

Final



WEARE BOARD OF SELECTMEN
MEETING MINUTES
June 28, 2021

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

TOWN ADMINISTRATOR: Naomi L. Bolton

GUESTS: Frank Campana, Dennis Terrio, Isabell Terrio, Attorney Tom Quinn, Tom Carr, John Hardy, Tom Clow, Vinnie Iacozzi, Richard Brown

Chairman Hippler called the meeting to order at 6:30 pm.

NONPUBLIC SESSION: Chairman Hippler moved, Selectman Burdick seconded to enter into nonpublic session @ 6:30 p.m. pursuant to the authority granted in RSA 91-A: 3II (c). A roll call vote was taken, Selectman Osborne – yes; Selectman Van – yes; Chairman Hippler – yes; Vice Chairman Meaney – late; Selectman Burdick – yes. Passed 4-0-0

Chairman Hippler moved, Selectman Van seconded to exit this nonpublic session @ 6:47 p.m. A roll call vote was taken, Selectman Osborne – yes; Selectman Van – yes; Chairman Hippler – yes; Vice Chairman Meaney – late; Selectman Burdick – yes. Passed 4-0-0

Chairman Hippler moved, Selectman Van seconded to seal and restrict these nonpublic session minutes. Passed 4-0-0

Chairman Hippler opened the meeting at 6:49 pm, welcomed those present to the June 28, 2021 meeting of the Weare Board of Selectmen and proceeded with the pledge of allegiance.

PUBLIC COMMENT: Frank Campana, 322 Quaker Street, commented on this year's Town Report, page 121. The Police department assets, in particular, their 2 unmarked patrol vehicles and 5 marked patrol vehicles. Selectman Van explains, at the time, there were 2 unmarked, but one went to auction. Only the Chief drives an unmarked car currently, his take home vehicle. Frank continues, the townspeople should know the number of unmarked vehicles. The Chief made a comment in reference to the cost of marking the ACO vehicle, "I know Frank likes marked vehicles." He does like marked vehicles for everyone.

Also, at the May 17th meeting, Town Administrator Bolton stated federal money, ARPA Plan approximately \$900,000, will be awarded to the Town in two payments of \$450,000 each. Once the federal money expenditures are decided, Frank suggested an explanation of the future monetary obligation that would be created, tax impact. For example, air quality equipment would require maintenance, filters, etc.

Dennis Terrio, 61 Meadow Drive, stated he is having property issues. Recently, he had his property resurveyed and remarked by J. E. Belanger Land Surveying, Dunbarton, NH. His new neighbor does not accept the survey. The prior neighbor and Dennis Terrio always maintained the driveway together, though not shared, no easement. They never had any problems. This driveway is on Dennis Terrio's property. He stated the new neighbor told him he would put in a new driveway on his own property.

Things have escalated since it began last July. Dennis Terrio put up a fence to protect his chickens and his disabled son from this neighbor's vicious animals. This neighbor requested the good side of the fence face him. Dennis Terrio declined. Dennis Terrio posted no trespassing signs at the driveway entrance. This neighbor removed them and used the driveway. Dennis Terrio called the police. He was told there is nothing they could do, civil complaint. There is nothing in writing to show ownership of the driveway, cannot enforce. Dennis Terrio stated he has on file with the town a clear deed and title, along with a current survey.

Recently, while Dennis Terrio was at work, this neighbor was partying, 20 vehicles in attendance, one of their guests urinated near Dennis Terrio's chicken coop in front of his wife and disabled son. His wife called the police and reposted the no trespassing sign beside the driveway. Mr. Chase, this neighbor, removed the sign, spoke vulgar language to his wife including he would set anything she posted on fire.

Dennis Terrio grew up in this town, is a veteran and is tired of living this way. He is looking for the town's support, and enforcement of the laws. He stated Town Administrator Bolton has been instrumental with assistance. She has reached out to Town Counsel, to meet with the Board. He needs peace of mind for the harassment of his family to stop. When the property lines were put in originally mistakes were made. At this time, he assures the Board the property markers are accurate.

