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WEARE CONSERVATION COMMISSION  
MEETING MINUTES  
January 10, 2024

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**PRESENT:** Andy Fulton- Chair, Steve Najjar- Vice Chairman, Mike Camacho- Commissioner, Sherry Burdick- Commissioner, Marc Phillips-Commissioner, Suzanna Taytslin- Commissioner, Ray Lemay- Commissioner

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**TOWN ADMINISTRATOR:** Naomi L. Bolton

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**GUESTS:** Bill Marcotte, Joan Marcotte, Amelia Gardner, Jon King, Dave Herrick, Jackie Pratte, David Pratte, Jack Meaney, Lisa Grolljahn-Purington, Bruce Fillmore, Rick Hippler, Salim Blume

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Chair Fulton opened the Conservation Commission meeting at 7:08 p.m.

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**Easement Request Concord Stage Road:** Bill and Joan Marcotte are requesting a utility easement to install two poles to extend the power line from the Greene's (Map 202 Lot 002) home along the same right of way to his parcel. Vice Chair Najjar recused himself from the discussion because he is friends with Mr. and Mrs. Marcotte. Mr. Marcotte said they recently purchased the property and are looking to install two poles but only one would be on the Town's property. Mr. Marcotte spoke to the BOS on January 8<sup>th</sup> and they were fine with the Easement but wanted the CC to give input. Mr. Marcotte presented a plan from Eversource showing the existing poles and the two proposed utility poles. Chair Fulton asked if there was currently a span of wire between poles that does cross the driveway. Mr. Marcotte said yes. Mr. Fulton asked if there was any change or lessening of overhead. Mr. Marcotte said no. Rick Hippler BOS Chair said that the BOS did not have any complaints and Mr. Marcotte had offered to move the last poll onto his property. The BOS just wanted to run it by the CC since they manage the Town Forest.

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**Hopkinton Forestry Land Clearing:** Chair Hippler opened the BOS meeting to join the CC at 7:15 pm. Sherry Burdick stepped down as a CC member for the discussion to partake as a BOS member. Chair Fulton recused himself from the discussion because he is an abutter. Vice Chair Najjar stepped in as chair. Jon King from Hopkinton Forest and Land Clearing said that they are trying to gain access to the Clement property Map 401 Lot 91 and will need to go through Town town-owned property which is located on Map 96 and Map 92 and is a very short spot of Map 92. Mr. King said what they are proposing to do is put in a road and landing which at the end of their operation could be turned over to the Town for access to their Town piece landing could be a parking lot. Mr. King said what they would do is borrow material. There is a pit nearby where the landing is going to be located. Mr. King presented maps to the CC. Amelia Gardner with Hopkinton Forestry said part of why they are coming with this request is that the Town Road access that used to be there is now a beaver pond and they are having to think outside of the box to be able to get to the property. She said they have been working with this landowner for a couple of years trying to figure this out and this is the best solution they were able to come up with. Vice Chair Najjar asked if a forester has laid the design out or is this just conceptual. Mr. King said it is just conceptual and is something he put together. Vice Chair Najjar suggested doing a site walk with an NH-licensed Forester. He said something of this significance merits to be looked at with that level of professionalism. Commissioner Phillips asked

