



WEARE CONSERVATION COMMISSION
MEETING MINUTES
October 18, 2023

PRESENT: Andy Fulton- Chair, Steve Naijar- Vice Chairman, Mike Camacho- Commissioner, Sherry Burdick- Ex-Officio, Marc Phillips-Commissioner

Absent: Ray Lemay-Commissioner

TOWN ADMINISTRATOR: Naomi L. Bolton

GUESTS: Ray Banks, Ian McSweeney, Philip Cody, Suzanna Taytslin, Denise Purington

Chair Fulton opened the Conservation Commission meeting at 7:36 p.m.

Minutes:

March 8th, 2023: Marc Phillips motioned to approve the March 8th, 2023 minutes as amended. Seconded by Sherry Burdick. Motion passed 5-0-0.

April 17th, 2023: Marc Phillips motioned to approve the April 17th, 2023 minutes as amended. Second by Vice Chair Steven Naijar. Motion passed 4-0-1. Abstention by Sherry Burdick.

July 12th, 2023: Sherry Burdick motioned to approve the July 12th, 2023 minutes as amended. Seconded by Marc Phillips. Motion passed 4-0-1. Abstention from Mike Camacho.

August 9th, 2023: Sherry Burdick motioned to approve the August 9th, 2023 minutes as amended. Seconded by Marc Phillips. Motion passed 3-0-2. Abstentions from Mike Camacho and Steven Naijar.

September 13, 2023: Vice Chair Naijar motioned to approve the September 13th, 2023 minutes as amended. Seconded by Mike Camacho. Motion passed 5-0-0.

Other Business: Chair Fulton asked Suzanna and Philip if they had thoughts on who would like to be a full member and who would like to be an alternate member. Suzanna said she would be the full member and Philip would be an alternate member.

Planning Board: The Conservation Commission reviewed the site plan for Cold Springs Body Shop- Phase 3 at 48 Colby Road #412-170.2. Phillips asked how big the existing building was. Chair Fulton said they look to be about the same size, maybe a little bit longer. The plan shows a 100-foot residential no-cut buffer. Phillips said that there was good drainage from when the original building was put in. The commission agreed that there are no Conservation concerns. Chair Fulton signed with no comments.

Parks and Recreation: Denise Purington from the Parks and Recreations committee came to the Conservation Commission about East Road Property. WAC and Generals Football came to the BOS and asked for field expansion. The Selectmen asked the PARC to investigate it more. A year ago, there was a warrant article to rebuild the tennis courts and asked if East Road could be an option. The Selectmen, PARC, and DPW Director did a walkthrough of Ineson Field and East Road. Ineson Field was ruled out quickly because it is wet and downhill. Bolton Field is challenging because of the distance from the road, and they have dealt with a lot of vandalism recently. Ms. Purington started researching the East Road property. She has spoken with Terry Knowles because of her experience with conservation land and easements. Ms. Purington has also reached out to NH Forestry, and they are not holding the property under conservation. They have pulled meeting minutes regarding the piece of property. In the warrant article, they set aside 8 acres for gravel, 12 acres for recreation, and 117 acres for conservation. The Selectmen have taken their information and presented it to legal counsel to find out what the options are for the property. Ms. Purington said the reason she is here tonight is to keep the Conservation Commission up to date on what the PARC was asked to do and fill in the blanks about the property. Chair Fulton said it is a shame that the Conservation Commission was not asked to be a part of the discussion sooner and participate in the site walk to better weigh in as a commission. Vice Chair Naijar said Article 29 back in 2013 stated that 20 acres were to be set aside for recreational facilities and a gravel pit. Vice Chair Naijar said his understanding is that was all the same 20 acres like what happened at Bolton Field, where the pit was excavated and then that was turned into an athletic field. Vice Chair Naijar said the warrant article said the commission was contributing \$50,000 from the Conservation Fund but the commission ended up having to contribute \$180,000. Ms. Purington said she would agree but during the public hearing before the vote, there were comments made by Townspeople and spoke regarding the eight acres as an existing gravel pit and an additional twelve acres being set aside to create a 20-acre athletic facility. That is why it is going back to Town Counsel to get an opinion on the matter. Chair Fulton and Vice Chair Naijar were on the commission at the time of purchase. Chair Fulton invited Ian McSweeney to speak to the previous owner of the property.

