



Town of Weare
Conservation Commission

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Commission Members:

Andy Fulton, Chairman
Steve Najjar, Vice Chairman
Sherry Burdick
Bill Bolton
Mike Camacho
Ray Lemay
Marc Phillips

CONSERVATION COMMISSION – December 8, 2021 Final MINUTES

MEMBERS PRESENT: Andy Fulton, Steve Najjar, Ray Lemay, Mike Camacho, Sherry Burdick, Marc Phillips
Absent: Bill Bolton

GUESTS: Town Administrator Naomi Bolton, Luke Drake

Chairman Fulton called the meeting to order at 7:13 pm., welcomed those present to the December 8, 2021 Weare Conservation Commission meeting. Confirming his quorum in attendance, Mike Camacho, Ray Lemay, Vice Chairman Steve Najjar, Sherry Burdick, Marc Phillips.

I. APPOINTMENTS:

Luke Drake - concerns regarding CC actions

Mr. Drake began by thanking the Commission for their volunteerism. As a volunteer for the Town, he too, understands the difficulty navigating and dealing with crossovers in a small town. His concern is with his property rights, contradictory manners in how cases were handled, impropriety in rules of proceedings and unidentified known conflicts of interest.

He is not here to discuss his withdrawal of a third parties access to his land. Even though the Commission disparagingly mentioned his name/rights to his property, they never consulted him, but instead stated he was the cause of a third of the loss of a third party's trail system.

Mr. Drake continued his discussion referencing the members of the Commission who are also members of the Weare Winter Wanderers, specifically, failing to recuse themselves from discussion and voting. Title LXIV Chapter 673 Local Land Use Boards. "No member shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law."

In mentioning CC minutes of 5/12/21, the direct reference of the WWW's inability to use part of Mr. Drake's property previously used for 15 years. Mr. Drake stated they used his land for 25 years. WWW's intention was to reroute their trail system using a roadbed connecting Town, MTL and SPNHF land. He stated there is no roadbed, just a path, two Ox wide as mentioned in his deed. The CC and the BOS referred to this path as logging access, this is not accurate. Instead, a ROW with a maximum 6 ft. vehicle width. It is the CC and the BOS's responsibility to adjudicate with due diligence when granting waivers.

Mr. Drake provided the Commission a copy of the SPNHF map. He explained the map depicts his two parcels connect. Chairman Fulton asked if there is no way a trail could cross through without being on Mr. Drake's property. Mr. Drake replied there is no way.

Continuing, Mr. Drake then provided pictures of the common point four-corner monument. There was misrepresentation of monuments. His land is posted. His position is the Commission authorized removing trees on his property and passage through his property. To expedite the conversation, Mr. Drake will provide the Commission in writing, point by point, details of his issues. Ultimately, he requests the Commission to invalidate a vote inappropriately taken because of Commission members having a conflict of interest. He asserts Commission members that are also members of the WWW should have recused themselves. Secondly, he requests the Commission to give more attention to matters before acting upon in a vote.

Chairman Fulton clarified Mr. Drake postulates the Commission gave permission to do something they did not have the right to do. Mr. Drake responded in the affirmative, specifically, the Commission authorized the removal of one 8inch soft wood, along with half a dozen 3inch soft woods by the WWW.

Vice Chairman Najjar explained, addressing Mr. Drake, his professional background is land management. Understanding surveying and monumentation, Vice Chairman Najjar repeatedly conveyed to the WWW Trail Master that the Commission could not give permission to do anything that is not on Town property. Mr. Drake mischaracterized the actions of the Commission. Vice Chairman Najjar's comments are documented in minutes/videos imparting the proper action the WWW should take. The Commission, as land managers, advised the WWW to seek permission from the BOS. Vice Chairman Najjar communicated at the time the WWW need to involve a surveyor. He also cautioned Mr. Drake on the conflict of interest statute, there was no malice on behalf of the Commission members who are in the WWW club. The WWW club is not for profit.

GIS layers and Tax maps are meaningless. Vice Chairman Najjar made it clear the WWW should follow the only registered deed, the Duck Pond Plat. Monumentation is very important to Vice Chairman Najjar. For the record, at no time did the Commission give permission to cut anything, step on or do anything on anybody's property. As land managers, the Commission was trying to do the right thing with an easement correctly, going through the Town Attorney.

Mr. Drake responded the Commission granted permission, unknowingly, to cut down trees on his property. He understands there was an accelerated need to expedite the trail before winter, but the only way the trees did not get cut down was because he intervened.

Vice Chairman Najjar reiterates the Commission's position was for the WWW to seek clearance and permission from the BOS. Mr. Drake contends the Commission gave permission to cut trees, in reference to the "witness tree," which in turn, based on the previous description at the time of the motion, placed the trees off Town property.