Chairman Hippler reiterated Town Counsel is involved. Advice forth coming.

Isabell Terrio, Dennis's wife, stated she wanted to press charges, but the Police Chief said he would talk to him. The police need a letter confirming ownership. Mr. Chase and his wife continue to laugh, intimidate and threaten Isabell.

Chairman Hippler stated he sympathizes and as soon as Town Counsel weighs in, they will be in touch.

Tom Carr, 287 Old Francetown Road, as an owner of a land surveying company he has seen an increase of property line violations. He has worked on some in the past, currently two, one in Weare, one in New Boston. It is "shocking the arrogance that these people moving in that aren't part of this town." A resident for 27 years he is dishearten and hopeful Town Counsel grants the Police Chief authority to act. Support is needed.

Chairman Hippler opened the public hearing at 7:08pm.

PUBLIC HEARING: For the purpose of hearing public testimony and comment on the gravel removal in the Duck Pond subdivision for the further development of the lots. The plan is for proposed grading and removal (cuts and fills) for lots, 405-62.21; 405-62.22; and 405-62.23, which equated to a net quantity of 17,087 CY (cubic yards) to be removed.

Attorney Tom Quinn, Thomas F. Quinn Law Office, Milford, NH. representing the applicant Duck Pond, LLC. His client, a homebuilder, purchased six lots, 22, 23, 24, 25, 27, and 28 from the NBAC Duck Pond Subdivision. These lots are in Phase I of the subdivision, not involved in the site development. An issue came about back in January with the gravel excavation of two lots, 22 and 23. The Town was concerned as the gravel removal exceeded 5000 cu. yds. and some gravel was removed from the site. Town staff established a Special Exception from the Zoning Board and a Gravel Permit for excavation were needed.

A Special Exception was applied for and approved on April 6th. Some soil, 424 cu. yds., was removed from Lot 21 owned by NBAC.

Duck Pond LLC. submitted an application for the Gravel Permit on May 3rd. It is their position that a permit is not needed. Earth Ordinance regulations are for gravel pits not subdivision developments. Residential and commercial construction sites require some material to be removed. RSA 155-E recognizes this: RSA 155-E:2-a I. *No permit shall be required for the following types of excavations: a) Excavation that is exclusively incidental to the construction or alteration of a building or structure or the construction or alteration of a parking lot or way including a driveway on a portion of the premises where the removal occurs; provided, however, that no such excavation shall be commenced without a permit under this chapter unless all state and local permits required for the construction or alteration of the building, structure, parking lot, or way have been issued.*

Attorney Tom Quinn continues, under the Town of Weare Earth Ordinance, pages 9 and 10, section 3E Permit Required,

Other Exceptions 1. The following additional excavation activities are exempt from the permit requirements of this Ordinance: (a) Excavation that is exclusively incidental (see Section 2, J for definition of incidental) to the lawful construction or alteration of a building or structure or the construction or alteration of a parking lot or way including a 10 driveway on a portion of the premises where the removal occurs; provided, however, that no such excavation shall be commenced without a permit under this Ordinance unless all state and local permits required for the construction or alteration of the building, structure, parking lot, or way have been issued and also provide that such excavation does not exceed 5000 cubic yards without written notification to the Regulator.

This does not say a permit is needed if excavation in more than 5000 cu. yds., instead, it says, give written notice. Definition for incidental does not define quantity. Giving written notice they are already in compliance, no permit needed.