Mr. McSweeney said he has been involved in land conservation in different capacities for the past twenty years. Mr. McSweeney said the project started in 2009 and in 2011 the Russell Foundation entered into an option agreement speaking to the intent then was assigned to the Town and was the binding contract. The Conservation Commission was the first committed funder at \$50,000 and then the intent was to go to the Town and a private trust to get money. There were several applications for grants such as LCHIP, some had panned out and some did not. The Russell Foundation was also a funder. Mr. McSweeney said as they were raising money, they went to the ZBA for a Lot Line Adjustment to reduce the lot that holds the apartment complex on it to less than a standard lot in the October 2011 meeting. In January 2013 Mr. McSweeney went to the BOS meeting and answered questions about the intent and it became Article 29. The article passed 774 to 547. It was supported by DPW, BOS, and the Finance Department. Mr. Anderson came to the BOS meeting on March 25th, 2013 to speak about the continued use of agricultural land and it was a positive discussion. Mr. McSweeney said his interpretation was like that of Bolton Field. The reclamation part of the gravel pit then becomes a recreational field. The Farmland would remain farmland of some sort and have the option to rent out the farmland to be farmed. Mr. Banks said that they could not come up with funds and he gave \$60,000 with the intent of it being farmland. Vice Chair Naijar said that is his recollection as well and his question is what happened to the \$130,000 shortfall because it did not match the warrant article and needed to be \$180,000. Chair Fulton said they also added another \$5,000 towards it. Mr. McSweeney said the LCHIP was not received and that was pending final approvals for the Town and became the shortfall. Vice Chair Naijar said they did not have the resources at the time for the easement. Mr. McSweeney said the Brown property was in the early stages of Conservation and there was no clear path to what role the Forest Society would be taking part in. Mr. McSweeney said when they were trying to get support for a Town vote, they had created a Facebook page that still exists and has several links to the union leader articles that were written about the project and also speak to the intent of the project. Ms. Burdick asked what it was titled on Facebook. Mr. McSweeney said Article 29. Ms. Burdick said that the Selectmen were supposed to put the property in a Conservation Easement and that TA Bolton

98 had started to look into it with the Forest Society. Chair Fulton said that it could be fixed if the groups had
99 the will to do so. Chair Fulton said that he received information from Finance Director Rouse that the
100 Conservation Commission put \$180,000 from the Conservation Fund, \$155,000 from Mildred Hall, and
101 \$200,000 from the Warrant Article out of taxes and operating budget covering legal fees to about \$1,600.
102 Chair Fulton said there are three very large players and the minutes to show the December 2nd, 2013, says
103 that amongst other things Mr. Naijar mentioned the conditions that were attached to the commission
104 funding and that the agricultural fields were to remain as agricultural fields. Chair Fulton the intent was
105 clear at the time the development to do something with property can develop over time. It becomes a
106 question of the Town's obligation as the Town and where the authority lies. Chair Fulton asked if the
107 request has gone to counsel and if so, if has there been a response. Ms. Purington said the word intent has
108 been used a lot tonight and would like to note that there was intent at the public meeting and comment
109 about a parcel of 12 and 8 acres and that was the intent from the taxpayer. The one thing we are forgetting
110 here is that in the warrant article, 117 acres shall go into conservation easement due to the vote of the
111 warrant article. Ms. Purington said she takes issue with the fields being put back to where the gravel pit is
112 because there were two DPW people there who were adamant because they have hauled material out of
113 there that it would be cost-prohibitive to ever see anything in the next ten years in that gravel area. Ms.
114 Purington said for the record it is important to lay out everyone's desire, intent, legal documents, and votes.
115 She stated she hoped it would go before the public to let them decide. Ms. Purington said that she has had
116 several people who have approached her and other PARC members that a lot of land is in conservation and
117 needs the ability to use land and use it for recreational fields. Mr. Bank said he would buy it back if it were
118 turned into a ballfield. TA Bolton said 2015 was the last time they had contact with Brian with the Forest
119 Society. TA Bolton said according to Town Counsel Terry Knowles did get involved and did a lot of
120 research and it appears that the conservation easement never did happen. TA Bolton said ten years later
121 they should make it right. They need to get a plan done to identify an easement area and they need to get it
122 on paper. It does take money and it may need to go back to the taxpayers to get the funds. In 2020 TA
123 Bolton said she tried bringing it back and explained she had not heard back from Brian because he felt it
124 was a dead issue. TA Bolton said in 2020 she had asked the Selectmen what they were going to do. TA
125 Bolton read the Town Counsel's response. It stated that they were unable to find an easement and she does
126 not always trust her search. It would be nice if they had a list like Piscataqua Land Conservancy. Someone
127 should reach out to them to see if they hold an easement. The article reads that 20 acres are to be set aside
128 for recreational facilities and a gravel pit so yes it can be used for that. If you are asking if the facilities can
129 be other than ball fields, she believes the answer would be yes. TA Bolton said she had asked about tennis
130 courts. Town Counsel agreed with Terry Knowles. TA Bolton said she thinks it needs to be finished. Vice
131 Chair Naijar said he would have to look at the Town Report to see how this was carried out. The actual
132 deed is to the Town working through the Conservation Commission and a significant chunk of the funding
133 came from the Conservation Commission. Vice Chair Naijar said it is not the function of the Conservation
134 Commission to get an engineer to figure out where a recreational facility would fit in the gravel pit. Ms.
135 Purington said WAC came to the BOS and PARC because they were out of fields and had been renting
136 fields. She stated that if the recreational fields must come from the gravel pit it needs to be addressed how
137 many years it will take and how much money will it potentially cost. Ms. Purington said a security
138 standpoint needs to be sought out because of the distance of the potential fields because there will be
139 vandalism like at Bolton Field. Vice Chair Naijar said cameras could go down there. Ms. Purington said
140 they cannot put cameras because there is not a central camera system for the Town. Vice Chair Naijar asked
141 what was behind Center Woods. Sherry Burdick said it is privately owned and it used to be a baseball field.
142 Ms. Purington said the request on the table is three multi-purpose fields soccer, lacrosse, field hockey, and
143 two baseball fields, and relocate the tennis court. Chair Fulton said this was a lesson to the Conservation
144 Commission to push harder on things and try to secure easements more widely. Chair Fulton said the
145 property is still Conservation land and it is the obligation to honor the agreement that was made and bring
146 it into its status as conservation land.

