



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 – MAY 14, 2014 DRAFT MEETING MINUTES

Present: Andy Fulton, George Malette, Jeff Jackson, Lisa Purington-Grolljahn, Chris Tuck and Wendy Stevens.

Guests: Nick Coates, NH Association of Conservation Commissions

Meeting called to order at 7:09 pm by Chairman Andy Fulton

I. NH ASSOCIATION OF CONSERVATION COMMISSIONS

Nick Coates stated NHACC is a non-profit 501©3 in the State of NH. Mr. Fulton asked if there was a state charter that gave NHACC representation over all conservation commissions. Mr. Coates replied no, fifty years ago Conservation Commissions were established by state statute. He stated that Weare was one of the first Conservation Commissions in the state, in 1967.

Mr. Coates stated he is the fourth executive director of the entity. He briefly discussed some issues he has been working on politically: he testified against two bills that would be detrimental to conservation which was 1) ITL (Inexpedient to Legislate) which was killed 15-0 out of committee, so he considered that to be a pretty good win. And 2) was an interim study which was killed 11-4. Ms. Stevens asked if this was last year. He stated this was in 2014, he began working at NHACC on January 1st of this year. He stated he is working on SB388 which is focused on establishing a study committee with The Society for the Protection of NH Forests (SPNHF) and The Nature Conservancy to make the economic case for conservation. The end game is to make the case for more money for L-CHIP, and it has made it through the Senate unanimously. There is also another CACR19, a constitutional amendment with SPNHF and The Nature Conservancy which would make it unconstitutional to raid dedicated funds.

Ms. Purington-Grolljan entered the meeting at 7:15 pm.

Ms. Tuck entered the meeting at 7:17 pm.

Chairman Fulton asked if he was considered a lobbyist, and he stated he wears an orange badge when he goes to the state house which indicates a lobbyist.

Mr. Coates stated his core activity is to work with commissions on technical assistance. He offered that he was just assisting a town who had trees cut on a scenic road, helping them understand RSAs and make their case. Another example was helping a town who accidentally expended funds without holding a public hearing. He added that he is also very busy in March helping the assorted commissions with their Town Meetings. He stated that the Town of Wilton earned \$80,000 for a farm project, Windham also earned funds for a farm project, in Rye voters approved a \$3,000,000 Bond Article for open space, and Hollis also had pretty significant luck. He also assisted Grantham technically for a bond article coming up in 2015. Center Harbor got their land use tax changed from 25% to 50%. He stated that they just hired a part time person for education and field based training.

Mr. Coates stated that the NHACC annual meeting is the first Saturday in November, and the theme this year is on engaging young people. Also, they are partnering with the UNH Cooperative Extension

to do field based training. Some of the sessions include June 26th in Kingston *Engaging Youth with Your Conservation Commission*. August 1st, Albany, *Using Mobile Technology for Mapping*. August 21st, Hanover, *Wetlands Identification*. End of August, Concord, *Wetlands Permitting*. September 12th, *Learning to Live with Beavers* in Merrimack. October 17th (tentative), Newmarket, *How to Lead an Invasive Plants Workday*.

He also mentioned non-traditional internships for college students, which involves gathering a few small non-profits together to have a rotation of interns, including rotations at farms and non-profits such as the NHACC as well as NOFA-NH. Ms. Purington-Grolljan stated she thought that would be attractive to a student to gain several different experiences within the same internship.

Ms. Stevens asked if he had sent the membership renewal and he stated it went out in February. She asked what our membership fee was, noting fees are different for different sized commissions. Mr. Coates recalled the fee was around \$250 and he could send another invoice.

Mr. Coates stated there are some grant opportunities via Rick Ellsmore from NRCS, a branch of USDA. NRCS has received a lot of money through the farm bill and they need to spend it. These programs focus on wetlands protection, there is one for farms, and one for forests. He said to google NH NHRCS you can find the four different grant programs that are available.

Mr. Malette stated he would like to see good relationships across all towns between the Planning Board and Conservation Commissions. He clarified that the Planning Board's checklist requires certain items to be shared with the Conservation Commission before the checklist is considered complete.