Attorney Tom Quinn asserts the concerns for the application for a Gravel Permit are:

1. Location as the subdivision is within one mile from town center. They do not meet the requirements of section 6.

Town of Weare Earth Products Ordinance, page 15 and 16, section 6, Operational Standards,

It shall be a violation of this Ordinance for any person to excavate, or for any owner to permit excavation on his excavation site, when such excavation is subject to a permit under this Ordinance, without complying with the following minimum standards or when such excavation is not subject to a permit under this Ordinance pursuant to Section 3 without complying with the following express standards: For the purpose of preserving its scenic characteristics, and to prevent a significant increase in noise and in heavy truck traffic around the Town Center, no new excavation areas shall be permitted within one mile (5,280 feet) of the center of the Town of Weare except where the land was zoned industrial prior to April, 1999. The Center of Town shall mean the intersection of Flanders Memorial Drive, East Street, and Route 114.

Attorney Tom Quinn shares, after consulting with Town Counsel, her recommendation is to apply for a waiver.

The site is 0.8 miles from town center, less than one mile. His client will have some incidental truck traffic when excavating his three lots. It will not jeopardize the town center quality of life, no significant truck traffic, and noise nor compromise the scenic character. The NBAC subdivision was approved, they will generate commercial truck traffic.

2. Material is going off site. There is more material than his client needs, six lots, excavating three of them. Town staff suggested it could be stored on his clients other lots. His client did get in trouble for moving it across the street to NBAC owned property. How long and how high should his client stockpile it on site? Removing the gravel from the site makes it commercial. There is nothing in the regulation that says it cannot be commercial. The Zoning Ordinance, by Special Exception, allows commercial gravel operations. Duck Pond LLC. has a Special Exception for incidental gravel excavation for the construction of residential property.

Attorney Tom Quinn referred to Town Administrator Bolton. She stated it is a commercial venture not on a commercial lot. The three lots did get a Special Exception. Removing the gravel as a commercial venture will be taxed. She suggested conditions for operating times, Monday through Friday 7:00am to 5:00pm.

Attorney Tom Quinn asked for clarification there is no longer a concern to remove gravel from the site. Town Administrator Bolton responded Town Counsel stated it is not an issue. The septic design plan will show final grading depicting how much gravel is to be removed.

Attorney Tom Quinn stated if his client, Duck Pond, LLC, were to purchase additional lots for NBAC a permit is not required. He would need a Special Exception. Town Administrator Bolton agreed with the need for a Special Exception through the Zoning Board.

Attorney Tom Quinn restated the Board just needs to be notified in reference to the excavation in excess of 5000 cu. yds. Town Administrator Bolton added a waiver is needed because the operation is within one mile from town.

Attorney Tom Quinn maintained one waiver for the whole project, not lot by lot. He stated if NBAC were given a single Special Exception for the project, individual lots to notify if the excavation is to exceed 5K. Calculations would be presented on how much gravel leaves.

Town Administrator Bolton and Chairman Hippler agreed that is fair. Chairman Hippler stated with that entire subdivision parcel, it is needed.

Attorney Tom Quinn indicated no permit required. Chairman Hippler concurs a waiver will be needed.

Attorney Tom Quinn restated if NBAC gets a Special Exception, no waiver needed, just notification when exceeding 5K gravel removal. Regulations specifically exempt the permit requirement. A waiver for within one mile, but not each time. A generic waiver for NBAC, within one mile, providing notification for each time 5K gravel is removed.

Selectman Osborne declared why is Duck Pond, LLC being entwined with NBAC. They are not part of tonight's discussion. The public hearing is for Duck Pond's three lots. Why is Attorney Tom Quinn continually mentioning NBAC. Town Administrator Bolton replied he is trying to establish groundwork. Attorney Tom Quinn responded he does not represent NBAC, but his client, Duck Pond LLC, could buy additional lots from NBAC. This process, since January, has been a very inefficient way to process sellables.

Chairman Hippler stated he is 100% on board with the three-lot discussion. He disagrees with eluding to a blanket special exception on the subdivision in its entirety. Town Administrator Bolton added this was just Attorney Tom Quinn's suggestion. Chairman Hippler reasserts tonight is for three lots with 17,100 cubic yards of removal.

