



WEARE CONSERVATION COMMISSION
MEETING MINUTES
September 13, 2023

PRESENT: Steve Naijar- Vice Chairman, Mike Camacho- Commissioner, Sherry Burdick- Ex-Officio, Marc Phillips-Commissioner, Ray Lemay-Commissioner

TOWN ADMINISTRATOR: Naomi L. Bolton

GUESTS: Andy Fulton, Wendy Fulton, Bryan Comeau

Vice Chair Naijar opened the Conservation Commission meeting at 7:05 p.m.

Re-Appointment: Andy Fulton came before the Conservation Commission to inform the commission he is interested in being re-appointed to the commission. Fulton stated October 5th, 2020 he had filled out a form to be reappointed electronically and signed it along with signing the ethics form. Vice Chairman Hippler at the time motioned to accept and Meany seconded to accept the reappointment of Andy Fulton as a member for a term of three years. Fulton said he understands that the BOS has chosen to mark March as the end of appointments but he does feel blindsided with the October 5th date and has not fulfilled the three-year term. Fulton said he is saddened by how this was handled but is eager to continue to work with the Conservation Commission. Vice Chair Naijar asked who decides for him to be seated or not. TA Bolton said she is not here to make decisions tonight. Fulton said that during the BOS meeting, he did not hear the Selectmen say that he could not sit or continue as a member of the Conservation Commission until the issue of being re-appointed was corrected. Ex-Officio Burdick said she was under the impression that Mr. Fulton was going to be re-appointed during their work session Monday night and that he would be seated at the meeting tonight. Wendy Fulton said that Mr. Fulton has been on the commission for twenty-one years and he joined because things were going on in the Town and he wanted the Town they were raising their children in to be a beautiful place. Mrs. Fulton said she was taken back because Mr. Fulton was out of Town Monday night and she was watching the BOS meeting her understanding was that it was not a big deal and just something that needed to be done procedurally. Mrs. Fulton said she read the email to Mr. Fulton from TA Bolton and the email was different than what was stated in the BOS meeting. Mrs. Fulton said there was no vote taken asking Mr. Fulton to step down. Ex-Officio Burdick said Mrs. Fulton was correct there was no vote taken and there was not a discussion saying that he could not attend the meeting. Mrs. Fulton said as a resident it is very disconcerting that what she saw in the email was different than what was discussed during the meeting. Mrs. Fulton said she had an issue that Mr. Fulton was asked to sit out of the meeting when that was not discussed at the BOS meeting. Vice Chair Naijar said that Mr. Fulton does not want to force the issue as of right now there is not much the commission can do further. He said that he is equally concerned and appreciates the issue being brought up. Ex-Officio Burdick said it will get brought up Monday night at the work session.

Forestry Items: Bryan Comeau said that he is a licensed professional Forester out of Dunbarton and is representing Sherry Burdick. Mr. Comeau said she has a parcel of land that is landlocked between the high