Chairman Fulton points out, for resolution, Mr. Drake's issues are with the WWW and not the Commission. Mr. Drake answered when a petitioner comes before the Town, prior to any action being granted concerning an easement or ROW, property metes and bounds should be looked at. He stated it appears everyone agreed the Tax maps, etc. are erroneous and yet they were used as reference.

Reading the October 13th CC minutes, Vice Chairman Najjar clarified the intent, voted on by the Commission, drawn up by the Town Attorney, was for a Use Agreement to be put in place until a survey could be performed for Town land. This was all that was authorized by the Commission. Mr. Drake rebuts the WWW Trail Master clearly describes the tree's location. Vice Chairman Najjar restated the minutes reflect the word "Town." Mr. Drake repeated the Commission needs to revoke the permissions given to date. He is not suggesting malicious intent, but the Town had a responsibility to identify the parcel in question. Chairman Fulton defended permission was extended by the Commission for only Town owned property. For the record, Chairman Fulton does not know where the property boundaries lie. Mr. Drake stated the Town Administrator resolved there was no boundary dispute. His issue is up front due diligence before granting permissions. The WWW, the Town and he himself is

fortunate the damage did not occur as he intervened before the trail was put through. The SPNHF provided the accurate survey and the Town had access to it.

Vice Chairman Najjar commented he has not seen the executed/signed agreement, therefore, he does not know what happened. Not aware permission was granted per the CC motion as it was headed to the Town Attorney.

Ray Lemay requested to speak. He kindly relayed his first contact with Ralph Fellbaum, the WWW Trail Master, to his current relationship with him as co-members of the WWW Club. On the verge of dissolving, the WWW was in need of volunteers and Ralph stepped forward as the Trail Administrator, a big job. Ray Lemay attested Ralph Fellbaum has a heart of gold and would never try and deceive anyone. In relation to tonight's discussion, Ralph has apologized to the Club at least 50 times. No malicious objective by Ralph, just anxious to clear the corridor and he was waiting for proper approvals. Ray Lemay, being an erosion control specialist, joined the Commission as he became aware of too many people ignoring environmental laws. His strength for the Commission is his proficiency in reading site and wetland plans to help Townspeople follow rules. As members of the WWW, no Commission member harmed the situation.

Mr. Drake stated he understands having grown up riding snowmobiles, his issue is misrepresentation when members where in the area. He was cooperative giving the Club two years notice to reroute their trail. However, he was told by the WWW that he did not know his own property boundaries. That is a separate situation between himself and the Club. He is before the Commission tonight for ethical concerns for members of the Commission, BOS and Town staff, as they need to separate Town business from their outside interest, called upon by law. Even well intended Officers, with pecuniary interest, specifically, should recuse themselves from discussions. The conflict is when members are speaking at the table, are they doing so as a Town Associate or as a member of an outside entity. They need to get up from the table and address the Board/Commission when they are speaking as a member of a third party organization.

Chairman Fulton thanked Mr. Drake for his sincere concern. Conflict of interest is an important point.

Mr. Drake directed the Commission to the NHMA guidelines for proper procedure on conflict of interest. He is not confident his property rights will be tended to, as they should be. He suggested an Ethics Committee is needed along with training. Chairman Fulton stated a conflict of interest is for the individual to decide, not the Commission.

Vice Chairman Najjar mentioned per the motion there was no agreement; nothing was signed per the minutes and multiple meetings so there is nothing to undo. For the record, nothing happened, never went to the Town Attorney, never signed by the Town. If something was done, it was without permission.

Mr. Drake then asked is your position I should have let it happen and come before the Commission after the fact. Vice Chairman Najjar redirects to the minutes, the vote was for a Use Agreement that never happened. Mr. Drake responded his concern with the Commission are actions prior to the agreement being signed, giving the Club one year to move forward and then coming back to reassess. The Commission made a decision based on information from the petitioner instead of clearly checking boundaries. Chairman Fulton replied the volunteers give their every possibility to do that based on their skill set.

The discussion continues on how things can improve moving forward.

Forestry Update with Town Forester Jeremy Turner - moved to January meeting

II. FORESTRY ITEMS:

Vice Chairman Najjar stated there are bills to be forwarded to the Finance Administrator.

- Review Poor Farm boundary dispute research, payment from Town Forest account, Town Administrator Bolton to call Laura
- Approve Eastman Plan - moved to January meeting
- Tobey Hill Harvest Complete - higher revenue than expected, check forth coming
- Forest Account Balance - \$64,412.85, motion to pay management, not looking to appropriate any money this year for acquisitions.

