted orderly so there will be no need to involve police in the future.

Chairman Hippler stated moving forward, rebuttals or conversations with questions will be addressed via email with the Board of Selectmen, Police Chief Moore and other related departments.

John Rauscher, 273 North Stark Highway, asked if the Town of Weare observes Roberts Schools of Order.

Police Chief Moore responded correct.

Mr. Rauscher commented Chairman Dearborn veered from the meetings posted agenda. Under Roberts School of Order, the Chair cannot depart from the order of business. Mr. Rauscher continued, stating he was not disruptive, waited for a pause in the conversation, and raised a point of personal privilege. He is allowed to interrupt the present speaker. Informational privilege takes precedence over the current motion or even when no question is pending.

Mr. Rauscher disagrees with Chief Moore’s statement. He was illegally ejected and has a right to call Chairman Dearborn out of order. Chairman Dearborn talked over him. He asked the Board how much the town has spent in legal fees fighting a building process that the court found illegal. The Zoning Amendment failed, yet they are trying to allow people to keep a building that was built without following the law.

Mr. Rauscher is a 21-year resident and tired of the “good ole boy deals.” The town has paid out on numerous challenges. The people responsible need to be censored, forced to resign and a lean placed on their property until they pay for the town’s legal fees. When will the Board of Selectmen and Zoning Board straighten things out and stop doing things to appease neighbors. If you observe Roberts School of Order, it has to be across the board, not for convenience.

Travis Corcoran thanked Chief Moore for his summary of the law. He agrees Police have the power to maintain order in meetings, ejecting disorderly people. There is a different between attendance and speaking, muting during a meeting needs to be codified. The Police have the power to eject, not delegated to other town government members. The Board needs to systemize a process to keep the power with Police.

DEPARTMENT HEAD/COMMITTEE ITEMS:

1.) Police Chief Moore stated:

a.) Officer Tom Ouellette has resigned effective April 17, 2021, he went to Bow Police Department. A Plymouth State intern, who will graduate in May, started in the beginning of the year is a great candidate. He has completed all pre-employment testing. Interview forth coming with the BOS, approved by the Chief, with an August 30th Academy date. A released Officer by March 2022. Twelve authorized personal, two vacancies and Officer Lewis still modified duty. Three applicants have taken the written test.

b.) In the process of switching over to FirstNet, Inc. radio communications with the Push to Talk feature. Vocality RoIP, FirstNet Ready Light is the radio gateway that is needed at the station that allows their phones to act as a secondary radio source. Two channels, Police and Fire is \$6895.00 or a four channel is \$10,159.00 if DPW is assigned as well.

Chairman Hippler thanked Police Officer Tom Ouellette for his service to the town. Chairman Hippler enjoyed his time working with him, he will be missed.

Selectman Van suggested an exit interview for Officer Ouellette. Chairman Hippler and Vice Chairman Meaney are in favor of it. Chief Moore stated Officer Ouellette would be willing to have an exit interview. Town Administrator Bolton to arrange this meeting.

Vice Chairman Meaney asked Chief Moore how he was going to come up with money during a default budget year. Chief Moore replied his default budget phone line is \$16,000.00, credits on phones when new phones are received annually.

Selectman Van questioned the purchase of the Radio Gateway. Chief Moore answered he does not have that in his budget, maybe a year-end purchase. The system is definitely needed as their radios are so poor. This gateway allows their radio to be Push to Talk.

Selectman Van asked if the Two Channel price includes installation. Chief Moore stated it includes everything except for monthly fees. The monthly fee, internet fee, is \$39.99/month.

2. Selectman Van, speaking on behalf of PARC as Lisa Purington-Grolljahn and JaNeen Lentsch were unable to make tonight's meeting. Last Thursday, Chairman Hippler and Selectman Van met at the town tennis courts. They concluded the courts are not safe to use because of their poor conditions. Does the Board agree with pad locking the tennis courts, closing until repairs are done? Chairman Hippler stated he agrees the wide cracks could create problems while moving quickly wearing a tennis shoe.

Town Administrator Bolton stated she received an email from Denise Purington requesting to leave a side open for pickle ball.

Chairman Hippler responded you could not rope off one side; it will be taken down for those that want to use the entire court. Caution tape or traffic cones will not work, not feasible to place a jersey barrier.

Vice Chairman Meaney stated the rest of the Board should go and take a look at the tennis courts before they can make a decision to pad lock them.

The Board agreed to go over to the tennis courts at their leisure sometime before Wednesday night's nonpublic meeting. Discussion for BOS April 26th meeting, to post on agenda.

Reappointment to Conservation Commission Lori Davis

Chairman Andy Fulton stated he could answer any questions on Conservation Membership, one renewal and one new volunteer full-time member. The Commission welcomes Marc Phillips as a new alternate member and accept Lori Davis to continue as a full member. If Lori Davis is not reappointed Chairman Fulton would like a respectful indication why so they can be better informed.

Chairman Hippler asked for clarification as to the intentions of the Commission, are they in favor of Lori Davis as a full member and Marc Phillips as a full member.