47 what the time frame would be. Mr. King said that it would be nice to do it in the winter to have the ground  
48 frozen. Mr. King spoke about Craney Hill Road and how they would have to do an uphill skid if they went  
49 that way. Vice Chair Najjar said that he does not think realistically that it will happen for winter. It is going  
50 to take some effort because it is a big deal, and it may help them in the end as far as having the access built  
51 but they need to figure out the commitment of resources. Vice Chair Najjar said that the next step for  
52 Hopkinton Forestry would be to get a solid conceptual and know where the wetlands are and an estimate  
53 of the timber and then the whole cut and fill circulation. BOS Chair Hippler said that he personally does  
54 not have an issue with it because they are trying to find a way to cut but if the CC requests are met. BOS  
55 Chair Hippler said he agrees that they should probably bring in their own gravel to get access to that piece.  
56 Vice Chair Najjar said they want to treat everyone fairly and equally. The only difference in the past is they  
57 have already had infrastructure there. The commission needs to walk the property and look at it, if  
58 Hopkinton Forestry wants to commit money to bring it into a real conceptual but no guarantees that is what  
59 Vice Chair Najjar would suggest being the next step. Vice Chair Najjar said if they want to re-engage and  
60 get on the agenda he would suggest doing so when they are snow-free and have had a chance to look at the  
61 property. They would want to know how long the crossing is going to be look at the grade have a rough  
62 estimate of what Timber is involved and map out the landings conceptually. Vice Chair Najjar said they  
63 would have to check with DOT if there is anything different with the driveway permits because it is a state  
64 road. Vice Chair Najjar asked if they had taken into consideration the condemned buildings. Ms. Gardner  
65 said they have considered that, and some buildings need to be addressed and with the equipment and stuff  
66 being there they can propose to be helpful in that sense if that is something the CC would like to move  
67 forward with. Ms. Gardner said that they do have another two-scale map with the landings and the roads  
68 they have measured and have taken inventory of what they need to cut for the road. Ms. Gardner said if  
69 this is not going to work out what other options do they have because the property owner is looking to  
70 move forward with managing their property? Vice Chair Najjar asked if it would be easier to get a trapper  
71 and remove the dam. Ms. Gardner said that they had talked about it. Vice Chair Najjar suggested talking  
72 to USDA Wildlife Services and talking to them about pond levers. Vice Chair Najjar said that the property  
73 owner has inherent rights to access on the road which would allow them to maintain their access would be  
74 to have beaver management. Discussion ensued about the easement access and beaver management. Mr.  
75 King stated that he would like to remind the CC that there is an RSA 231:40-42 called Rights-of-Way for  
76 Removal of Lumber, which states that "Occasionally, it becomes necessary to obtain a right-of-way  
77 through the land of another to access lumber, wood, or other material. If a right-of-way location has not  
78 been agreed on by the owners, the selectman may designate a right-of-way."

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80 **East Road:** Vice Chair Najjar said per the Town's legal policy the CC put in a request for access to the  
81 Town attorney as a commission. Vice Chair Najjar said from his perspective they never got an answer or  
82 permission to go to the Town Attorney. He said the commission does not know what got said to the town  
83 attorney either that weighed into any opinions. Vice Chair Najjar asked the BOS to speak to what happened  
84 to why the commission was not granted direct access to the attorney and why they were not part of the  
85 legal opinion. BOS Chair Hippler asked when the request was made. Chair Fulton said last month. Chair  
86 Hippler said if that fell through on his part his apologies for emailing saying received and not responding  
87 back. It could have been that he went to take care of it and spaced it. Chair Fulton said should he have  
88 called him to check on the status. BOS Chair Hippler said yes and it would be prudent to send counsel the  
89 documents that CC has. Selectman Blume said he would be okay with the Chair contacting and including  
90 the documents and believes that they should give access to the PARC Chair. Chair Fulton said that  
91 Selectman Mathews suggested having a meeting with the BOS, CC, and PARC to hash out some of the  
92 questions. Selectman Blume said he thinks what would be best would be having both chairs talk to Laura  
93 and present everything from each side and then have them have a meeting with the BOS, PARC, and CC  
94 then sit down and try to have the lawyer hash it all out live. Selectman Blume thinks it would be a disservice  
95 to her. Chair Fulton discussed a draft warrant article to the BOS. The warrant article was presented as  
96 follows: To complete the work initiated by the March 12, 2013 vote on warrant article 29 shall the town  
97 authorize the Conservation Commission to convey the associated conservation easement over a portion of  
98 the property including the hayfield and exclusive twenty contiguous acres set aside as originally intended

