



# *Town of Weare*

## *Conservation Commission*

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### Conservation Commission

Andrew Fulton, Chairman  
Stephen Najjar, Vice Chair  
Wendy Stevens, Secretary  
George Malette, Member  
Jeff Jackson, Member  
Chris Tuck, Member  
Lisa Purington-Grolljahn, Member

## **CONSERVATION COMMISSION – AUGUST 13, 2014 DRAFT MEETING MINUTES**

**Present:** Andy Fulton, Steve Najjar, Wendy Stevens, George Malette, Jeff Jackson, and Lisa Purington-Grolljahn.

**Guests:** Dave Ward, Jerid Day, Beekeeper, Matt DesSurrealt, Beekeeper, Betsey McNaughten, NH Fish & Game, Delane Brown, NH Fish & Game.

Meeting called to order at 7:00 pm by Chairman Andy Fulton.

### **I. FERRIN POND DISCUSSION WITH DELANE AND BETSEY**

Mr. Najjar opened the discussion on Ferrin Pond access trail and the Warrant Article which was intended to provide better access for pond stocking and erosion control as well as potentially use it for forest management. Mr. Najjar clarified that there is absolutely no plan to open the road up to public access. Ms. McNaughten stated the road is a Road to Public Waters road, a statute which allows citizens of NH to petition the governor's office for the laying out of a public highway to the state's public waters. At Ferrin Pond, there was a petition to the state from the citizens, and the governor's office commissioned three commissioners who held a hearing in the Town of Weare and it was approved to layout the pond for foot traffic only. She understands there was a lot of problems between 1965 and 1985. The road was purchased with state highway funds. The way it works is that the state purchases the land and it is handed over to the town for maintenance. They are meant to provide access to the citizens for public water, and that is it. She stated she has never seen a foot path designation, but Ferrin Pond does have this restriction, and it is a Class VI road. This was in 1965 and it was reaffirmed in 1985. However, in 1985, the Class A/B trails law was in effect so placing it as a Class VI road and preserving the footpath restriction was their way of dealing with the changes in laws over the years. Mr. Brown stated the pond is to receive 380 brown trout, and he needs to bring them in trash barrels. He stated the only other reason vehicles would go up there would be for emergencies such as drowning, or fire issues.

Ms. Stevens asked about the cost share mentioned in the Warrant Article and asked if Fish & Game had any funds to contribute to the effort. Ms. McNaughten stated a Boat Access Program was put into place in 1994, and the reaffirmation in 1985 was through DOT, and Fish & Game has no interest here except for access to the pond. So any issues would have to go through DOT. Mr. Najjar stated we may have to rewrite the Warrant Article. The Warrant Article was reviewed. Ms. McNaughten reaffirmed that it was purchased with state highway money, and DOT does actually own the parcel. She added there is no money in car road access. She also mentioned Jack may be able to go in and cut the trees when they head out to stock the pond. Mr. Najjar mentioned illegal campfires all around the pond. Ms. McNaughten mentioned seeing toilet paper, and she thought it would be a perfect opportunity for the Boy Scouts to go out there and clean it up. Mr. Najjar added they have punched in a road. Ms. Grolljahn asked if they have similar problems like this in other towns, regarding ATV issues near the pond? Ms. McNaughten stated in Merrimack they did one right next to a subdivision and those residents were concerned about traffic, and Fish & Game is working cooperatively with the town in that effort. Mr. Brown stated annually towns have monies set aside to do OHRV enforcement, and Weare has not set aside any funds. Ms. Grolljahn stated it makes sense for Fish & Game to have access if there is a problem. Mr. Brown stated most of the problems come in from Deering or Eben Paige, and

once they get in, they go anywhere they want. He could probably go in any given weekend day and address one or two violations. He added on the East side of the town, is one of the biggest riding areas in the state. He stated it is a problem, they do a lot of damage. Ms. McNaughten suggested trail cams. Mr. Brown suggested bringing it to the Police Chief's attention, and ask them to once a shift, drive through Mountain Road. Ms. McNaughten encouraged the police dept. to apply for a grant, and the administrative office in Concord decides which towns get the money, and the police department that receives the grant has to report activity. Ms. McNaughten mentioned Exeter and Merrimack are doing trailcams, and she recommends them as trail destruction does happen throughout the state. She also recommended getting a Weare Winter Wanderers member or other trail clubs to join the Conservation Commission. Mr. Brown mentioned PSNH coming through the Ferrin Pond area and putting in their new wires, and that invited a great amount of illegal traffic. He added in Franconia there are gate issues. Ms. McNaughten mentioned a law suit against PSNH for them to fix the roads. Mr. Najjar stated Gordon Russell was intending to close the roads. He explained why the bridge went in due to the DES complaint. Mr. Brown concurred it has become a campground and an illegal dumping ground.