Ms. Tuck stated she thought the work he was doing was excellent. Ms. Purington asked if he was working with the Future Farmers of America. He stated no, but there are some folks on the State Conservation Committee that attend. She added Alvirne High is incredibly active in FFA and that might be a good place to start with the schools.

Ms. Stevens asked if Chairman Fulton needed a motion to pay the membership, and he stated no as it is a budget item and he would send a request to Ms. Connor to pay the invoice.

Mr. Malette added that this is the first time he has ever seen an executive director from NHACC visit our commission.

II. **OTHER BUSINESS**

Chairman Fulton asked to review the April minutes. Ms. Stevens made a motion to approve the April minutes as written. Ms. Tuck seconded the motion. Mr. Malette noted Mr. Najjar was not present. Chairman Fulton stated Mr. Najjar could add comments next month to be noted in new minutes, and also Mr. Najjar will be absent next month and he was also fairly certain it is a non-issue and does not want to hold up approving minutes for two months. Mr. Malette asked about timber cruising. Mr. Fulton stated it means you go out and evaluate the forest. The motion passed 5-0-1. Ms. Stevens abstained.

Chairman Fulton asked to review the March minutes. It was tabled until the next meeting

III. **PLANNING BOARD ITEMS**

a. **Deborah Brown**

**Non residential site plan for Moody Pond Marketplace, 3 George Moody Rd.
Map 203 Lot 108
Proposed change of use site plan and proposed parking areas as shown.**

Existing 2 bedroom structure to be converted to a 17 seat café serving and selling various sundry items. The map and the wetland buffer was reviewed as well as the location of the structures. The proposed patio and dumpster areas were noted. Ms. Tuck asked if those areas were in the wetlands buffer.

Ms. Stevens recused herself from the issue.

Mr. Malette stated all of these other buildings were built simply by obtaining approval from the Building Inspector, a site plan never came before the Planning board. Ms. Purington-Grolljahn asked if the location of the farm stand now is in the wetland buffer? Mr. Malette stated it is. Ms. Purington-Grolljahn asked so this was pre-existing? Mr. Malette said no, it never came before the Planning Board. Mr. Malette stated the original use of the business, the "Pack Rat" was allowed by the Code Enforcement Officer as an equal use, not a change in use. A decision was made and Mr. Malette was told at a Planning Board meeting by the Code Enforcement Officer that if he had an issue with any of this that he had to fill out a complaint form.

Ms. Tuck stated they cannot call a building a farm stand unless they're growing 35% of the produce, that it is a state law. Ms. Purington-Grolljahn stated no fruits or vegetables have been in the buildings. Ms. Purington-Grolljahn stated she attends the farmers market every week, and the building is a gift shop that has no fruits or vegetables. Mr. Malette stated the building was built in the wetland buffer. He continued all these things that were done, were done when town regulations existed, but they were never brought before the Planning Board as a Change in Use. The location of the house/café was compared to the location of the wetlands buffer. Mr. Malette noted the wetlands stamp. Mr. Malette stated some of the parking spaces are outside the buffer. Ms. Purington-Grolljahn stated she has seen people drive around the back of the farm stand, and there are trucks and materials back there. She stated there is a loading zone there. Ms. Purington-Grolljahn stated she thinks they have some fixing to do, and she doesn't understand how they did this in the first place. Mr. Fulton stated it was a decision of the Code Enforcement Officer as he understands it based on his interpretation. Mr. Malette stated it was never brought before the Planning Board.

Ms. Purington-Grolljahn asked about the Farm Stand. Mr. Jackson asked what is the difference what they call it? They can rename it to something else. Ms. Tuck said it is a state law. Mr. Jackson said just rename it to a storage shed. Mr. Malette stated the term has statutory meaning. He stated once the use of it becomes a farm stand, regulations apply. Mr. Malette showed RSA 21:34a, and said once the use of it is a Farm Stand, they have to follow state regulations. Ms. Purington said she is concerned that it is in the wetlands buffer. Mr. Malette pointed out it is drawn out on the map, but it is not outlined in the Notes. Mr. Jackson asked about septic and water issues, and were there issues with washing dishes, restaurant activity, etc.? Mr. Malette said the state takes care of the septic. Mr. Fulton added you install a grease trap on the line.