147
148 Chair Fulton said that he has heard clearly that there is not a consensus that the agricultural land should be
149 made available for ballfield development. Mr. Camacho said that the purpose of the land remained farmland

and the commission must make sure that remains. Ms. Burdick said it was stated to the Mildred Hall committee that eight acres would go to the gravel pit and twelve acres of woodland was going to be made into ballfields. Chair Fulton said the quality of the property rings true to how Ms. Purington described it and it would be a struggle to put ballfields where it was excavated. Chair Fulton said the commission does not see the Agricultural Fields as ball fields. Vice Chair Naijar said that based on the testimony of Mr. McSweeney and Mr. Banks the Commission will continue to support their intent.

Vice Chair Naijar moved that based on the testimony of Mr. McSweeney project leader for the Russell Foundation & Mr. Banks who was kind to give the Conservation Commission a below full cost sale on the parcel and the supporting minutes the intent was to protect the agricultural fields and that the recreational field development and the eight-acre gravel pit were all the same area per the understanding of the Conservation Commission. The Conservation Commission does not think it is appropriate to sacrifice the agricultural fields because the project intended to protect them. The Town should continue with the Conservation Easement and get the twenty acres surveyed. Seconded by Mr. Camacho. Motion passed 5-0-0.

Felch Farm: On hold

Barden Property: Will discuss next month with Mr. Lemay.

Eastman CATF Field Brush mowing completion: Chair Fulton said the brush mowing on the field is complete. It went well and a request from Mathias that the Commission keep it on their radar and potentially walk the property with the people who do the mowing and come up with a schedule for maintaining it.

Eastman CATF Field next to North Weare Cemetery needs annual mowing: Chair Fulton asked if Vice Chair Naijar could see if Mr. Wilson would knock down the weeds and the sumac. Vice Chair Naijar said yes, they would have to appropriate some money.

Vice Chair Naijar motioned for up to \$500 for field maintenance at the East Conservation Area to come from the operating budget. Seconded by Ms. Burdick. Motion passed 5-0-0.

Eastman CATF Field land use agreement recommendation (letter): Chair Fulton said the agreement was signed and it would behoove them to have someone from Meadowsend be the contact for the work. Vice Chair Naijar said that he does not feel it is necessary because that forester was going to deal with the work and it turns into an expenditure having Meadowsend oversee the work. TA Bolton asked if the permit by notification had been signed. Chair Fulton said he signed it. TA Bolton asked where the bond was. Chair Fulton said that it is on Brian to secure the bond. TA Bolton said the Town is supposed to hold the bond. Chair Fulton said that was his understanding. Vice Chair Naijar asked that Ms. Burdick ask them about York breaking it when it is done. Chair Fulton would like Ms. Burdick to keep him up to date on the plans and the schedule of work.