Mr. Fulton stated he has seen ATV drivers driving illegally on the Class VI road and he believes there is a place for that. He added that the abuses, intentional tearing of wetlands, destruction of property, are prevalent. He added that we have a new Police Chief. Mr. Brown stated he is very clear in a black and white way, that there are no unauthorized vehicles allowed. He added that the road system exists, with the OHRV laws and how they are written, a rider can come to the Selectmen for permission to have access to the area, otherwise it is illegal.

Mr. Brown added that they are strapped for OHRV coverage state wide, there are less than 40 officers. If there are complaints please let Captain Jon Wimsatt regarding ATV and snow machine issues.

Ms. Stevens asked about costs for enforcement. Mr. Brown stated enforcement grants are \$2k or \$3k. He added if there is a problem area indicated in the grant proposal, more money can be given. Mr. Fulton asked about direct costs. Mr. Najjar asked if there is any matching support regarding the current article. Ms. McNaughten said he would ask Jack about doing some tree work, but they wouldn't want to do that unless there was a gate. Mr. Najjar stated regarding the Warrant Article, there is too much water on the slope and he would like to work with Jeremy Turner to plan on slopes/seeding/gravel issues.

Mr. Fulton asked what was her understanding of what happened in 1985? Ms. McNaughten submitted the original Report of the Commission, and she understands it to mean for foot traffic only. Mr. Fulton stated his understanding was that there had been a lot of violations with vehicles and activity up by the pond. He stated what is going on is not in keeping with the legal status of the road. He finalized that in 1985, the town returned the road to its' intended purpose. He summarized that what was proposed in the Warrant Article is in keeping with that intent from 1985.

Ms. Grolljahn asked if we put a bid out for repairs such as this. Mr. Najjar stated that our Town Forester Jeremy Turner manages that, and that would be his recommendation.

The naming of the trail was acknowledged as the "John S. Bartlett Trail" as declared in past paperwork. Mr. Jackson asked if we should have something in writing from Fish & Game before we go ahead with the gate.

Mr. Najjar made a motion to see the Conservation Commission write the Town Administrator and the Assessor's Office and ask that they change the town tax map to reflect that it is state ownership, and that it is actually called the John S. Bartlett trail. Mr. Malette seconded. Mr. Fulton added it should probably go to the Board of Selectmen and also Land Use. The vote was unanimous.

Ms. Grolljahn stated Mr. Brown mentioned something about the police department writing a grant, and she wanted to know if we should talk to the Chief about it? Mr. Fulton stated not without an ATV program being implemented by the Police Department. Ms. Grolljahn stated it is too bad that they couldn't use the grant funds to hire enforcement. Mr. Ward stated while he was at Ferrin Pond, two

large pick-ups were burning out by the parking lot, however there was no ATV traffic going up the trail. He added that he saw the remnants of the gate and we really need to put cameras on it. Mr. Najjar stated in the past the gate was a scenario, and we have placed a lot of new gates in areas and the situation may be different now. He added he has done the monitoring on the Alex lot for several years, and that we have to get out there and boulder an area that is newly punched out.

## II. BEEKEEPING DISCUSSION

Matt DesSurrealt and his brother in law Jerid Day introduced themselves. About a year and a half ago they opened a small beekeeping company. Mr. DesSurrealt stated due to time management, they have to get rid of some of their beehives. As part of this, they would like to relocate their hives onto 221 Dustin Tavern Rd. between Oak Hill and Gould Rd. and they are looking for permission to put them a little further away from their property, on conservation land. He presented a map. They would like to install a solar powered electric fence due to the many bears in the area. It was clarified that this was the Dustin Meadow Conservation Area.

Mr. Najjar asked about doing this over on the Banks/Schmid property. Ms. Stevens agreed. Mr. DesSurrealt and Mr. Day stated they were looking for the convenience of having the hive abutting their property. Ms. Grol stated there is maintenance issues, and she had concerns with them being somewhere else where they couldn't keep an eye on them. Ms. Stevens clarified this is a town owned parcel without an easement. Mr. Najjar asked if they were an LLC and did they have liability insurance? They replied they were an LLC and they didn't have any liability insurance. He stated he had concerns regarding it being a wetland, and that this is a commercial venue. He added that we haven't ever given anything away and that people who have tapped public maples have given their syrup to the food pantry.

