

WEARE PLANNING BOARD
Final Minutes of the Meeting
Of October 13, 2016

Present: Craig Francisco (Chairman), Neal Kurk (Secretary), Frank Bolton (Member), Tom Clow (Exofficio), Chip Meany (Land Use Coordinator), Tina Ripley (Minute Taker)

Guests: Jack Dearborn, Nicholas Smallwood, Sarah Smallwood

I. Call to order

The meeting was called to order at 7:00 p.m. by Chairman Francisco.

II. Conceptual Review

Nicholas & Sarah Smallwood, 822 Concord Stage Road for a Kennel in a rural agricultural zone with a conservation overlay

Nichols Smallwood said they are looking to continue what the previous owner was doing (dog kennel with breeding service). Mr. Smallwood said they are not looking to expand or extend any of the existing buildings. Mr. Smallwood said he would like to avoid conflict with any potential new neighbors and looked to get zoned as a kennel. Chip Meany said Mr. Smallwood is legal in what he wants to do there and said since Norm did it prior to them buying the property that it should be a legal continuation but said he wasn't sure if the Planning Board would like to see a site plan filed or it be grandfathered. Mr. Smallwood said they are not going to build anything new and said they are just going to use what already exists.

Mr. Kurk asked how long the prior owner had the kennel. Mrs. Smallwood said she believed they lived there for seventeen years and said she didn't know how long the kennel breeding service was. Mr. Smallwood said he thinks the house was built nineteen years ago. Mr. Clow asked what kind of dogs they would be breeding. Mrs. Smallwood said Labrador Retrievers. Mr. Kurk said the issue he is raising is whether this is a legal grandfathered use or illegal grandfathered use, hence the question how long it was used. Mr. Clow asked why it would not be a legal use under rural agriculture to raise animals. Mr. Kurk said on page 22 under 17.3.2 and he read it. Chairman Francisco said he is not sure how this fits into the permitted uses. Mr. Meany said it would then be an existing non-conforming use. Mr. Kurk said just because it is existing does not mean it is legal and said that is what they need to determine.

Mr. Clow asked what their alternatives would be. Mr. Meany said a variance and site plan. Mr. Meany said he doesn't think it would require a variance and said he thinks it only needs a site plan. Chairman Francisco asked how they could approve a site plan for a non-conforming use? Jack Dearborn asked if it was non-conforming use prior to zoning and Chairman Francisco said no. Mr. Dearborn asked if it was a use that was allowed by the Town as a dog kennel and if so up to what time and how long of a lapse

has there been on the use. Mr. Dearborn asked has it been less than two years. Chairman Francisco said it is his guess it was never allowed. Mr. Dearborn said then it becomes an issue of the code enforcement officer where he should make a ruling and then makes an administrative appeal to the Zoning Board whether he stands on his ruling or overturns it. Mr. Dearborn said he thinks that Mr. Meany should rule on it.

Mr. Kurk asked what Mr. Meany is ruling on. Mr. Dearborn said whether it is allowed or not and the status of the use. Mr. Dearborn said is this an implied grandfathered use. Chairman Francisco said he doesn't see why Mr. Meany is making the decision on whether it is a legal use or not. Mr. Meany said if you get out of the implied use under agriculture and go to a business. Mr. Meany said if it is a home business in rural agriculture. Mr. Kurk read home based business Article 17.3.7. Mr. Smallwood said they are registered with all the AKCs and said they come and inspect the kennel. Mr. Meany said if they are considered a non-permitted illegal use, what about all the other breeding kennels in Town and said none of them has a site plan? Mr. Kurk asked how many dogs they are planning on. Mrs. Smallwood said right now they have four, but said it would probably be no more than twenty.

