

FINAL



**WEARE BOARD OF SELECTMEN
MEETING MINUTES
September 17, 2012**

PRESENT: TOM CLOW, CHAIRMAN; RICHARD W. BUTT, VICE CHAIRMAN; JOHN LAWTON, SELECTMAN; JAMES LEARY, SELECTMAN; KEITH R. LACASSE, SELECTMAN

RECORDING SECRETARY: Cherry Palmisano

GUESTS: Janet Brown, Ray Banks, George Malette, Ruth Jones, Sherry Burdick, Greg Begin, Ian McSweeney, Betty Straw, Andy Fulton, Raymond Banks, Rick Barry

7:00 p.m. Chairman Clow called the meeting to order.

MANIFESTS

Checks dated: September 13, 2012

Weekly Payroll \$45,374.70

Chairman Clow moved, Selectman Leary seconded to authorize the Board of Selectmen to sign manifests and order the Treasurer to sign checks dated September 20, 2012. Passed 5-0-0

Accounts Payable \$117,591.79

Gross Payrolls \$42,717.44 (Includes taxes, credit union, police detail)

TOTAL \$160,309.23

Also, to order the Treasurer to sign payroll checks dated September 27, 2012, that will include payment for weekly wages and matching taxes. Actual amounts paid and reports backing up the numbers will be disclosed at the next scheduled Board meeting.

MEETING MINUTES

Chairman Clow moved, Selectman Lacasse seconded to approve the minutes of September 10, 2012 as amended. Passed 5-0-0

ADMINISTRATIVE REPORT

Chairman Clow said that Town Administrator, Naomi Bolton, is absent from the meeting due to surgery. She submitted an Administrative Report to the Board via email.

Naomi Bolton, Town Administrator, spoke with Brian Grattan and they will be getting together regarding the computer server requests and Mr. Grattan will go to the Fire Department next week to over go their computer needs.

Merry Rice will be stopping by her house to pick up the maps from Southern NH Planning Commission as well as an alphabetical listing of the streets.

The class action suit from the utility company concerning an abatement on taxing utility poles has been faxed to Laura Spectra. They are looking to consolidate all the cases from other towns into one to share the costs.

Alan Gould from Municipal Resources Incorporated (MRI) indicated to her that he would not be replacing the negotiator, but working in addition to him to provide input.

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They have received a complaint letter from DES regarding the sand being put at Chase Park without a permit. They may need to provide a restoration plan or file a permit once the lake is drawn down.

OTHER BUSINESS

Vice Chairman Butt presented each member of the Board with a copy of the balance in the capital reserves. He said that at some point the Board needs to make a decision on whether or not to fund the capital reserves. According to the expenditures the Recreational Development and Improvement Fund is overspent by \$1,000. Vice Chairman Butt said that generally when they make decisions on capital fund expenditures they know the balance in the fund before doing so. It was discussed that the large expenditure of \$4,150 was expending from the wrong fund and should have been expended from the Chase Park Fund because it was part of the well project. Vice Chairman Butt mentioned that the expenditure for the overfill protection for the gas tanks at the DPW was supposed to come out of the Government Building and Maintenance Fund. Vice Chairman Butt will speak with the Finance Administrator. The Government Building and Maintenance Fund is low with only \$61,000 remaining. Vice Chairman Butt said that they need to decide if they are going to put any money into that fund.

Chairman Clow opened the public hearing at 7:30 p.m.

PUBLIC HEARING – For the purpose of hearing public testimony and comment regarding funds to be spent from the Mildred Hall Fund for the possibility of purchasing easements on the Gordon and Paula Brown property, the Wetherbee property, and for a contractual obligation to purchase the Shmid/Banks property on East Road.