Mr. Fulton stated he would like a contract and it would have to have provisions and would they be willing to donate honey for public benefit? What conditions would the land be left in, what are the clear out conditions? Mr. DesSurrealt and Mr. Day offered to clean up trash from the public lands as an exchange of public benefit.

Mr. Fulton stated he would like a little more time to consider the situation and that this is a new concept for the commission. He agreed bees are a benefit. Mr. Malette stated the bees are a public benefit. Mr. Najjar reviewed the map and he stated they might be moving into a jurisdictional wetland, so you cannot drive in it or modify it. It was confirmed that the proposed location was outside of the jurisdictional wetland. Mr. Fulton stated in the past we've had approval for trapping on town property, the tapping of maples. Ms. Grohlan stated she sees this as less invasive as trapping. Ms. Stevens recalled that we only allow one person to trap on a parcel at a time, and perhaps that was comparable to this situation. Mr. Najjar stated that this is an LLC, and it is leasing public land to a private company. Ms. Stevens thought trappers were in similar situations. Mr. Najjar clarified that the trapping licenses are issued to a person, and Ms. Stevens said it could be written this way for the beekeeper also, and trappers are likely selling their pelts for profit. Mr. Najjar recommended running this by town counsel. Mr. Malette stated the town does lease properties for \$1/year. Mr. Najjar stated he likes the idea of a donation. Mr. Fulton pointed out there are state statutes regarding trapping and it is handled at the state level.

Ms. Grolljahn stated she is in full support of the beekeeping, and she stated if someone were going to pay for legal review of the situation, if an LLC is approaching us for their benefit, perhaps the LLC should pay for the legal costs. Mr. Najjar stated he would like to see a bigger picture happen, aligning legal language for beekeeping and management plans on other parcels including our agricultural parcels. Mr. Jackson asked about field mowing and liability insurance. Ms. Grol asked how big is his back yard that it's not big enough to fit the six bee hives? He stated it is only a 1/3 acre parcel.

Mr. Fulton asked the two guests to take a swing at making a proposal regarding what their needs were and what they would provide in return? They asked if we would require insurance? Mr. Fulton stated it would then go to legal counsel for review. Mr. Najjar stated if we were going to identify acreage identified, we shouldn't be spending conservation funds on dealing with this. Ms. Grolljahn stated if it is

blanket language that covers hay fields and other things.

Ms. Stevens mentioned leveraging Brian Hotz' expertise in developing language for Banks/Schmid regarding beekeeping contracts and long term language that is reusable between parcels. Mr. Jackson recommended several apiary organizations to contact.

### **III. TRAILS SUBCOMMITTEE**

Mr. Ward suggested enacting the Subcommittee. And then the subcommittee would meet and finalize their mission. Mr. Fulton asked for a list of proposed members. Ms. Stevens stated a five member subcommittee with three making a quorum. Mr. Najjar stated the subcommittee has to comply with all state laws that the Conservation Commission does.

Mr. Najjar stated the Open Space Committee happened because of a cause by UNH, he recommended putting an ad together on Channel 6.

Mr. Fulton asked if he had plans for Old Home Day as he has been asked for someone to speak about trails in the Town of Weare. Mr. Ward stated he could certainly intend to. Mr. Fulton asked if there was desire for a Chair, Vice Chair, Secretary, etc. Mr. Ward responded that he thinks it should be a group of peers.

Ms. Stevens made a motion to request the Chair to initialize the Weare Trails Subcommittee with a mission, with its primary goal being to provide, create, maintain and promote trails with a more formal mission statement to come forward after a meeting of the Subcommittee. Ms. Grolljahn seconded the motion. Mr. Najjar asked if there was a committee size? Ms. Stevens amended the motion to include it to say five full members, two alternate positions, and three members needed to make a quorum. All were in favor of the amended motion. Mr. Fulton then appointed Dave Ward, Jeff Jackson and Wendy Stevens as full members of the subcommittee. Mr. Fulton will forward speaking information for Old Home Day to Mr. Ward. Mr. Fulton asked Mr. Ward for copies of the draft materials regarding the Trails Subcommittee.