Mr. Malette stated the plan states 17 spaces in the Notes, but in the Conceptual Meeting she discussed patio seating that is not outlined in the Notes. Mr. Purington asked if there were 17 parking spaces, or are people going to continue to park in the wetland buffer? She now knows that she has parked in the wetlands buffer before, not realizing it was a buffer. Ms. Tuck stated she does not want the oil from the trucks or the cars going through there to get into the wetlands.

Mr. Fulton said in the notes it remarks there are 19 spaces. The Commission could not seem to find the 19 spaces. Chairman Fulton counted 13 spaces. Chairman Fulton noticed that the map showed an existing leachfield, and next to it is a box labeled future leachfield expansion underneath the gazebo. Ms. Purington asked where is the dumpster going to go? Mr. Jackson stated if the farm stand is on cinderblocks, it doesn't really effect the buffer. Chairman Fulton said if it is in the buffer, she is going to need a variance. Mr. Malette said normally they would like to see wetland vegetation in a wetland buffer. Ms. Purington-Grolljahn stated she would like to see where the building is going, and she is interested in a Site Walk. Mr. Malette thought a Site Walk may be ideal, it has to be ground truthed. It was noted that material is being stored in the wetland buffer. Chairman Fulton said Comment 1 should say no further development in the wetland buffer. Mr. Malette said if you have an area that has a lot of traffic, it would be nice to have a way of designating the wetland buffer edge. Ms. Tuck stated yes, like at Nana's

where you have a fence that delineates the wetland.

Mr. Malette added if you hold a farmers market on that property, a farmers market shall not include any event on any premises owned or leased by any individual the vendors selling therein. He said in other words, the owner of the property is not supposed to be selling anything. He added that this is not a conservation commission issue, but it is within the same RSA that defines a farm stand. Mr. Malette added he does not see parking there for the farmer's market. Ms. Purington-Grolljahn stated people park on the road, and last year she decided that parking in the parking lot area is not safe, which is why she parks on the road because cars are moving in and out of the parking lot. Ms. Tuck again said she would like the parking separated from the wetlands. Ms. Tuck asked where is everybody going to park with a farmer's market, a restaurant, and a farm stand? Mr. Jackson stated the Planning Board has a lot of work to do on this.

Chairman Fulton stated he would like to add a comment about snow removal – that he did not want any snow pushed into the wetland. He reviewed the state snow removal guidelines on the WMV-3 DES fact sheet from 2007. Chairman Fulton stated wetlands and high water are considered surface water, and the guideline states snow should be at least 25 feet away from surface water. 75 feet from private water supply, and at least 200 feet from any community water supply. Ms. Purington-Grolljahn noted gravel being pushed into the wetland as she recalled it not being there when she was a kid. She also noted the farm stand is over the septic. Mr. Malette stated at the conceptual meeting, she did have room for more parking, and he does think it can be done in an acceptable way. He stated Ms. Brown stating there is more land available at the Conceptual Meeting. Mr. Jackson stated we should require vegetation in the buffer and also a variance. Mr. Jackson noted the clause about wellhead protection area, and noted the property is on the wellhead protection area. Chairman Fulton stated no further development should be allowed in the wetland buffer. He summarized notes that he will send to the Planning Board. Comment #1: Farm stand should not be allowed in buffer, #2 Delineate the buffer, #3 The buffer predates material storage bins can they be removed and placed elsewhere. #4, The Plan shows 14 spaces, where are the other five? #5 Where is the parking for the farmers market? #6 Snow storage should be kept out of the wetlands and buffer and away from the well. Chairman Fulton stated wetlands, high water, surface water should be 75 feet away from any private water supply or wells, and at least 200 feet from any community water supply which this could become. Ms. Tuck asked why this law was in place. Chairman Fulton replied this is in place primarily because chemicals and salt are potentially damaging to the water quality. Chairman Fulton summarized that we were interested in seeing a good neighbor to the wetlands.