99 for ongoing gravel pit operations and future recreational facilities to a qualified land trust such as a  
100 Piscataqua Land Conservancy or the Society for the Protection of NH Forest. Chair Fulton said this would  
101 move the Conservation easement to the CC to develop for marketing an easement or requesting a land trust  
102 to work with the CC to work on the easement. BOS Chair Hippler asked if it contradicts anything from the  
103 original warrant article. Chair Fulton said it is a redirection and clarification. BOS Chair Hippler said all  
104 warrant articles go through town counsel so the CC would have to approve it the way it is written, and they  
105 can try to put it on. He said it could get kickback as far as if it needs alterations. Chair Fulton said this is  
106 an opportunity to fulfill the obligation to complete the easement. BOS Chair Hippler asked if it would put  
107 the CC in charge of the property that the gravel pit is on. Chair Fulton said no it is exclusive of that.  
108 Discussion ensued regarding the gravel pit. Commissioner Phillips said along with the request about access  
109 to Town Counsel they had two other items, one about the Poor Farm and the other about Cortland Ave.  
110 Chair Fulton said TA Bolton sent a certified letter and it was returned undeliverable. Vice Chair Najjar said  
111 they need to find out what the recourse is for not having the boundaries. Chair Hippler said they could try  
112 to enforce it. Vice Chair Bruce Fillmore of the Planning Board said they have a bond that includes the  
113 monuments. Chair Fulton asked if there was anything other than just a hold on the bond until there was  
114 compliance. PB Vice Chair Fillmore said there is not but if he does not want to maintain the road and says  
115 he wants the town to accept it then they can say they need to put the monuments in. Vice Chair Najjar  
116 asked how much the bond was for. PB Vice Chair Fillmore said it is for around \$280,000 and is a cash  
117 bond. Vice Chair Najjar said the info was helpful and feels they don't have to speak with the attorney.  
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119 Chair Hippler adjourned the Board of Selectmen meeting at 8:15 PM. Seconded by Selectman Burdick.  
120 Motion passed 3-0-0.  
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122 **Barden:** Jack Meaney said that the CC had a contract signed with the CC and the BOS over two years ago  
123 and that the CC had ninety days to get the buildings removed. Mr. Meaney said they are just starting to get  
124 RFP now and that keeps getting kicked down the road. Mr. Meaney said the other part of the contract is to  
125 have a comprehensive plan done within two years and start creating trails. Mr. Meaney said he had not  
126 seen that done. Mr. Meaney said that he was considering putting together a petitioned warrant article to  
127 take back the land from the CC to have it sold. Mr. Meaney said that Hopkinton Forestry offered to help  
128 with the buildings and the CC passed over it. Mr. Meaney said he believes the commission is doing a  
129 disservice to the town. Vice Chair Najjar said the discussion they had with Hopkinton Forestry is  
130 complicated to throw into the mix tonight and there is more that needs to be done. Mr. Meaney asked how  
131 long ago it was that they had the asbestos test done. Vice Chair Najjar said six months ago, and they will  
132 be talking and working on the RFP tonight to remove it. Commissioner Camacho said there is a draft trail  
133 plan and they have spent several meetings looking for volunteers for a trail committee they have not heard  
134 anything, and they had applied for grants and have not heard anything. Mr. Meaney said the CC should put  
135 an RFP for a contractor to come in and make the trails and take the money out of Conservation money.  
136 Commissioner Burdick said there have been a lot of roadblocks with the Barden lot with getting RFPs and  
137 getting people to come out and do the job and having to wait for months. Commission Burdick said her  
138 concern is that he is nailing it that it's the CC all the time but she can say some things do not get done on  
139 all levels. Discussion ensued regarding the Barden lot.  
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141 **Planning:** The Planning Board Vice Chair Bruce Fillmore was present for the warrant article for a zoning  
142 amendment to the CC and would encourage them to come to the PB meeting tomorrow night to discuss the  
143 article tomorrow. Chair Fulton said that his concern was taking something simple and did not require a lot  
144 of expert input other than delineation in accordance with the Army Corps manual no we are going to be  
145 making it a process this is very prescribed, and it seems like more professional input and judgment than  
146 what they were previously worked with. Chair Fulton said he wonders how the Planning Board is going to  
147 evaluate these professionals determining whether a wetland is significant or not. Commissioner Lemay  
148 said what he gathered was that he was talking more about the vernal pools and things that are temporary.  
149 Vice Chair Najjar said the functions are not weighted. Discussion ensued regarding setbacks.  
150 Commissioner Taytslin said it is interesting that the option of sticking with a fifty-foot is not given because

151 now it would require every project to go through this. Commissioner Camacho said he agrees with Vice  
152 Chair Najjar that there should be some sort of weight check. Vice Chair Najjar said he would suggest on  
153 behalf of the CC that this is too hurried and not to do it because there are a lot of unforeseen consequences  
154 and if they do choose to go ahead and at least raise the weighting issues. Mr. Pratte said he saw Mr.  
155 Francisco present this to the CC and it wasn't the Planning Board coming and asking if it was Mr. Francisco.  
156 He made a statement that it isn't needed. Mr. Pratte asked what the consequences are. Chair Fulton said  
157 that parallels what he was trying to say. Ms. Pratte asked if this was a personal gain has someone reached  
158 out to him about subdivisions, and does he have a bulk interest in properties. Ms. Pratte said he did say that  
159 it was not a PB issue, it was something he wanted to do. Ms. Pratte said he said that there was not need in  
160 the Town of Weare and he was not approached with a need in the Town. Chair Fulton said he does not  
161 worry about ulterior motives, but he also does not think this is a problem. Ms. Pratte clarified she is not  
162 accusing him of anything she brought him up because he brought up his property in the discussion. Vice  
163 Chair Najjar said he thinks Mr. Francisco is creating something that he sees as a problem, and it may not  
164 solve anything and could make it worse for some people.