### **IV. REVIEW OF MINUTES**

The July minutes were reviewed. Mr. Malette stated he has resigned from the Planning Board. Mr. Fulton asked how many years, Mr. Malette responded 12, and the commission acknowledged Mr. Malette for his many years of service on the Planning Board. Mr. Malette made a motion to approve the minutes as written. Ms. Grolljahn seconded. The vote was 3-0-2 with Mr. Fulton and Mr. Najjar abstaining due to absence.

### **V. PLANNING BOARD ITEMS**

#### **REVIEW OF SUBDIVISION FOR SCOTT & MICHELLE FOOTE**

Mr. Najjar stated he had a problem with the wetlands being delineated on the map as that will become part of the record. Mr. Najjar stated he could not stamp the map with a wetlands stamp because the wetlands are not delineated. He thought it was odd that it was not delineated and wondered why it had been put there? Mr. Fulton will send comments to the Planning Board to this effect.

#### **CONDITIONAL USE PERMIT FOR 43 POND VIEW RD. MAP 108, LOT 43, TRAVIS WAMPLER.**

The driveway was reviewed. Mr. Najjar stated the driveway is pretty much already in. Ms. Stevens stated the Planning Board is doing a site walk tomorrow evening before the Planning Board meeting. Mr. Najjar stated there are vernal pools on either side of where he has already punched in the driveway, and he is within his legal 25 foot buffer zones. Mr. Fulton clarified that the Code Enforcement Officer had been involved initially.

#### **CONDOMINIUM SUBDIVISION PLAN, LAND OF LYNDIA R. TOWNES TAX MAP 203 LOT 44.1**

The Conservation Commission had no comment.

### **VI. OTHER ITEMS**

The Bob Todd proposal to address the missing property lines on the Woods Family Forest was

reviewed. Mr. Najjar stated if there is not enough money left in the Town Forest account, the rest should come from the Conservation Fund. Mr. Najjar made a motion to expend \$3,500 from the Town Forest account with the contingency of using the Conservation Fund if we need to for incurring expenses for the Wood property, which is a Town Forest, and for Mr. Fulton to sign the contract. He added a sidenote that Bob Todd is looking for a \$500 retainer and Mr. Najjar has asked that to be waived. Ms. Stevens seconded the motion. Ms. Grolljahn asked why we simply contacted Bob Todd and why didn't we bid it out to anyone else? Mr. Najjar stated we would spend more money having Jeremy put this out to bid vs. using a surveyor that we know is OK. Mr. Najjar stated if we go out to bid with this, who knows who we will get? Ms. Grolljahn stated we wouldn't have to pick the lowest. Mr. Malette stated according to state statute, we would have to pick the lowest, most responsible bidder. Ms. Grolljahn stated it seems more fair putting things out to bid. Mr. Malette suggested anytime she feels things should be put to bid she can make the motion. Ms. Grolljahn stated as a taxpayer, she is concerned. Mr. Jackson stated with the \$150k bridge, yes, it was put out to bid, but in these cases the dollar amount is small and the administration is high to put things out to bid. Mr. Fulton stated it was a good comment, and some forestry operations at first did not go out to bid which caused hard feelings, and then it was decided to put the out to bid. Mr. Fulton stated with this sort of professional service, a lot of what you're dealing with is professionalism and expertise and it ends up being a lot more expensive to put everything out to bid. Mr. Malette asked for an amendment to the motion to say up to \$3,500. Mr. Najjar agreed to amend the motion. All were in favor.

The proposal from Bob Todd to reset missing markers at Brookshire was reviewed. Mr. Najjar made a motion to expend up to \$3,750 from the Conservation Fund for the Brookshire Open Space development. Ms. Stevens seconded the motion. Mr. Malette wondered if we should send a note to the Planning Board regarding all of the cluster subdivisions and what was being done to make sure they stay within stipulations. All were in favor.

The Woods Family Forest Management Plan was reviewed. Ms. Stevens stated she was ready to approve the plan. Ms. Stevens added there was some trash at the kiosk, and that Mr. Turner had some brilliant sign suggestions that she would like to see implemented, and she has shared it with Dave Ward. Ms. Stevens made a motion to accept the Woods Family Forest Management Plan with the understanding that the undeclared acreage will be completed once the survey is complete and asked for Mr. Fulton to acknowledge the acceptance with his signature. Mr. Jackson seconded. The vote was unanimous.