Chairman Fulton replied if Lori is reappointed, the Conservation Commission would be full and Marc Phillips could be an alternate. If Lori was not reappointed then Marc Phillips would be interested in the seventh position on the Commission. Chairman Fulton reiterates his request for communication as to why a member would not be reappointed.

Chairman Hippler opened the floor for Marc Phillips to speak.

Marc Phillips stated he is looking for an appointment to the Conservation Commission, as he has been involved with them through the snowmobile club. This has shown him there needs to be more follow-up in what is going on within the town. He has chosen to volunteer for the town as his interest is to protect the town's conservation lands.

Chairman Hippler asked Marc for other reasons for his interest in joining the Conservation Commission.

Marc Phillips stated as a resident, and town business owner he is devoted to keeping our town small, protecting areas, not letting it become a big town like Manchester. Looking to become more involved, a watchdog approach on behalf of the town.

Selectman Van asked if there was something specific that peaked his interest in becoming a Conservation Commission member.

Marc Phillips responded, through the snowmobile club he attended Conservation Commission meetings. He wants to be a part of continuing the protection for the townspeople.

Chairman Hippler stated multiple times the public has commented on access to conservation land for walking trails, for example. What is Mr. Phillips view on that?

Marc Phillips stated he wants to make sure town land is available for town use. To be used in a proper way. Horses, bike riding and snowmobiling are uses that can be maintained.

Chairman Fulton mentioned the old Weare ATV Club. The Commission worked with the club to make a sanctioned trail in the Felch Farm Forest near the Transfer Station. The land is to be used for many kinds of outdoor enthusiasts. The Commission recognizes there are different ways townspeople enjoy open space, conservation land and the town forests.

Chairman Hippler entertained a motion for a full member appointment between Lori Davis and Marc Phillips.

Vice Chairman Meaney moved, Selectman Osborne seconded to appointment Marc Phillips as a full member to the Conservation Commission. Passed 3-0-2, Selectman Burdick and Chairman Hippler abstained.

Chairman Hippler asked the Board to address Chairman Fulton in appointing Mr. Phillips as a full member.

Chairman Fulton stated if Lori Davis's renewal is not to be acted on by the BOS he requests an explanation. He needs to understand why a member in good standing is not to be reappointed. Is there a reason not related to her on the job performance. On the Commission, she has been honorable, reasonable and faithful.

Selectman Van stated the Board is not denying, there is just no motion. Perhaps individual Board members have a reason, but not a Board reason.

Chairman Fulton understands and would like an email or a phone call. Chairman Hippler stated he personally has no reason. Chairman Fulton then asked could the Commission have done anything to help this reappointment. Chairman Hippler responded this was not a Commission issue.

Chairman Fulton made points of clarity for BOS minutes of April 5th. There is no NHDES ground water division and Secretary Camacho has in the past worked on meeting minutes, not volunteering him to do so. He questioned Town Administrator Bolton if she would be doing the minutes. Town Administrator Bolton explained she takes great notes, has not started the minutes from last week. If not her, she could have her assistant do them. Chairman Fulton explains he wants to be really clear with the BOS he needs assistance and respectfully requests Town Administrator Bolton's help. If not then he will have someone within the Commission do them.

Town Administrator Bolton explains her assistant does the BOS, PB and ZBA minutes from You Tube and her notes. If the Conservation Commission stays in a recorded platform she can make sure they are done. Chairman Fulton responded he appreciates it. He also thanked Chairman Hippler restating he is available for questions from the Board, now or offline.

Chairman Hippler replied he appreciates Chairman Fulton's time and the Commission, as they are a volunteer Board. They devote a lot of time to the preservation and conservation for the town. Weare has historically been farm and rural land, working with a licensed forester we are doing the best we can to keep it that way.

Discuss and Award Cemetery Lawn Care Contract

Town Administrator Bolton stated Robert Sayball, Landscape Exclusive LLC, Peterborough, NH proposed a one-year bid of \$39,000.00 for 2021 Cemetery Lawn Care Contract.

Selectman Van moved, Vice Chairman Meaney seconded to accept the bid of Landscape Exclusive LLC, Peterborough, NH for a period of one year for \$39,000.00. Passed 5-0-0

Town Administrator Bolton to award the contract and have DPW investigate the large tree that has fallen down in Pine Grove Cemetery.

Discuss Gordon Brown Buildings

Chairman Hippler explained no taxpayer revenue could be spent on the Gordon Brown building per the original documents. Selectman Van and Vice Chairman Meaney concurred adding even if the roof collapses this falls on the Weare Historical Society. Selectman Burdick stated the lease states the Society is responsible for maintenance of the premises and paying for damage repair. Normal wear and tear is excluded. The roof is 60 – 70 years old, that is normal wear. Selectman Van restated it is a Historical Society issue, not the town. He is against the town paying. Chairman Hippler suggested Town Counsel review the documents. Not mission critical, stored items could be moved. Vice Chairman Meaney agrees legal counsel should be sought. Town Administrator Bolton to present to Town Counsel.

MINUTES:

April 5, 2021 Minutes: Chairman Hippler moved, Selectman Van seconded to accept the minutes of April 5th as amended, passed 5-0-0.