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166 **Mail:** Commissioner Phillips said PLC is monitoring Breed Book and Eastman. There is ATV usage on  
167 Eastman coming in off Walker Hill Road. Commissioner Burdick asked which one had yard waste on the  
168 property. Commissioner Phillips said 49 Winterberry Lane. Chair Fulton will draft a letter.

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170 **Other:** Chair Fulton said that he handed out some of the CC guidebooks. He said the CC received an  
171 invoice for \$100 from the NH Association of CC and is looking for a motion to pay for that out of the  
172 unrestricted account.

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174 **Vice Chair Najjar motioned to pay the \$100 invoice to the NH Association of Conservation**  
175 **Commissions for the Conservation manuals. Seconded by Phillips. Motion passed 7-0-0.**

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177 Chair Fulton drafted the Town Annual Report and would like the CC to look at it and give him any changes  
178 before the February 1<sup>st</sup> deadline.

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180 **Minutes:** Commissioner Burdick motioned to approve the December 13, 2023 minutes as amended.  
181 Seconded by Commissioner Phillips. Motion passed 6-0-1 abstention from Najjar.

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183 **Land Management:** Chair Fulton said they got all the signatures of the Selectmen on the contract for one  
184 year with Meadowsend. Vice Chair Najjar said earlier today there was the Felch Farm timber cut showing  
185 to bid and then the bids will be open at the next CC meeting and if the meeting gets canceled for some  
186 reason it will go to the next Board of Selectmen meeting. Commissioner Lemay brought examples for the  
187 CC to review the RFP for asbestos abatement on the Barden property. Chair Najjar will put the RFP  
188 together for the next meeting. Discussion was had about just putting the RFP out for the abatement.

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190 **Other:** The CC worked on the warrant article that reads as follows: To complete the work initiated by the  
191 March 12, 2013 vote on warrant article 29 shall the town authorize the Conservation Commission to convey  
192 the associated conservation easement over a portion of the property including the hayfield and exclusive  
193 twenty contiguous acres set aside as originally intended for ongoing gravel pit operations and future  
194 recreational facilities to a qualified land trust such as a Piscataqua Land Conservancy or the Society for the  
195 protection of NH Forest for final approval of the Board of Selectmen and for such fees as may be requisite  
196 for such to come from the Town Conservation fund or by other fundraising by the Conservation  
197 Commission pursuant to RSA 36-A:4 Section 1. The tax map 408 lot 123 and Banks Shmid property were  
198 added to the warrant article. Commissioner Camacho asked how essential is to warrant an article to be on  
199 this year's warrant. Chair Fulton said essential because there is a petition article that may go on the warrant  
200 subject to additional review that the CC give up the hayfield.

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202 **Vice Chair Najjar made a motion to submit the proposed warrant article to the BOS for the 2024**  
203 **warrant. Seconded by Commissioner Phillips. Motion passed 6-0-1 abstention from Commissioner**  
204 **Burdick.**

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206 Vice Chair Najjar said once the new BOS is elected, they will need to work with the BOS to see what they  
207 would like in the RFP for the Forester contract. Chair Fulton will sign the bills from Meadowsend  
208 Timberlands. Commissioner Phillips asked about the 20% project admin and why they were paying hourly  
209 as well. Vice Chair Najjar agreed that needs to be clarified.

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211 Chair Fulton said they have had many 91A requests and they are having issues getting their CC emails.  
212 The CC is looking for support.

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214 **A motion to adjourn was made by Vice Chair Najjar at 10:22 p.m. Seconded by Commissioner**  
215 **Phillips. The vote passed 7-0-0.**

216  
217 **ADJOURNMENT**

218 A True Record.

219 *Kearsten O'Brien*

220 Kearsten O'Brien, Minute Taker