Tom Carr, Meridian Land Services, Inc., stated he was chairman of the Conservation Commission when the Earth Ordinance was enacted. The Planning Board and the Commission knew these lots were to be

excavated beyond 5K on many of the lots. Personally, he believes it was not the Commission's intent to regulate gravel operations for individual lots one mile from town. The Planning Board approved the subdivision.

Richard Brown, 37 George Moody Road, stated when that subdivision went through it was the will of the townspeople who voted in the Earth Product Ordinance regulating no gravel excavation one mile from town center, no gravel pit. The intent of Duck Pond, LLC. is to commercially sell it, they should pay a tax on it. The gravel material should be used on the entire site. It will be needed for roads for the 50+ houses to be built.

Chairman Hippler agreed, but there are two separate owners now. Richard Brown responded that is why the ordinance was passed in order to preclude today's hearing. Chairman Hippler replied fair enough.

Richard Brown reaffirmed the townspeople knew this was going to happen. That is why they voted to enact the ordinance. The material can be used on site, 17,000 yds. is not very much material. He is totally against the gravel removal in the Duck Pond subdivision for the further development of the lots.

Chairman Hippler asked for others to speak.

Attorney Tom Quinn spoke again, reiterating the conditions suggested by Town Administrator Bolton. He would like the Board to include him when they deliberate in reference to deciding conditions.

Chairman Hippler asked for the Board or any others to speak. There was none.
Chairman Hippler closed the public hearing at 7:38pm.

Town Administrator Bolton suggested the Board have their discussion right now. Chairman Hippler agreed and asked Selectman Van his opinion.

Selectman Van stated he 100% agrees with Attorney Tom Quinn's reference of the Earth Ordinance's intention. The Board has every right to grant this waiver. No reason to prevent this from moving forward.

Selectman Burdick agreed.

Town Administrator Bolton stated the Board could also waive the no gravel removal one mile from town center. She suggested aligning with other town commercial truck haulers setting the conditions of Monday through Friday 7:00am to 5:00pm. At two cents a yard for their tax. Selectman Van, Chairman Hippler and Selectman Burdick agreed.

Selectman Van stated his opinion is if NBAC still owned the three lots, then the taxation would not apply. When keeping the material on their own property. However, Duck Pond LLC. now owns these three lots and can do whatever he wants with the 17,000 cu. yds. It is not up to the Board.

Town Administrator Bolton stated the Town Counsel already stated Duck Pond, LLC. has no room to store the excavated product. Selectman Van agreed, Duck Pond LLC. is taking the material off site, selling it or moving it elsewhere. Town Administrator Bolton and Chairman Hippler concurred the material is going to be removed from the site.

Selectman Van clarifies he agrees 100% with a waiver for removal within one mile of town center. He is not concerned with the taxation. He 100% agrees with commercial trucking restrictions for hours of operation.

Selectman Osborne is not in favor of it.

Chairman Hippler stated he would entertain a motion. Selectman Van asked if the waiver was actually submitted. Town Administrator Bolton replied it was verbal and there is a letter dated June 4th from Attorney Tom Quinn. Selectman Van asked does a paper waiver exist anywhere or just verbal. Chairman Hippler added it is verbal.

Attorney Tom Quinn, speaking to Town Administrator Bolton because the hearing was closed, explained in his June 4th letter his client requests a waiver. Town Administrator Bolton passed the letter to the Board.

Selectman Van asked the Board how the motion should read and invited Attorney Tom Quinn to speak. Attorney Tom Quinn requested hours of operation to be Monday through Friday 7:00am to 5:00pm, and Saturday's 7:00am to 1:00pm, nothing on Sundays. Town Administrator Bolton mentioned Saturdays till noon. Selectman Van confirmed with Attorney Tom Quinn if he would be in favor of Monday through Friday 7:00am to 5:00pm, Saturday 7:00am to 12:00pm, nothing on Sunday and the two cents tax per yard. Attorney Tom Quinn replied that works.