Ian McSweeney, Russell Foundation, said that the largest of three projects is the Shmid/Banks land on East Road. The town would be purchasing the 137 acres for open space, recreation, timber, agriculture, aggregate on the property, and other uses for town use. The Mildred Hall Committee voted to contribute \$130,000 towards the project, which will be matched with conservation funds, a proposed warrant article for \$200,000, and grants from the Russell Foundation. The Wetherbee project on Quaker Street is surrounded by land protected by the Forest Society, town land with a PLC easement, and other protected land. Mr. McSweeney said that if he is successful at raising funds he will discuss the conservation easement with the family and the Forest Society will hold the conservation easement and the town will hold executory interest. The Brown property on East Road is 35 acres and is surrounded by conservation land. If funds can be raised Mr. McSweeney will discuss the conservation easement with the family and the Forest Society will hold the conservation easement with the town having executory interest.

Mr. McSweeney said that \$25,000 for the Wetherbee property and \$25,000 for the Brown property will be coming from Mildred Hall Funds. The remainder of the funds needed for the Shmid/Banks purchase will be coming from a combination of funds such as fundraising, town funds, and private fund raising. Mr. McSweeney said that it is hard to know the exact amount until he applies for grants and if he is successful it will be less than \$200,000.

Janet Brown feels that Alma Shmid's name should be on the easement. She told the Board that the Brown and Bolton land dispute has not been settled and they still have a lot line that is not to their liking. Mrs. Brown feels that there have been hundreds of acres put into conservation and she feels strongly about the land being owned by the public. She commented on timbering being done on conservation land and hopes that it wasn't the timber people making the decision on the timbering and feels the Selectmen should have made the decision. Mrs. Brown said that the money from timbering should have gone back to general fund to offset some of the taxes. She mentioned land coming off of the town's tax base. Mrs. Brown commented on a lot of money from Mrs. Hall was used to purchase a lot of this land and hopes that a lot more will be given to town buildings that were left to the town.

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Chairman Clow said that in relation to properties where easements were purchased and stay in private ownership, there is no change in the tax base because they are large tracks of land which are in current use, but if the town purchases the land there are no taxes collected.

Mr. McSweeney said that these three projects are three private land owners who wish to do something with their land and in the case of two easements they remain in current ownership and will collect taxes. The Banks and Alma Shmid property will come off the tax rolls and be owned by the town, but the revenue from leasing the land for agriculture and timber will far exceed the taxes collected on that land and the revenue will go to offset the tax rate. Mr. McSweeney said that other conservation land has been designated as town forest. Chairman Clow said that there would need to be another warrant article that established it as town forest. 18% of Weare's land base is conservation land/open space, which includes privately owned easements and equals nine square miles of the town. Weare's conservation land is average in percentage to surrounding towns with the range being between 12-45% in Hillsboro and Merrimack Counties. The flood control area in east Weare is federally owned. A good portion of the conservation land is privately owned and held by private citizens.

Rick Barry told the Board that he is a small local farmer and he is in support of what is being done with the land being put into conservation. He would really like to see more done, if possible, so that there is agriculture use on the land. He explained that so many developments have happened that now they can grow in New Hampshire eleven months out of the year. Mr. Barry said that they do not know what future developments will come and he feels they should save the land for the future. He mentioned drought conditions throughout the country and the effect it has made. The USDA has said that they cannot support the system the way it is. He asked the Board to give thought when looking at these projects and the place that agriculture can have on them.

Terry Knowles, member of the Mildred Hall Committee, said that it is important to note that the Banks/Shmid project provides the additional benefit of an active gravel bank. This purchase will give the town future use to that gravel bank. Ms. Knowles commented on her mother's land being used for agriculture and feels that it is appropriate to save land for agricultural use.

Mr. McSweeney said that 6% of the Town of Weare has farmland soils. On these properties there is farmlands and active agriculture. Mr. McSweeney feels that these properties are worthy of protecting from being used for something else in the future.

George Malette, member of the Agricultural Commission, is in favor of all three of these projects and the money coming from the Mildred Hall Fund. Mr. Malette said that the Agricultural Commission knows how valuable and important the agriculture in town is. The Master Plan lists agricultural soils being of high priority to protect. There is such small percentage of the town with agriculture soil and it is so important to preserve it for the purpose of agriculture.