**b. Discussion on Subdivision Application for:
Daniel Scolardi for Innovative Land Solutions, LLC
Presented by: Arthur Siciliano, Surveyor
Tax Map # 412/168 Colby Road and South Stark Hwy**

Chairman Fulton summarized there seems to be no appetite from the Planning Board to encourage a cluster development. He added that during the site walk, he did walk further and discovered an inhabited porcupine cave very close to 114 on the proposed subdivision parcel. He noted it is good to be aware of denning spots as a conservation commission in order to steer disruption away from them, whether it is deer yards, hemlock stands, moose beds, etc. Chairman Fulton stated the area had been heavily logged, and there were numerous vernal pools that spanned every hundred feet or so. Chairman Fulton asked Mr. Malette if he thought comments were still needed. Ms. Stevens stated it is still continued, and she furthered that the Planning Board will often request feedback from the Conservation Commission and the communication has been good. She stated the Planning Board chair had made some comments regarding connecting open spaces together, noting Hoit Mill and Brookshire open spaces abutting this application. He clearly understood why the recommendation for a cluster development was made. Mr. Malette responded we can still make comments. Chairman Fulton

would like to pass along more information to them including the den site as well as the vernal pools. Ms. Stevens noted that the 20% driveway grade was a concern of the Planning Board and Mr. Siciliano was going to work on reducing the grade, and that he is also charged with doing a water study that delineates water runoff. Chairman Fulton theorized that if we push the cluster, then it will push the development closer to the vernal pools. The area was reviewed in terms of where the lots came out on Rt. 114. Chairman Fulton observed that virtually all the evergreens had removed which made for an interesting habitat similar to a western forest. He will pass along the commission's observations to the Planning Board. Ms. Stevens informed the Commission that the Planning Board has made a request to Mr. Siciliano that the log landing area near the culvert be reclaimed as there is some debris and interference in the wetland.

- IV. Chairman Fulton stated we have an invoice for gates installed from MTL. He will request the invoice be paid.
- V. Chairman Fulton stated regarding the Bartlett Brook landing usage, where we had given permission to MTL to use the log landing to access their land, we received a check from them for \$215.13 which is a percentage of their proceeds. Chairman Fulton suggested depositing the funds into the Ciampi Fund. He summarized the Ciampi Fund is an open ended fund with no restrictions that can be used by the will of the commission. John Ciampi, a longstanding conservation commission member worked for PSNH, and as a PSNH employee, he was encouraged to be a volunteer in his community, and once he did, he garnered a check from his employer to his charity, \$100 every six months. That is how the Ciampi Fund was established. The commission agreed the check should be deposited into the Ciampi Fund.
- VI. Chairman Fulton circulated an invitation from the Scenic Byway Council seeking members in the Town of Weare. Mr. Malette pointed out there is only one member from Weare remaining, and the meetings are not often attended and the Scenic Byway Council cannot make a motion unless a member from each town is present. They meet quarterly.
- VII. Chairman Fulton stated he just signed papers for the closing of the land gift from the Irene Colburn Trust, so that will go to the Board of Selectmen on Monday for their signature, and the project is moving towards closure.
- VIII. Chairman Fulton asked if there was a scheduled to re-adopt innovative cluster subdivision discussions. He asked if anyone was interested in a work session with the Planning Board. Ms. Stevens said she was interested as the Planning Board has discussed both cluster developments and transfer of development rights and there seems to be good interest. Mr. Malette reviewed the concept of Transfer of Development rights, for instance, developing a whole piece of land, the developer would have to give the town an amount of money so that we could use that money to purchase conservation land in other places. Mr. Jackson stated that makes total sense. Chairman Fulton stated it is not a strict transfer directly between owners, it is a payment to conservation. Mr. Malette added it is difficult to find the land, and put together the long term thinking that is required to manage a Transfer of Development Rights plan. Mr. Malette said the idea is if you allow increased density, you have to pay into it, and then the Conservation Commission gets to choose the land. He furthered that the problem is designating lands as a board, and developing a long term plan of which lands should be prioritized. Mr. Malette finished that the planning board is not going to look further into Transfer of Development rights right now, but rather they are going to work on updating the Master Plan with any proposed funds that may come from the Southern NH Planning Commission. Mr. Jackson asked if we were going to invite Chairman Francisco of the Planning Board to the meeting. Chairman Fulton replied he will invite him to the July meeting. Mr. Jackson asked about the land use funding, and he asked is that totally for our use? 75% of it? Chairman Fulton said yes.

Ms. Purington-Grolljahn left the meeting at 9:32pm.