#### HIGH ROCK SUBDIVISION Map #110 Lot #77.1/77.2

Mr. Fulton stated the High Rock Subdivision near Daniels Lake is apparently being used for ATV activity and the abutters and residents have submitted complaints about the activity. Mr. Najjar stated he checked the registry of deeds and he wondered if it was under Gerald Fitzgerald's name. He did find the plan but he could not find an easement deed. Mr. Fulton recalled that it was town owned with no easement. Mr. Malette stated he recalled it having two exit points. Mr. Najjar suspects it was never conveyed. Mr. Najjar recalled more land accidentally being conveyed than the owner meant to, and it was quite a conundrum. Mr. Fulton recalled trying to get the open space between the building lots and the lake, and the developer wanted to do a loop. Mr. Najjar stated that Lot #77.2 ownership is still shown as High Rock Development, and it was confirmed via the tax records that they have not yet conveyed it and the issue needs to be sent to the Planning Board. The land is designated as Open Space but it is not yet conveyed. Mr. Fulton will get in touch with Ms. Bolton, and noted we still have to dig up the easement language. Mr. Fulton recalled attorneys being involved.

Mr. Malette brought up the idea of having an independent Town Engineer to make sure when a subdivision is implemented, that the property is blazed, and boundaries are set in order to avoid unnecessary cost burdens to the Conservation Commission. Mr. Malette added the developer normally pays for these fees.

#### EASEMENT HOIT MILL

Mr. Najjar stated there is an easement but Avatar has had to make edits to the ownership records.

#### EASEMENT CONSERVATION AREA

Ms. O'Connor has stepped in with Mr. Flanders and we have clarified that the meadow gets mowed once a year by Mr. Wilson. Mr. Najjar made a motion to expend up to \$200 from the Conservation Fund to have the field mowed. Ms. Stevens seconded the motion. Ms. Grolljahn recommended doing a similar situation with the beekeepers, paying them a fee for service and it would alleviate liability issues as it does with our mowers. Ms. Stevens agreed with Ms.. The vote was unanimous.

#### THE EASTMAN NOTICE OF INTENT TO CUT WAS REVIEWED

Mr. Jackson noted that the intent to cut included 300 tons. Ms. Stevens thought that was a lot. Mr. Najjar stated that was not a lot. Mr. Malette pointed out it was in exchange for field restoration. Mr. Fulton and Ms. Stevens asked for dates in order to post an announcement to the web site. Ms. Stevens will post an Aug/Sept/Oct announcement regarding the cutting.

#### IRENE C. COLBURN IRREVOCABLE TRUST GIFT

Mr. Fulton stated we received correspondence from the Trustee which includes a receipt and acknowledgement of the land gift. Mr. Najjar made a motion to send the letter to legal counsel for them to approve and for the Chair to sign upon approval. Mr. Jackson seconded. The vote was unanimous.

#### DRUMS UNDER POWERLINES

Mr. Fulton stated that DES spill response & complaint investigation is going to look into reported drums, and if they find names they will contact owners and bill appropriately. Ms. Grolljahn gave R. Lemire & Sons of Antrim NH as the name on the label as well as their phone number.

#### POTENTIAL TOWN FOREST PARCEL ACQUISITION

Three different parcels were discussed. Ms. Grolljahn would like to work harder to contact the out of state landowner of one of the parcels. Ms. Grolljahn stated she would send a letter.

#### METAL DETECTING

Mr. Najjar and Mr. Malette both sent comments to the Board of Selectmen's meeting a few week ago regarding metal detecting on town land. Mr. Malette reported that no permission was given to metal detect on town owned land.

#### BANKS/SCHMIDT

Mr. Najjar asked if we were going to blaze the area. The commission agreed to wait for the easement. Ms. Stevens reported she had talked to Mr. Anderson and he reported using fertilizer each time he mowed. Mr. Malette would like to know what types of fertilizers he is using. Mr. Najjar declared that we should wait until the easement is in place to move forward with blazing.

Mr. Malette discussed plowing in the Eastman area parking lot, stating the Conservation Commission has to go before the Board of Selectmen in order to get permission for the road agent to begin plowing. Mr. Fulton stated we should take this up for discussion next month. Mr. Najjar was concerned about boulders. Mr. Malette discussed putting down gravel and spreading it out. Mr. Najjar asked Mr. Malette to discuss the issue with Mr. Redmond and Mr. Malette agreed.

#### VII. ADJOURNMENT

Ms. Stevens made a motion to adjourn the meeting at 10:28 pm. Mr. Malette seconded. The meeting was adjourned.

Respectfully submitted,

*Wendy J. Stevens*