Vice Chairman Butt thanked Mr. Malette for his volunteerism. Mr. Malette is on the Planning Board, Conservation Commission, and Agricultural Commission and is a steward to all three boards to make sure everyone's interests are being met. There is a benefit to a person appearing on multiple committees because there is a connection between these three boards. He also thanked Mr. McSweeney for presenting the information and always answering their questions. He is concerned as to whether the Mildred Hall Committee is truly honoring Mildred Hall and her wishes as written in her will. Vice Chairman Butt thinks that after six years it is an agenda of the committee. He said that not a single penny has been spent on anything but land. There was close to \$1.6 million in the fund when it was established as well as additional amounts given to maintain other parcels in town. Mildred Hall's will state's that the money is for projects that will assist and improve the Town of Weare. Every request from the Mildred Hall fund has been for land purchases and Vice Chairman Butt thinks it needs to be addressed. He will support these projects, but would like to see diversity on how the money is spent. He will not support land purchases in the future if there is no diversity. Vice Chairman Butt feels they need to meet with the Mildred Hall Committee. The other part of the will that is not being upheld is a suitable memorable to honor her parents Charles and Ethel Eastman. Vice Chairman Butt said that

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the boulder at the entrance to the Eastman conservation area or forest is not sufficient and the town should honor her parents and her wishes. Chairman Clow asked how much of the Eastman land borders on Rt. 77 and said that location might be a place to consider as a memorial location.

Vice Chairman Butt said that they need to identify conservation land and easements. He thinks that when they buy conservation land or easements part of the discussion at time of purchase should be appropriate signage, notification on the town website, and something directing people to these conservation sites. Vice Chairman Butt is also concerned about the pieces of land being connected and he is not sure if anyone knows how to get there. Mr. McSweeney said that they need to look at the land they have and how to advertise and sign that land and with the Banks/Shmid land they have the opportunity to do this up front of the purchase. He said that if they have the discussion upfront he can work the signage costs into the budget so that funds are committed to do it at or before the closing of the property.

Vice Chairman Butt told Mr. McSweeney that they have had some discussion regarding the need for recreational fields and have been thinking that maybe the Bank/Shmid property would be the parcel. Vice Chairman Butt asked if it would be difficult to set aside 15-20 acres of that parcel for use by the town for the development of athletic fields. Mr. McSweeney responded that it will take some discussion between all parties involved, but he does not see a problem if the 20 acres is left out for recreational development. He thinks that the best location for the athletic fields would be in the gravel area after it is reclaimed because it will have better drainage. The Forest Society holds a few easements on town owned land and they are all done differently across the board, but have leaned more towards when constructing structures on there leaving it out of the easements and some of the fields that won't have watering infrastructure could be part of the easement. The Forest Society can decide if it makes sense to put it into the easement or leave it out. This property connects with other properties for a total of 340 acres. The 20 acres for the athletic fields would be minimal impact to the land.

Vice Chairman Butt feels that the Bank/Shmid property is beneficial to the town, but is not sure of the benefit to the town to use it as a gravel pit. He questions how much labor the town would need to put into it to get the gravel out. They could sell the gravel to someone else and they can pull it out. Mr. McSweeney mentioned that he had heard that the town's pit is being depleted of gravel and has a short life span remaining.

The Brown and Wetherbee properties both abut existing conservation land that the town has interest in and these easements will expand that land, provide access, maintain open space, and will pay back financially in a short time as far as community services in having that land conserved. Mr. McSweeney said that it is best to focus on areas around land that is already conserved. The Brown property is a connector piece on East Road and it will fill a hole if the Banks/Shmid purchase is successful. The Wetherbee property is part of the contiguous piece and directly abuts town forest land. The Wetherbee property has agricultural uses and the Brown property is can be used for forestry.