III. OTHER BUSINESS:

1. 2022 Proposed Warrant Articles, March vote, for submission to the BOS

A.) 2021 Article

Shall the Town raise and appropriate the sum of Thirty Thousand Dollars (\$30,000.00) to allow the Conservation Commission to secure contracted services with a Licensed Forester for forestry services including plan updates, harvest layout, harvest management, forest inventory, invasive species control and other related services; and to allow the Conservation Commission to contract or purchase materials or services for maintenance and upkeep of town forests, and fund this appropriation by authorizing the withdrawal of that sum from the Town Forest Account?

Vice Chairman Najjar moved, Marc Phillips seconded to forward the 2021 Article for licensed survey services for 2022 Town Warrant. Passed 6-0-0

B.) 2021 Article

Shall the Town designate town owned parcels, map 408, lot 129, containing 19.53 acres and map 401, lot 117 containing 31.94 acres as Conservation Land to be managed by the Weare Conservation Commission.

Vice Chairman Najjar moved, Ray Lemay seconded the Town designate town owned parcels, map 408, lot 129, containing 19.53 acres and map 401, lot 117 containing 31.94 acres as Conservation Land to be managed by the Weare Conservation Commission as written minus “and.” Passed 6-0-0

2.) Burning the Barden Property Structures

Town Administrator Bolton has been talking about burning the buildings. Vice Chairman Najjar talked to DPW Director Knapp & Fire Chief Vezina about burning and demolishing the buildings. There are full propane tanks and household waste. To seek professional to check for asbestos. Town Administrator Bolton to call for disconnection for electricity and phone lines.

Vice Chairman Najjar moved, Mike Camacho seconded to designate up to \$5000.00 to come from the Conservation Fund for asbestos testing. Passed 6-0-0

3.) Trail System

Vice Chairman Najjar emailed with Planning Board Chairman Francisco about trails, SPNHF is on tap for update to Master Plan. While on a trip to Switzerland, Vice Chairman Najjar noted they connected their trail system to Class V roads, Weare should attempt the same thing. Decisions need to be made based on feasibility and cost.

Ray Lemay added to cut a trail through the woods in Weare there would be no destination, as with surrounding town’s rail systems have a destination, may be better served by involving a mountain biking club, trail stewards.

Sherry Burdick commented she has walked or ridden horseback in Weare all her life, there are no trails.

Marc Phillips explained there is so much private land; it is tough to tie things together to get a continuous trail.

Vice Chairman Najjar shared you can walk for miles at Ferrin Ponds on Class VI roads.

Chairman Fulton expressed the Commission should not be responsible for a trail vision. The discussion continued.

IV. MINUTES:

October 13, 2021 Minutes: **Marc Phillips moved, Vice Chairman Najjar seconded to accept the minutes of October 13th as written, passed 5-0-1 Mike Camacho abstained.**

October 27, 2021 Minutes: **Vice Chairman Najjar moved, Ray Lemay seconded to accept the minutes of October 27th as written, passed 6-0-0.**

November 3, 2021 Minutes: **Vice Chairman Najjar moved, Ray Lemay seconded to accept the minutes of November 3rd as written, passed 5-0-1 Sherry Burdick abstained.**

V. PLANNING/ZONING BOARD: none

VI. NHDES MAIL RECEIVED:

- 1.) Pitbull Realty Group - Letter of Deficiency - File #2018-01865, 351 South Stark Highway
- 2.) Kyle Pompey - Request for Enforcement File - #2021-01908, Status update request
- 3.) Pine Island Realty, LLC. - Outstanding items request for Enforcement File - #2018-01865, 351 South Stark Highway
- 4.) Dylan Boisvert - copy of Wetland & Non-Site Specific Permit #2021-03251

Commission Comments: none

VII. CONTINUED BUSINESS:

- Society for Protection of NH Forests - letter reminding CC about monitoring reports and how to upload them electronically.

Vice Chairman Najjar moved, Sherry Burdick seconded to hire Jeremy Turner - Meadowsend on the hourly FSA to appropriate up to \$1000.00 to come from the Conservation Fund. Passed 6-0-0

Mike Camacho to email Jeremy asking to accompany him to see what is involved in the monitoring.

Chairman Fulton reflected on the year and thanked his Commission for their work, as he is grateful for their individual contributions they bring. He will present the Commission's Annual Report in January.

VIII. NEXT MEETING

January 12, 2021 @ 7 PM.

Being there was no further business to come before the Board, Mike Camacho made a motion, Marc Phillips seconded to adjourn at 9:49 PM. Passed 6-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from

TA Bolton notes & You Tube recording