Forester Contract: Chair Fulton said he has not had anything back regarding the position. Vice Chair Naijar will ask Mr. Turner what he thinks is the final version of the contract and once he sends it back, he can give it to TA Bolton to present to the BOS and see if they are willing to sign it. Chair Fulton said the BOS needs to weigh in on the contract so they can get the contract to completion. He said he does not want to lose the forester. Vice Chair Naijar said he would ask Mr. Turner for the final version of the contract and try to bring it to the next BOS meeting.

Invoice: Chair Fulton said the commission received a \$1443.75 invoice from Meadowsend it is on the hourly FSA and is dated September 30th necessary time to attend to management matters involving Town Forest needs per the hourly conservation meeting update attendance, travel, Select Board Meeting, redraft

of Felch Farm Timber sale bid, emails, BOS minute archive review, 91a research, dropbox review. Chair Fulton asked for a motion for the expenditure.

Vice Chair Naijar motioned to pay for the bill out of the Town Forest account detailed in the billing request from Meadowsend Timberlands in the amount of \$1,443.75. Seconded by Ms. Burdick. Motion passed 5-0-0.

Other Business: Vice Chair Naijar reminded the Conservation Commission to review open forestry agreements so they can encumber money. Ms. Burdick asked if Finance Director Rouse could send information for next month's meeting regarding open agreements. Vice Chair Naijar said she would not know. Vice Chair Naijar reviewed the 2023 FSAs to see what may have to be extended. It looks like nothing would need to be encumbered. Vice Chair Naijar will invite Jeremy and Mathis to the Dec meeting for a forestry update.

Chair Fulton signed the applications for new commission members. TA Bolton will reach out to the volunteers for the next step.

Chair Fulton said that Eversource will be cutting trees at Collin's Landing. The Town is not the owner of the property.

Chair Fulton asked if the Selectmen acted on the 91: A training request from the commission. TA Bolton said the BOS wants to invite it to all Boards and Committees and the only two dates are November 2nd or 28th. The Commission said the 28th would be a good date at 6:30 pm.

TA Bolton said that Meadowsend's attorney told the Town's attorney that they already had the information from them and that is not the case. Chair Fulton said that he had not been presented with anything. Vice Chair Naijar said the only thing they have now is the FSA agreement for 2023. They will check the records retention requirements regarding it.

Chair Fulton said the NH Association of Conservation Commissions annual meeting is November 4th and the registration deadline is October 20th. If anyone wants to attend the meeting the commission will sponsor the attendance.

Chair Fulton said the budget needs to be sent to the Finance Director by October 20th. Chair Fulton said the approved 2023 budget is \$853 and would be the default budget if they do not propose anything going forward. Chair Fulton said to date they have authorized expenses of \$ 40 against the operating budget. \$500 will be going to field mowing. Chair Fulton asked if they anticipate needing more than \$150 to support the commission emails. TA Bolton said it would be around \$504 for all the commission members. Mr. Camacho suggested putting \$1 for communications and adding \$504 to an email line. Chair Naijar asked about cloud storage. TA Bolton said information can be saved on the Town Server. Discussion ensued about cloud storage. Chair Fulton said that the commission has not paid their dues for 2023 for NHACC of \$450 and the 2024 dues will be \$475. Chair Fulton suggested adjusting the dues to \$475. The 2024 proposed budget for Conservation is \$1233.00.

Chair Fulton said they got a reminder about the LCHIP monitoring. He would like the new volunteers to help out with the LCHIP monitoring.

Chair Fulton said there was an NHDES permit by notification or tax map 401 lot 39 owner Gerald Brown of Upper Co Maryland.

Chair Fulton said that TA Bolton forwarded an email that trees were flagged for removal for utility poles to be installed. Mr. Camacho said they could send a letter to not cut the trees down. Vice Chair Naijar said

253 the deed has a right of way and the question is if there a right of the commission because there is not a
254 separate utility easement and what their rights are. He also suggested asking the owners to hold off on
255 cutting trees because they would be checking into it.
256
257 TA Bolton said Glenn Dubois would like to trap at the Wood Family Town Forest. Chair Fulton signed the
258 permit to trap and will send it to the BOS.
259
260 **A motion to adjourn was made by Vice Chair Naijar at 10:50 p.m. Seconded by Ms. Burdick. The**
261 **vote passed 5-0-0.**
262
263 **ADJOURNMENT**
264 A True Record.
265 *Kearsten O'Brien*
266 Kearsten O'Brien, Minute Taker