ADMINISTRATOR'S REPORT:

General Items:

1. E-Subscribe numbers – The Board decided not necessary to track
2. Radio Communications, still open, plan in place, to reach out to Motorola, confirm with WFD, review in June.
3. Forestry Contract, CC reviewed, Forester to review, next reviewed by Town Attorney. Chairman Hippler verifies this is with Meadowsend, Jeremy Turner, not an RFP.
4. Zoom meeting schedule:
 - Monday, April 19, BOS @ 6:30pm
 - Thursday, April 22, PB @ 7:00pm
 - Monday, April 26, BOS @ 6:30pm
5. Building Inspector – no concrete interest, look into Mutual Aid, advertise w/NHMA
6. Tennis Courts Bids are out, received one, money to come from Emma Sawyer Trust, deadline April 22.
7. Chase Park, boat ramp, National Heritage Bureau has been contacted. Chairman Hippler stated crushed stone for temporary fix, short on time. Selectman Van stated the hole needs to be filled in before repaired. Vice Chairman Meaney stated there is also the issue seen last year when lake property owners were putting in illegal boat ramps. Town Administrator Bolton added this also introduces the issue of Milfoil infestation without boat inspections. Selectman Van asked what would be the repercussion if the repair is made without NHDES approval. Chairman Hippler responded unknown, putting in stone for a temporary fix, is that feasible. Vice Chairman Meaney suggested calling NH Fish & Game for guidance because they maintain the State boat ramps. Town Administrator Bolton agrees with Vice Chairman Meaney.

Selectman Van asked Chairman Fulton if the Town could fill in the hole at the end of the boat ramp with like material, return what washed away. Is a permit required, time is an issue.

Chairman Fulton stated filling the hole requires a permit.

Chairman Hippler and Selectman Van restated time is crucial and filling with like material, crushed stone, would suffice for the season. Selectman Van stated the lake residents need a safe boat ramp, also, in an emergency Fish & Game and Fire need to launch their boats.

Chairman Fulton understands how important it is for Marine Patrol to be on the lake. He suggested doing some grading before the lake comes up. Using material that is already there, not introducing foreign material. Town Administrator Bolton to update DPW Director Knapp on the idea of grading existing material. The Board is in agreement no pavement or cement for repairing the boat ramp for this year.

8. Arbor Day, Friday, April 30th at 2:00pm. Eversource and Asplundh Tree Service to plant two maple trees chosen by PARC. They have mapped out the placement of the trees, one at Bolton Field and one at Chase Park. Photo op with the Boards, all members welcome.

Building & Maintenance Projects:

- Town Hall List of Projects: Walker Roofing still no confirmation, supposed to be completed by end of April, to reach out again. If no response to find another vendor.
- Town Hall Sign & Repair, Clark Roberge, installation set for June 1st, DPW to dig 48" hole end of May, need landscaping decision
- Reservoir Drive – *No Parking Signs*, need to coordinate with DPW & WPD

CORRESPONDENCE & OTHER BUSINESS

1. Selectman Van referenced an email regarding the East Weare Fire Station building roof in need of repair. Town Administrator Bolton explained Chief Vezina wanted to know should he pursue estimates, CIP 2021 or Government Building Funds this year. Selectman Van and Chairman Hippler both agreed he should seek estimates. Selectman Van asked asphalt shingles or left over metal roofing from DPW. Chairman Hippler suggested inquiring with Chief Vezina and the Board of Firewards, what are their long-range plans for the building. Vice Chairman Meaney explained DPW Director Knapp will be using his leftover metal for a roof for his storage bins. The material is corrugated and has nail holes may not be suitable for a building roof repair.

2. Selectman Burdick stated she heard from her neighbor, who talked to others that are upset about houses being reassessed with a possible 30% property tax increase. Tax bills need to include an explanation the reassessment coincides with a lower tax rate. Chairman Hippler explained he already addressed this with Avitar evaluations will level out. Avitar to produce a flyer/explanation to accompany the tax bills.

3. Selectman Van mentioned the Planning Board had a Conceptual Review with a Massachusetts development firm. What type of business will be going in near Lancots, there are concerned citizens. Town Administrator Bolton explained test pits have taken place, aquifer maps looked at, the prospective buyer is gathering information. A plan forth coming based on slopes and soils, then permits for a retail building under 10,000 square feet with parking. Once approved, they still have to secure a business to lease the new building. The property, little red house across from Sanel, has not been purchased yet, P & S contingent on many factors.

4. Chairman Hippler suggested additional avenues to advertise for filling open positions. Access social media, web based internet such as NH Works and Indeed. Newspapers and NHMA might be out dated. Exposure is needed when looking for qualified applicants. Town Administrator Bolton stated the Town Library, Fire and Police have Facebook that we could utilize. Vice Chairman Meaney suggested the Union Leader and Concord Monitor have online access.

Being there was no further business to come before the Board, Vice Chairman Meaney made a motion, Selectman Van seconded to adjourn at 8:36 pm. Passed 5-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from TA Bolton notes & You Tube recording