- IX. Chairman Fulton opened a discussion on grassland bird habitation. The commission will review the web site. Ms. Tuck wondered about checking the grasslands themselves before harvesting.

- X. Chairman Fulton stated several weeks back the town closed on the Banks project, and we are awaiting on action from Brian Hotz in implementing the easement.
- XI. A timber check has been deposited into the Town Forest Account.
- XII. Chairman Fulton stated he walked with Selectman Lawton at Chipmunk Falls. He furthered that we need to take the structure down, there is debris that could make a bonfire, and metal that could be collected by dpw for town revenues. He thought it could eventually be a nice picnic spot with a half day walk and would like to work with the Selectman to further clean up the area. Chairman Fulton became aware of boundaries just west to the end of Hemlock Dr. below the falls, one of them encompasses a small beaver pond and marsh with great blue heron. In becoming more aware of the boundaries, he was able to put up conservation signs, and stated there are new neighbors in the area and there is a junk car on the town parcel. He did contact one salvage yard in town that did not work out. Ms. Tuck asked how far was it from the road? Chairman Fulton added right on the wooded road. Ms. Tuck stated her husband has a tow truck and they will look into it. Mr. Jackson stated he will contact Allied Towing. Chairman Fulton summarized that this is good progress in making our parcels accessible and the Chipmunk Falls area is a great footpath area and he wanted to make it clear that vehicles are not encouraged and hoped to clean up the area as part of our charge.
- XIII. Mr. Jackson gave a summary of the eagles sited on Buxton Brook Marsh. His employees had first noticed them and he has kayaked several times on the Marsh and he has seen them three times but he cannot locate where they are nesting, and he will keep his eyes out. He shared a photo. Mr. Jackson has been working with Chris Martin of the Audubon. Mr. Martin told Mr. Jackson to take pictures and keep him informed.
- XIV. Chairman Fulton presented a Forestry Service Agreement to continue harvests into 2014. Chairman Fulton stated he would inform our Town Forester of the eagle situation. Mr. Jackson asked about the Jewett Rd. harvest, inquiring if it was near the Lawrence parcel that has been taken by the town? He asked what the ownership status is? Ms. Stevens asked how long ago was the house reclaimed? Mr. Jackson thought the town reclaimed it within the last five years.
- Mr. Malette stated the Eastman field reclamation was not supposed to cost anything, but in the FSA it states \$60 per hour in addition to fees above. Chairman Fulton responded that that is for the Forester's oversight of the project. The March 2014 progress report was reviewed. Ms. Stevens noted that this was the first she had recalled regarding a Chevey Hill harvest. She stated she will review the Master Forest Management Plan. Mr. Jackson made a motion to give Chairman Fulton permission to sign the Forestry Service Agreement. Mr. Malette seconded. The vote was unanimous.
- XV. Chairman Fulton opened a discussion on the trails subcommittee inquiry. Mr. Jackson stated he would like to head up a trails subcommittee. Ms. Stevens said she would also like to be part of a trails subcommittee and she could organize it. Ms. Tuck stated she would help out. Mr. Malette added that Jerry Little is interested in a trails subcommittee also. Chairman Fulton drafted a response to Mr. Ward inviting him to the June meeting.
- XVI. A discussion was held regarding the gate at Ferrin Pond and the gate has been delayed due to the ownership issues between state and town and the fact that the Board of Selectman is the legal party to claim a type of road and its' class. Ms. Stevens wondered how Fish & Game seemed to think the foot path up to Ferrin Pond was suddenly a Class VI road since the Board of Selectmen are the only party who can deem and classify a road. She added she talked to Betsey at Fish & Game and Betsey explained the Right to Public Waters Act, and Betsey also added that other towns (Epping) have gated roads despite the public waters issue. Chairman Fulton stated it is still an open question.
- XVII. Mr. Jackson asked about an email regarding a Shoreline Permit with a septic and an existing lawn, and somebody regrading their lawn and it affecting the neighbors. Mr. Malette stated that is a DES issue. Chairman Fulton stated a permit was required for the situation. If permitting was not done for the septic change, then DES will address it.

XVIII. Mr. Malette motioned to adjourn the meeting at 10:17pm. Mr. Jackson seconded. The meeting was adjourned.

Respectfully submitted,

Wendy J. Stevens