47 school and the conservation parcel on Pine Hill Road. He has submitted a cover letter, map, photos, and an
48 example of a temporary access request. He said the purpose of the temporary request is for the removal of
49 forest products through Pine Hill Road through an existing gravel woods road that passes about two
50 thousand feet through conservation land and enters through an existing opening boundary stone wall on
51 Ms. Burdick's property. A timber harvest is scheduled for likely this winter if the access can be secured.
52 Mr. Comeau said the photos show that some saplings, existing gravel, and some drainage and culverts
53 should be installed. Mr. Comeau said what they are proposing is that Ms. Burdick is fully responsible for
54 the upgrades and improvements to the road to gain access and then responsible for the closeout and
55 restoration of the road to good or better condition when the project is completed. Mr. Comeau said there is
56 no gate currently on the road so entering it would expose the road more and probably add unwanted traffic.
57 Mr. Comeau said they would offer to install a gate or block it off with rocks. Commissioner Lemay asked
58 if they would be skidding out the road. Mr. Comeau said they would be trucking only. All the log yard
59 processing and logging would be kept on Ms. Burdick's parcel and only trucks would be passing through
60 the conservation land. Commissioner Phillips asked if the plan was to do this in the wintertime when the
61 ground was frozen. Ex-Officio Burdick said fall through winter, beginning in October because of the pine
62 tree seed. Mr. Comeau said it would be about a three-month operation. It would begin in fall and spill into
63 winter. Commissioner Lemay asked Ex-Officio Burdick if it was the same road they would use if they were
64 to harvest in there later. Ex-Officio Burdick said yes it would have to be if they had to go back in. Mr.
65 Comeau said he would like to propose that the temporary access agreement continue until March 1st or 15th
66 with the option to extend if they get to the end of the project and it is not completed. Commissioner Lemay
67 asked if the road looked like it was in good enough condition to support the weight of the trucks without
68 sinking out of site. Mr. Comeau said yes it does because it is a gravel base. Mr. Comeau said some of the
69 crossing is undersized piping like PVC and it should be pulled out and replaced with actual culverts and
70 some stone material should be added. Mr. Comeau said that the improvement cost and aggregate material
71 would be the responsibility of Ms. Burdick. Mr. Comeau said that the commission could come out for a
72 site inspection and they could come up with a closeout plan of the work. Vice Chair Naijar said the proposal
73 is to come off and go onto Pine Hill Road versus going done the commissions log landing that is on 77, is
74 there any reason not to use the commissions log landing? Mr. Comeau said that he had not seen the distance
75 from that landing to the lot and he had not measured it. His thought is the path of least resistance. In the
76 past they skid to that landing, to skid Ms. Burdick's timber to that landing would be inefficient. Vice Chair
77 Naijar said the gate is wide at the landing on 77 for a log truck and the road does not need much improving.
78 Vice Chair Naijar asked if they were bringing tractor-trailers or tri-axels. Mr. Comeau said tractor trailers.
79 He said that he could explore the landing on 77. Vice Chair Naijar asked if Mr. Comeau would be doing a
80 forestry notification for the pipe install or will it stay. Mr. Comeau said yes it can stay because it is a long-
81 term woods road. Vice Chair Naijar said in the past they have had a mutually beneficial access with
82 Meadowsend and one that benefited Meadowsend and he believes that Meadowsend paid them a dollar
83 amount for the one that benefited them. Mr. Comeau said he has done it both ways, in this situation the
84 road's going to get improved with permanent crossings installed. There is an investment cost by Ms.
85 Burdick already that will benefit the Town but if there is an access fee on top, they would be willing to
86 negotiate. Mr. Comeau said a road bond or a performance bond could also be used in place. Mr. Fulton
87 said it is good that the landowner is maintaining the and we support that as a commission, but when you
88 balance out requesting a fee or some sort of payment, he believes it would be better for the commission to
89 recognize the value in the road that would be after upgrades. If the Town is left with a road that is ready
90 for Fire Equipment to traverse it having a road ready to access the forest is an asset to the Town.

91
92 **Commissioner Lemay motioned to allow Dalton Mountain to share and utilize the existing gate on**
93 **the woods road from the gate at Route 77 to access the landlocked property with necessary**
94 **improvements to operate tractor-trailer logging trucks and the improvements will remain. With the**
95 **authorization of the Chair or Vice Chair of the Conservation Commission to sign the agreement**
96 **unless the agreement is to be signed by the Board of Selectmen. Seconded by Commissioner Phillips.**
97 **Motion passes 4-0-1. Ex-Officio Burdick abstained.**

98 Ex-Officio Burdick said that she has spoken with the person who will be cutting the logs and has asked
99 him to extend a trail down through the piece to make a loop for anyone who would like to hike it. Ex-
100 Officio Burdick said she has spoken with one of the science teachers at the High School briefly and possibly
101 next spring or next fall letting the Freshman Class plant around 300 species of trees in there and they can
102 use it as a science project and be able to go back each year to measure the growth and diameter.