Mr. Smallwood said any dogs over five including pets, they are considered a kennel. Mr. Clow said under home based business, it says not limited too and said there it seems like there is some flexibility. Mr. Kurk said if you look at the kinds of illustrations there, these are service type businesses. Mr. Kurk said he feels a kennel is a reasonable use for rural agriculture zone but it doesn't look as though the ordinance contemplated it. Mr. Kurk asked if they go in for a variance. Mr. Meany said the only thing they can go in for a variance for is if he denies them. Mr. Kurk said for the definition of agriculture. Mr. Meany said he thinks that is a pretty broad definition and leaves some lateral room for him to make a decision. Mr. Kurk said everyone who lives in a rural agricultural zone can have a kennel with twenty dogs and lots of barking? Mr. Meany said what he is saying is they are all over the place now and no one has ever challenged them. Mr. Kurk said that doesn't make them legal. Mr. Kurk said he appreciates the Smallwoods for coming in to do the right thing and said he doesn't know if it justifies changing the rules to accommodate.

Mr. Clow said he thinks it is raising animals and said you can raise donkeys and they make just as much noise as a dog. Mr. Meany said the only ones that he has had problems with are in residential zones and said the ones in the rural agriculture have never been a problem. Mr. Kurk said the problem is this talks about agriculture, said it doesn't talk about noise, breeding other kinds of animals, and said agriculture usually means raising something for human consumption or something related like horses. Chairman Francisco said he thinks it certainly should be allowed but hasn't made up his mind. Mr. Bolton said let's assume that Mr. Meany makes a decision yeah or nay. Mr. Meany said if he said yes, they can go off and start the kennel, but if one of his neighbors complains then he can take action requiring them to go before the Zoning Board or the neighbor who has complained can take appropriate action and go before the Zoning Board.

Mr. Meany said he feels they are a legal use and grandfathered for the dog kennel since it has been there forever but it might require a site plan to show how many dogs they were going to have, how the manure was going to be disposed of, and what their basic expedited site plan. Mr. Kurk said let's assume this is a grandfathered use that was legal at the time it first started and continued on. Mr. Kurk asked why they needed to do anything and said Mr. Smallwood doesn't have to go to Mr. Meany and the Planning Board. Mr. Meany said it eliminates the problem of his neighbors complaining about the dogs barking and said they can set the standard for the kennel. Mr. Smallwood said he takes a lot of precautions and said the kennels are well insulated for noise. Mr. Smallwood said he wanted to eliminate a conflict of interest once they were well established.

Mr. Bolton said he doesn't think they are grandfathered. Mr. Meany said these regulations were the take it and throw it in the fan and what comes out is what we are going to write down and said that is what they did. Chairman Francisco said it doesn't matter if they throw it in the fan or not, it is in black and white. Mr. Meany asked then how can you limit the total number of businesses that are offensive/non-offensive and said only a couple of things are listed here. Mr. Meany said what about a registered nurse having a fitness center. Chairman Francisco said it would probably have to be in commercial.

Mr. Kurk said let's talk about a variance again and asked what will happen if they go to the Zoning Board asking for a variance. Mr. Meany said the first thing they are going to ask is why are you here and Mr. Meany said that would be due to his decision saying it is not allowed or someone else takes it to the Zoning Board saying it is not allowed. Mr. Bolton asked if the variance would be the cleanest thing for the Smallwood's to do. Mr. Clow said everything in this is not a finite list. Mr. Meany said he agrees with Mr. Clow and said it is left open for interpretation. Chairman Francisco said he is going to stretch his imagination that agriculture includes the care and upkeep of livestock such as cows, horses, goats, pigs and poultry. Chairman Francisco said he knows people that have goats, pigs and poultry as pets and said therefore if you can raise miniature ponies on this property in an agricultural sense. Chairman Francisco said just because you raise horses and whether you sell them or keep them and same with pigs, chickens and goats. Chairman Francisco said that he is proposing that a dog is similar to raising miniature horse, pet chicken or pet pig. Mr. Clow said the miniature horses that were there were raised to sell as pets and not as work animals. Mr. Clow said they are really back to Mr. Meany making that decision.