Mr. McSweeney said that the Conservation Commission has done a Natural Resources Inventory, which is always in motion and should be used by all when discussing land conservation. Selectman Lawton said it should be something available to the townspeople to know where the land is and how it is used. There are some easements in town that allow for public access at landowner discretion, but privately owned conserved land that did not utilize town money is not required to give public access. Selectman Lawton asked if there is any land that Mildred Hall funds were utilized for easements or conservation land purchase without the right to have public access. There are some that are left up to the land owner to post and some that need to be discussed with Selectmen. Selectman Latwon said that Mildred Hall stated in her will that she was allocating money for the people in town and asked how it is a benefit to the public if there is no access allowed. The Pope property restricts public access and the land is preserved as farmland and no hunting allowed. The reason and justification from the Mildred Hall Committee was to restrict it for farmland. Terry Knowles told the Board that PLC put up a large sign on her mother's property and they don't allow people access onto the land when they have their sugaring lines up. She would have to come before the Selectmen to say there is a nuisance on that

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property to restrict the public access. Ms. Knowles commented on the perpetual nature of the easement, in making a gift of an easement, the IRS requires it to be perpetual. A certified appraiser values the land, takes away the development value because there is no development, and what is remaining is the value of the easement. Ms. Knowles said when all it is netted out there is a tax benefit to her on her income tax and if the entire value is not used in one year it can be carried over. Ms. Knowles said that the property has been in current use for years and this does not affect the value. The town is not losing tax base in every easement, but if the town purchases the land it will come permanently off the tax rolls.

Chairman Clow commented on the impact the 137 acres could have on the schools alone if not conserved. Ms. Knowles said that there was a study done by the University of NH. She said that another benefit to having the conservation lands linked together is providing wildlife corridors.

The Board discussed two concepts of mapping. The first is related to resources and the other is public use. They need to put together something that maps out the areas of conservation in town that are open to public use. The Board feels that this is something they should do and not expect volunteers to do this. They feel it is a necessary document to pull these projects together.

Selectman Lawton commented on the Banks/Shmid property needing a warrant article and talked about dedicating land as recreational fields. Before the Board approves the purchase he would be interested to know if the people involved in purchasing the land would be willing to go along with it. Mr. McSweeney told the Board that last time he told them it would be hard to get additional funding if there was no easement. He said that the first decision is to approve funding from the Mildred Hall Trust. They would still have to approve the deed and the warrant article and they will have all that information by January. It was discussed that the 9 acre gravel pit will not be under easement and it would be good to look at where the additional 11 acres sits to also exclude it from the easement.

Betty Straw is concerned that there is a lot of emphasis on athletic fields and not enough emphasis on the gravel for the Town of Weare. She said that the gravel is gone from the town's gravel pit and asked the Board how much gravel \$200,000 will buy. It seems to her that getting that gravel and the town owning it is a big benefit because they need the gravel and currently need to buy the gravel. Vice Chairman Butt said that the Board is not saying they will not retain the gravel, but once reclaimed they could build the ball field on that location. The Board does not know what it is going to cost to get the gravel out. They will have the DPW director go down there to give them an estimate on how much it will cost to get the gravel out. The Board needs to look at the bigger benefit and investing in the youth and providing recreational uses. Ms. Straw said this is a resource and that the town would own the gravel. She is not denying the need for the athletic fields, but said that there is not enough emphasis on the value of the gravel. Vice Chairman Butt commented that this is probably the only purchase where there is potential for the town to make money.

Chairman Clow closed the public hearing at 8:50 p.m.

The balance in the Mildred Hall Fund as of June 30, 2012 is \$878,105. One the \$180,000 for these three projects is subtracted, there would be approximately \$698,000 remaining in the fund. Ms. Straw said that they have denied two requests that have come before the Mildred Hall Committee because they felt it there was not a benefit to the town. She would like to see the upstairs in the Town Hall renovated, but said that buildings come and go and land is forever.