103
104 Vice Chair Naijar asked the Commission if they had any comments or questions on the Forestry plans. No
105 comments or questions from the Commission.

106
107 **Commissioner Camacho motioned to approve the Bartlett, Barden, and Chevy Hill Forestry Plans.**
108 **Seconded by Ex-Officio Burdick. Motion passes 5-0-0.**
109

110 Vice Chair Naijar said there are some misconceptions, there is a forestry services agreement that has been
111 signed by the Town with Meadowsend Timberlands. Vice Chair Naijar said he has heard that there is no
112 contract and that is probably not correct. Vice Chair Naijar said the way for the general public and the
113 commission members is that a Timber Harvest is the oversight, marking, and development is paid by the
114 stumpage revenue and they do not pay for the project. The Forester gets paid when the Harvest happens,
115 there is an expenditure out there with a signed agreement. There is a contract and Meadowsend Timberlands
116 has a copy. Vice Chair Naijar said there is nothing they should discuss on the Harvest right now without
117 having Town Counsel present to walk the commission through what is going on. He asked his fellow
118 commissioners their thoughts. Vice Chair Naijar said he would like the commission to make a request to
119 the BOS for assistance from the Town Counsel for the duration of the harvest. Commissioner Phillips asked
120 if they have heard back on whether it is the BOS or the Conservation Commission on the authority of the
121 timber sale. Mr. Andy Fulton said that RSA 36a and RSA 31:112 explained that the RSA's explain that the
122 Commission manages the forest. Mr. Fulton said that he did speak with Town Counsel briefly and he sent
123 her the Right to Know request. Town Counsel said it was a legitimate request and provided the documents.
124 Mr. Fulton said he was told by Town Counsel that she could not answer more questions until she has
125 authorization from the BOS and TA Bolton. Mr. Fulton said that he attempted, not successfully reach the
126 Town Administrator before speaking directly with the Town Counsel. Ex-Officio Burdick suggested going
127 through the NH Municipal Association to get answers. Vice Chair Naijar said with the contractor having
128 an attorney asking for things and no strong guidance, he would like to suggest to the BOS that they would
129 like the Town Council to assist directly with the Conservation Commission on managing this interaction
130 with the firm's attorney.

131
132 **Commissioner Lemay motioned to request the Board of Selectmen to authorize Town Counsel to**
133 **assist the Conservation Commission with the Felch Farm Harvest matter. Seconded by**
134 **Commissioner Phillips. Motion passes 5-0-0.**
135

136 Vice Chair Naijar said that there is a broad agreement between Meadowsend Timberlands and the BOS.
137 Vice Chair Naijar said that on February 3rd, 2020 the BOS exempted the Town Forester from the purchasing
138 policy. He said he heard recently that the BOS had requested Mr. Fulton to put an RFP for the Forester.
139 Vice Chair Naijar said that on April 4th, 2022 the BOS minutes authorize TA Bolton to sign the contracts
140 for lawn care, IT, and Town Forester. Vice Chair Naijar asked Ex-Officio Burdick to bring that back to the
141 BOS's attention. Vice Chair Naijar would like to take no action to do an RFP for the Town Forester because
142 it was already authorized to sign in 2022. Commissioner Phillips said there was no signed contract because
143 the numbers had changed and then proposed a need contract that still did not get signed. Vice Chair Naijar
144 said there is an agreement for the forestry services that authorizes work and a dollar amount. Those are
145 essentially contracts, he said there is no overarching current agreement the other one was fifteen years old
146 and the BOS had them redo that, and was waived in February 2020. Vice Chair Naijar would like the
147 current version to be reviewed by the BOS and signed. Commissioner Phillips said it is his understanding
148 is an FSA is an agreement for work that is done and yet it is a payment request. Vice Chair Naijar said the
149 FSA agrees to the work. Commissioner Phillips said it looks like they do not have a signed contract but

they have an FSA with Meadowsend to do the work. He said it needs to be clear on what they are asking the Selectmen to approve. Vice Chair Naijar said that he is suggesting that they ask the Selectmen to approve the overarching agreement and base it on what they had waived in the purchasing policy.