Mr. Kurk asked Mr. Meany if he allowed this would the Smallwood's have to file a site plan? Mr. Meany said that is why he asked them to come in here and so the Planning Board could tell them what they wanted to see on the site plan. Mr. Clow said he thinks the Board should allow Mr. Meany to make his decision and ask him what would be required on the site plan. Mr. Bolton said he is going to have some kind of sketch, but what we are trying to prevent is he sells it and someone wants to have a kennel and raise 1000 dogs, do the same rules apply?. Mr. Bolton said he thinks the Board and Mr. Meany want to see what the Smallwood's are going to do. Chairman Francisco said it

should have the hours of operation, signage, etc. Mr. Meany said they should do that now. Mr. Kurk said that Mr. Meany mentioned a survey requires some expensive survey work. Chairman Francisco said he suggests they can waive the topography survey and other things. Chairman Francisco said he would suggest a sketch showing the buildings. Chairman Francisco suggested they use a Google Earth drawing showing where traffic, parking, hours of operation, signage, etc. with notes and suggested they ask for waivers on topography, wetlands, soil erosion, engineers stamp, drainage calculations, erosion control, etc.

III. CIP Presentation

Jack Dearborn gave a presentation on the CIP. Mr. Dearborn listed who was on the subcommittee and other people that helped. Mr. Dearborn said there are many levels of classifications and said they use only the top three needs: some cases are needed immediately due to health and safety, some are due to contractual agreements and the other is necessary.

Fire Department

Mr. Dearborn said there are two requests from the Fire Department 1) Self-Contained Breathing Apparatus, said they have 26 air packs that have two bottles to each pack. Mr. Dearborn said they were bought on a Block Grant in 2001 and basically what happens is they have 15 years before the bottles expire. Mr. Dearborn said in 2001 they bought 26 SCBA's for next to nothing, but the bad news is in 2016 is they all expire. Mr. Dearborn said there are several ways of buying them and said this is the least expensive way to buy them. Mr. Dearborn said the Chief could have recommended 26 brand new SCBA's which is \$225,000. Mr. Dearborn said there was an opportunity to use a Block Grant which was not approved, Fire Departments turn in the old SCBA's (2010, 2008, basically 2007 and on models). Mr. Dearborn said companies that sell these items will refurbish them and re-qualify the regulator and sell them as certified bottles which are about 40% the cost of a new bottle which would total \$100,000. Mr. Dearborn said the Chief opted to go this route. Mr. Dearborn said the intent is to have all the bottles with the same configuration so you don't have to have different training.

2) Mr. Dearborn said the AC Power for the Repeaters 2) since Weare is mountainous, hilly, etc. and the height of the antenna has a lot to do with the ability to transmit calls across the town. Mr. Dearborn said it is not perfect and you will never get 100%, but you are probably around 85%-88% coverage. Mr. Dearborn said one of the issues with the voters around the town is the repeaters are put where AC power is not available initially. Mr. Dearborn said the problem with that is battery powered and solar charged and once there is a snowstorm that lasts on the solar panels 4 days you may lose the ability of that repeater to work. Mr. Dearborn said the issue here is to leave the batteries and solar panels in place and just run the AC power of public service. Mr. Dearborn said they would be upgrading seven sites that are not AC powered to be AC powered. Mr. Bolton asked if there were any cost to maintaining the AC power. Mr. Dearborn said yes, but it wouldn't be anything more than the basic need. Mr. Kurk asked what happens if the

power goes out. Mr. Dearborn said you could put a generator on them if you want, but that is not in the request right now.

Public Works

Mr. Dearborn said Mr. Knapp is requesting a new 10-wheel plow truck that will replace the 1982 Mack 6-wheeler. Mr. Dearborn said the rationale is it will provide 10% more material for sanding and be more efficient. Mr. Dearborn said the difference between a 6-wheeler and a 10-wheeler is about \$20,000. Mr. Dearborn said the next item being requested is road reconstruction which is a reoccurring request every year. Mr. Dearborn said it is used for summer roads and said there are a couple of things bought out of this, 1) do reconstructions of roads ó rip it up, re-grade it, bring in gravel and asphalt it; 2) other cases is shim and overlay on other roads. Mr. Dearborn said it is the same money as last year and basically said they are asking it to be funded if they want to stay ahead of the degeneration of the roads over time.