Selectman Van moved, Selectman Burdick seconded to grant the waiver for the one mile restriction out of the Earth Ordinance, page 16, Operational Standards, and furthermore the condition no trucking of excavated material to occur outside of the hours of Monday through Friday from 7am to 5pm and Saturdays from 7am to noon. The yardage to be taxed at two cents per yard removed from Lots 405 62-21, 405 62-22 and 405 62-23. Passed 3-1-0 Selectman Osborne voted no

Stonewall removal for driveways

John Hardy, Hardy & Sons Construction, 35 Hejo Road. Town Administrator Bolton explained John was granted approval by the Planning Board on June 24th for driveways on three lots he purchased on Sugar Hill Road from Mrs. Townes. He is seeking a 30' stonewall removal for each driveway and an additional temporary stonewall removal for utilities at each lot. Utilities to be under ground. An application for driveway permits have been submitted.

Chairman Hippler asked the Board for comments. There were none.

Selectman Van moved, Chairman Hippler seconded Lots 403 19-1, Lots 403 19-2, and Lot 403 19-3 approval of openings on all three lots up to 30' in the rock and stonewall along with no more than a 5' temporary opening for utilities which will be covered back up when utilities have been placed. Discussion: Chairman Hippler added if there is a bad spot in the existing wall, to take removed stones and try to better what is there. Selectman Van amended his motion to include. Passed 3-1-0 Selectman Osborne voted no

Town Hall Sign Landscaping

Town Administrator Bolton thanked Tom Clow for the help and storing with the new sign. Tom Clow stated he left pictures with Town Administrator Bolton. The previous landscaping wall has been removed. He asked the Board for input going forward as to what will replace the original platform. He suggested grey colored patio blocks to match what is at the flagpole. Selectman Burdick suggested a concrete pour by Hadley Enterprises, 40 Walker Hill Road, with an embossed design to mimic stone. Chairman Hippler suggested Redi-Rock retaining wall by Michie Corp., Henniker, NH. like Danny's Automotive in Henniker has for their sign. Tom Clow responded he could talk to Bret Hadley. He is very knowledgeable. Selectman Van asked what budget would the money come from. Town Administrator Bolton shared Tom Clow would go before the Trustees. The Board thanked Tom Clow for his work on the sign and agreed to have him take the lead on the landscaping design and execution.

Vice Chairman Meaney arrived after having worked all day, up since 2:30am. Chairman Hippler filled him in on the night's proceedings.

DEPARTMENT HEAD/COMMITTEE ITEMS: none

MANIFEST:

To order the Treasurer to sign the payroll and accounts payables checks dated July 1, 2021 as included in the following manifests:

<i>Payroll Manifest</i>	\$	69,230.56 (Weekly & Fire monthly payroll)
<i>Accounts Payable Manifest</i>	\$	110,901.71
<i>Supplemental Payroll Manifest</i>	\$	2,989.50
<i>John Stark Accounts Payable Manifest</i>	\$	400,475.00
<i>Weare School Accounts Payable Manifest</i>	\$	133,310.00
<i>Total</i>	\$	716,906.77

As there is no Selectmen meeting scheduled for Monday, July 5 as well as July 12, 2021

To order the Treasurer to sign payroll checks dated July 8 and July 15, 2021 estimated to be about \$150,000.00. Furthermore, to order the Treasurer to sign up to the amount of \$175,000.00 for accounts payables that cannot wait until the next scheduled meeting. Reports and actual check amounts will be reported to the Board of Selectmen by inclusion on the Manifest Memo at the next scheduled meeting.