Commissioner Camacho motioned to have the Board of Selectmen review the February 3rd, 2020 meeting minutes which show the Board of Selectmen waiving the purchasing policy for forestry work, and review the April 4th, 2022 meeting minutes which show the Board of Selectmen authorizing the signature on the Town Forester contract and suggest they sign the contract with Meadowsend. Seconded by Commissioner Phillips. Motion passes 5-0-0.

Vice Chair Naijar said there was an invoice from Meadowsend for approval. Some of the Commissioners had not seen the invoice. Commissioner Lemay asked if it was the invoices referencing the hourly. Vice Chair Naijar said it is and he is referencing hourly but he does not know if he means it went above and beyond for work. Vice Chair Naijar said the invoice that was sent out was for \$125 for an hour and a half job inspection at Eastman field mowing project, travel, field review, and correspondence. Mr. Fulton said that he hopes that they do not need to tell the Town Forester to stop doing work and not incur further costs. That would be ruinous to the continuity of forest operations that Weare has established. Mr. Fulton said while they are in this gray zone, they are going to continue their work and pay the bills. Mr. Fulton said that he would encourage the commission tonight to do as they have been and continue to manage the forest and look at the invoices and the FSAs.

Other Business: Vice Chair Naijar would like to see the Town give the commissioners their emails. TA Bolton said there is a Town email for the Commission. Vice Chair Naijar said if it is an issue getting a town email individually then send him items through the USPS because he does not want things going to his email address. Chair Naijar asked if there is an electronic file for the commission. TA Bolton said no it would be nice to have but they would need someone to come in and scan all the files digitally. TA Bolton said there should be a file for all the bids. Vice Chair Naijar said he believes Mr. Turner has that. TA Bolton said that the Town should also have that information. Vice Chair Naijar said they will have to try to get the information from Meadowsend Timberlands. Vice Chair Naijar said they are going to get emails when they are working on projects because they are not set up for some of the newer Microsoft projects. Vice Chair Naijar said they could ask for an annual amount in their budget and then the Town owns the email and can go back in the emails themselves. Commissioner Camacho asked if more than one person could access the same email. TA Bolton said she was not sure. Commissioner Camacho said there is a line item for technologies and they can update the cost in the following year's budget.

Commissioner Camacho motioned to assign the Conservation Commission members Town emails and to be paid out of the Conservation Commission's operating budget and any gap this year would be covered by the Conservation fund. Seconded by Phillips. Motion passes 5-0-0.

Vice Chair Naijar asked about the asbestos RFP. Commissioner Lemay said he is supposed to be working on that and has not gotten to it yet. He wants to draft something to bring to the commission.

Minutes: The Commission agreed to table the minutes until next month's meeting.

Outstanding items:

- County Property update- Check with Town Counsel
- Cortland Subdivision- Still outstanding
- Brookshire- encroachment issue
- Collins Ledge Monitoring- Ask MTL to do the monitoring.

Mr. Fulton suggested getting 91: A training from Town Counsel. Vice Chair Naijar said that is a good idea. Commissioner Phillips said they should take the training.

202 Commissioner Phillips motioned to make a request to the Board of Selectmen for 91: A training from Town
203 Counsel. Seconded by Commissioner Lemay. Motion passes 5-0-0.
204
205 **The next meeting is scheduled for October 11, 2023.**
206
207 **A motion to adjourn was made by Commissioner Phillips at 9:02 p.m. Seconded by Ex-Officio**
208 **Burdick. The vote passed 5-0-0.**
209
210 **ADJOURNMENT**
211 A True Record.
212 *Kearsten O'Brien*
213 Kearsten O'Brien, Minute Taker