A future discussion between the Board and the Mildred Hall Committee will be scheduled.

It was discussed that the Board does not know all the conditions at this time, but it would wise to include wording in the motion now and the easement language will come later.

Vice Chairman Butt moved, Selectman Lawton seconded to approve the request from the Mildred Hall Trust to expend \$130,000 from the Charles and Ethel Eastman Funds towards the purchase of 137 acres

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known as the Banks/Shmid property with the exclusion of 20 acres from the conservation easement which would include the gravel pit. Passed 5-0-0

Chairman Clow moved, Vice Chairman Butt seconded to approve the request from the Mildred Hall Trust to expend \$25,000 from the Charles and Ethel Eastman Fund towards the purchase of a conservation easement on the Gordon and Paula Brown property on East Road, with the condition that there be public access to be defined later in the process.

Selectman Lacasse does not see enough public benefit for the town and does not agree with the benefit of not developing 20 lots. It was discussed that this easement connects to other parcels and is beneficial as a wildlife corridor. The town well sits under this property and this is the only public water that the children drink. They have already previously approved 85 acres of the Brown property, this would expand the conservation area and provide a corridor to the two larger parcels. Selectman Lacasse commented on the argument of preventing development. Selectman Lacasse commented on the water not being polluted today. Chairman Clow said that the purpose isn't today, it is protection into perpetuity. The agricultural use would be restricted to best management practice and will have to follow a management plan that suggests best management practices. If there is no easement there is no zoning in town that says you need to use best management practices.

The motion passed 3-2-0; Selectman Leary and Selectman Lacasse were opposed.

The Wetherbee property is part of a larger corridor of several hundred acres.

Vice Chairman Butt is concerned with the amount of money being left in the fund and the money being used for land purchases only. He feels that the Selectmen are the gatekeepers of the will and he cannot support this expenditure because he does not see the benefit. Mr. McSweeney told the Board that about a year ago he went to the Mildred Hall Committee requesting funds for a land project and he was denied.

Chairman Clow moved to approve the request from the Mildred Hall Trust to expend \$25,000 from the Charles and Ethel Eastman Fund towards the purchase of a conservation easement on the Wetherbee property with the condition that there will public access and also stipulating that agriculture be allowed on the parcel and the Selectmen be a party to the development of the easement.

Mr. Malette said that the Oliphant property was voted on five years ago and that the Tiffany's each put \$10,000 towards that project. He said that somehow the easement was not written at the time and the owner thought it would be inherent on the property to allow agriculture. It was discussed by the Conservation Commission and the votes were more in favor of the language not existing because the intention presented to the voters was that it was to be a town forest. Mr. McSweeney said that to his knowledge that easement is not recorded yet and could be changed by contacting PLC.

Vice Chairman Butt seconded the motion and it passed 3-2-0; Selectman Leary and Selectman Lacasse were opposed.

Mr. McSweeney will update the Board on the progress of the easements.

The Board will conduct a site walk on the Banks/Shmid property.

Andy Fulton, Chair of the Conservation Commission, told the Board that the Commission went forth with the understanding that the Oliphant/Chevy Hill property was going to be a town forest and at the eleventh hour agriculture use was brought up. The idea of making provisions in the easement to cut down the forest and return to fields was not in their attributes. As a commission they voted to not reword the easement language to change the agriculture use. He does not want people to think that the Conservation Commission is against agricultural use. This parcel is steep and wet and not conducive to agriculture. It had been agricultural land 50 years ago, but it was not an appropriate measure for them to take. It was a unique situation and they were looking at land that had not been used for agriculture in many years. There was no proposal to set up boundaries or survey out agricultural use. It is the duty of PLC to record the final language that has been approved. Vice Chairman Butt

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asked about Eastman property being a town forest and asked if it needs to be protected in any way. Mr. Fulton thinks the protections are in the easement.