Mr. Dearborn said the next thing is bridge improvement of \$105,000 which is 25% of the 20/80 share of the Town of Weare funding for bridge repair. Mr. Dearborn said if they took a look at River Road bridge repair ó they anticipate getting 5 years out of it. Mr. Dearborn said since that bridge was built seventeen years ago and DES requirements have changed. Mr. Dearborn said he doesn't think they can tweak it anymore and said they will probably need a new one. Mr. Dearborn said they estimated \$1.5M out to 2020 as a reasonable expense for a bridge. Mr. Dearborn said they are expected to get 80% paid by the State which means the Town of Weare will have to come up with 20%.

Mr. Dearborn said there are two culverts on the State of New Hampshire red list and said they are Lull Road and Francestown Road. Mr. Dearborn said they are called a squash culvert (it starts as round and goes to oval). Mr. Dearborn said the bottoms are rusting out which is what puts it on the red list. Mr. Dearborn said they are asking for the \$105,000 so they can start working towards the 25% of the 20% the Town needs to cover.

Mr. Dearborn said the current backhoe is delegated to the Transfer Station mashing building debris in the dumpsters. Mr. Dearborn said that Mr. Knapp said that it is a liability and steering is such that he won't allow it on the road. Mr. Dearborn said the Town of Weare should have a real backhoe that they can drive on the road for road maintenance and be backup for the front end loader. Mr. Dearborn said the cost of it is \$141,000.

Police Department

Mr. Dearborn said this year they are requesting three replacement cruisers. Mr. Dearborn said it is similar costs from last year except it is three instead of five. Mr. Dearborn said it is up to the Selectman if they want to start a new three year municipal lease of three equal payments which allows 5 years of warranty. Mr. Dearborn said it will help reduce the reoccurring costs for maintenance on the aging fleet. Mr. Dearborn said he hopes the Town of Weare sees fit to approve the three for this year. Mr. Dearborn said the repair

budget for the police cars in 2014 it was \$30,000, in 2015 it was \$32,000 and this year they decided based on the past couple years, so in 2016 they budgeted \$30,000. Mr. Dearborn said in July the repair costs were \$50,000 and estimated the repair cost for the end of the year would be \$70,000. Mr. Dearborn said the total purchase for three cars with first year fit up of all the equipment inside personalized for the police force is \$113,000 with first year costs of \$57,786 and for \$28,000 for year 2 and 3. Mr. Dearborn said at the end of the lease the Town can buy the vehicles for \$1.00 which is standard practice.

Parks and Recreation

Mr. Dearborn said they are really grateful for the Town passing the Parks and Recreation article last year. Mr. Dearborn said the Chase Park boat ramp is in need of repair. Mr. Dearborn said with dealing with water, unfortunately you don't know what you need until you design and get permits. Mr. Dearborn said they had an engineer come in and said for the engineering and permit phase it is estimated at \$36,000. Chairman Francisco said he would assume that construction would be the following year and Mr. Dearborn said yes.

Mr. Dearborn went over the impact for taxes for actual, proposed and future requests. The Board briefly talked about this. Mr. Dearborn thanks the CIP committee and the departments.

Mr. Kurk moved the Planning Boards recommends the 2017 CIP to the Board of Selectman. Mr. Bolton seconded. Mr. Kurk said he thinks the group deserves credit for their work, the presentation was clear and a great deal of thought was put into it. Mr. Kurk said these are all reasonable projects that the Town needs in order to operate efficiently. Motion passed. 3-0-1 (Mr. Clow).

IV. Adjournment

Mr. Kurk moved to adjourn at 8:45pm. Mr. Clow seconded. Motion passed. 3-0-0.

Respectfully submitted,

Tina Ripley
Minute Taker