Chairman Hippler moved, Vice Chairman Meaney seconded to accept the manifest as follows, which passed. Passed 5-0-0

MINUTES:

June 21, 2021 Minutes: tabled

ADMINISTRATOR'S REPORT:

General Items:

1. A Purchase and Sales Agreement previously authorized by the Board for Town Administrator Bolton to sign was accidentally written up in Chairman Hippler's name.

Vice Chairman Meaney moved, Selectman Van seconded to allow Chairman Hippler to sign the Purchase & Sales Agreement for a parcel on Poor Farm Road. Passed 4-0-1 Chairman Hippler abstained.

2. Excavation permit May 21, 2021 – July 31, 2023, approved by the Board for Thibeault Corporation of NE., 603 Old Mammoth Road, Londonderry, NH. The Board signed.

3. Radio Communications – open, plan to be in place by August

4. Tennis Court repair work to be scheduled

Building & Maintenance Projects:

1. Town Hall List of Projects – Contractor still needed for corner hole repair.

2. Town Hall Sign – Tom Clow has the lead in landscape design and execution.

3. PARC roofing quotes for pump house at Bolton Field and concession building at Ineson Field. Chairman Hippler viewed the roof at Ineson, building in poor shape, rotten base sitting in dirt. He does not recommend putting a lot of money into these buildings. **Chairman Hippler moved, Selectman Van seconded to use Sentry Roofing, 61 Beech Street, Manchester, NH. for the asphalt shingles with a**

zero cost to the town with promissory that we allow the 18" x 18" advertising sign for each building. Passed 5-0-0

4. East Weare Fire Station Roof – several roof contractors were contacted, told the job is too small or they are too busy. Sentry Roofing inspected it and sent a quote: cost of materials, labor, disposal, and standard system warranty \$4320.00. In addition, if underlayment is needed, cost to install 7/16 OSB plywood to all roof areas +\$2600.00. Insurance certificate to be provided. **Chairman Hippler moved, Vice Chairman Meaney seconded to award the bid to the East Weare Fire Station to Sentry Roofing for the amount of \$4320.00 pending insurance provider. To further authorize up to the amount of \$2700.00 for plywood repair, if needed, to come from the Government Building Maintenance Fund.** Discussion: Selectman Van stated the quote specified OSB, plywood has various thicknesses. He would request like for like. **Chairman Hippler amended any replacement base material be like material. Passed 5-0-0**

5. Riverdale Road/River Road – working with DPW Director Knapp to get surveyed at the intersection so the Town can become the owner.

CORRESPONDENCE/OTHER BUSINESS

1.) Selectman Burdick received a phone call from the guy that provide the quote for the East Road barn roof repair. His insurance company to send verification he is covered to make roof repairs. He is just not a fulltime roofer. Town Administrator Bolton to determine if cleared for approval.

2.) Selectman Osborne stated TMS Diesel, 83 Rockland Road, has not closed off the first driveway with rocks after installing the second driveway. Still using both. Town Administrator Bolton to handle.

3.) Chairman Hippler thanked former tax collector Pam McCurdy for her services as she has resigned.

NONPUBLIC SESSION: Chairman Hippler moved, Vice Chairman Meaney seconded to enter into nonpublic session @ 8:22 p.m. pursuant to the authority granted in RSA 91-A: 3II (a&c). A roll call vote was taken, Selectman Osborne – yes; Selectman Van – yes; Chairman Hippler – yes; Vice Chairman Meaney – yes; Selectman Burdick – yes. Passed 5-0-0

Chairman Hippler moved, Vice Chairman Meaney seconded to exit this nonpublic session @ 8:44 p.m. A roll call vote was taken, Selectman Osborne – yes; Selectman Van – yes; Chairman Hippler – yes; Vice Chairman Meaney – yes; Selectman Burdick – yes. Passed 5-0-0

Board discussed a wage proposal.

Being there was no further business to come before the Board, Chairman Hippler made a motion, Vice Chairman Meaney seconded to adjourn at 8:45 pm. Passed 5-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from

TA Bolton notes & You Tube recording