DEPARTMENT HEAD AND COMMITTEE ITEMS

Canine Program Discussion – Chief Begin presented a letter to the Board from the Attorney General’s Office. Chief Begins recommendation is to dissolve the canine program based on the Attorney General’s opinion and recommends giving the dog to the Working Dogs Foundation. Chief Begin said that he was going to recommend to stop the program because the town would have to pick up the entire cost of the dogs care to continue with the program. Chairman Clow said that in the process of reviewing excessive overtime one of the recommendations from MRI was to end the canine program because of the size of the town and the overtime costs it creates. In 2011 there were 237 overtime hours directly related to the canine program at a cost of \$10,000. Chief Begin said that because overtime was such a concern the dog was not being called out to other towns when he was not on duty. There is an understanding that canine services can be available from surrounding areas. Chairman Clow stated that if the outcome of the program outweighed the cost of the program he would continue with the program. The state police have a canine program. The purchase of the \$4,500 dog was not public money, it was privately funded, and the fund will follow the dog.

Vice Chairman Butt moved, Selectman Lacasse seconded to discontinue the canine program for the Weare Police Department effective immediately. Passed 5-0-0

Chief Begin told the Board that he started to go through the list of town roads and dropped the roads that he thinks need police coverage significantly. He feels they should have an ordinance and has no problem working with Tim Redmond to create the ordinance. Chairman Clow explained that they were looking for a framework and looked at the ordinance from the Town of Auburn. Auburn identified all the levels of safety controls on every road and also has an out for unique situations. The Town Administrator will be getting a map and list of streets and the Board would like to have Chief Begin and Tim Redmond review the map and list and provide feedback as to what they think their designations should be. Chief Begin said that a big concern is the topography of some of the roads. He mentioned giving contractor’s permission to work on one road and then them moving to another road without permission.

Chief Begin told the Board that they are in the process of replacing Sergeant Aiken. They received twenty-four applicants, seventeen passed the PT test, and all seventeen were given the oral boards. Two of the applicants had previous police experience the remainder were all rookies. Chief Begin would like to bring a candidate forth to the Board. The Board will interview the candidate and review the paperwork on October 1st and then the candidate can return to be sworn in as an officer on October 15th. The Board will schedule a non public for 6:30 on October 1st to interview the candidate and presentation of information.

PUBLIC COMMENT

Andy Fulton asked the Board if they have any questions regarding the Conservation Commission. Selectman Lawton asked if a portion of the Oliphant/Chevy Hill easement can be changed to agricultural use. Mr. Fulton said that he understands that the conservation easement is done. Mr. Fulton said that the Commission’s discussion was that the case was not strongly made that the piece of the property was beneficial for agriculture. Selectman Lawton commented on a portion of that land being encompassed by stonewall. Mr. Fulton responded that someone in the field thought there was not enough significance of agriculture to make that distinction in the conservation easement. There was not a strong proposal when the vote was taken by the Conservation Commission. The property is town owned and agricultural use would involve the town leasing out the land. Selectman Lawton commented on restricting the land into perpetuity. Mr. Fulton said that if they were in dire straights, who would stand in the way.

Chairman Clow moved, Selectman Lacasse seconded to enter into non public session 10:15 @ p.m. pursuant to the authority granted in RSA 91-A:3II (a&c). A roll call vote was taken, Vice Chairman Butt

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**– yes; Selectman Lawton – yes; Selectman Leary – yes; Selectman Lacasse – yes; Chairman Clow – yes.
Passed 5-0-0**

**Vice Chairman Butt moved, Selectman Lacasse seconded to come out of non public session @ 10:35 p.m.
A roll call vote was taken, Vice Chairman Butt – yes; Selectman Lawton – yes; Selectman Leary – yes;
Selectman Lacasse – yes; Chairman Clow – yes. Passed 5-0-0**

**Selectman Lacasse moved, Selectman Lawton seconded to seal and restrict the minutes of the non public
minutes. Passed 5-0-0**

ADJOURNMENT

A True Record.

Cherry Palmisano, Recording Secretary