

**Minutes of Meeting
CONWAY BOARD OF SELECTMEN
February 28, 2023**

The Selectmen's Meeting convened at 4:00 pm at Conway Town Hall with the following present: C. David Weathers, Mary Carey Seavey, Carl Thibodeau, John Colbath, Town Manager John Eastman and Executive Assistant Krista Day.

PLEDGE OF ALLEGIANCE

Mr. Weathers led the Board in the Pledge of Allegiance to the Flag.

APPROVAL OF AGENDA

Mr. Weathers stated that there would be a few additions:

- 11c. Intent to Cut Wood or Timber on Map/Lot 252-62
- 11d. Intent to Cut Wood or Timber on Map/Lot 262-71.11
- 11e. Intent to Cut Wood or Timber on Map/Lot 246-65
- 18a. Non-Public Session RSA 91-A :3 II (e) Pending Litigation
- 18b. Non-Public Session RSA 91-A :3 II (c) Tax Matter

Ms. Seavey moved, seconded by Mr. Colbath to approve the agenda as amended. The motion carried unanimously.

SKI TOURING UPDATE AT WHITAKER WOODS

Peter Donohoe and Cort Hansen from Mt. Washington Valley Ski Touring appeared before the Board to discuss the changes in Whitaker Woods this year.

Mr. Donohoe explained that last year MWVST had pitched some ideas to the Conservation Commission regarding how they could keep walkers off the groomed ski paths but also allow them to utilize the woods.

He explained that they had completed the removal of trees to create a trail for skier and another trail for walkers, snowshoers and fat tire bikes.

He noted that they have had a lot of positive feedback and only a handful of complaints.

He added that hopefully with some tweaks it will be even better next year.

Mr. Hansen added that the MWVST had been working together with the Conservation Commission for 34 years.

He explained that they have four people working at the Whitaker House to help with education.

Mr. Weathers stated that they are trying to make sure both groups can utilize the land.

Mr. DegliAngeli added that the hope is to open the new multiuse pathway in July.

They are meeting to discuss issues regarding electric bikes and dogs on the paths.

The proposal will likely be dogs on leashes only and only Class 1 bikes.

Mr. Colbath thanked Mr. Hansen and Mr. Donohoe for all that they do.

He inquired as to how the usage was this year.

Mr. Hansen stated they were probably down in numbers this year by 20% due to the conditions.

Mr. Donohoe noted that he believed there were more skiers in Whitaker Woods this year than he has seen in the past 3-4 years.

PUBLIC HEARING ON ARTICLE TO ACCEPT SETTLER'S GREEN DRIVE AND
PRIVATE PORTIONS OF COMMON COURT AS PUBLIC RIGHTS OF WAY

Mr. Weathers opened the public hearing at 4:20 pm.

Mr. DegliAngeli explained that they had received a petition for road acceptance under the betterment statute as the abutters would need to bring the road to current Town standards.

The Town would take out the bond, but the abutters would be responsible for the principal and interest on the bond.

Resident Amy Snow inquired as to whether there have been any studies regarding how many people are using Common Court/Settlers Green drive to carry out normal business and not just go shopping.

Mr. DegliAngeli stated that they do not have a study as it is currently a private road.

Ms. Snow stated she views it as a commercial driveway to access Settlers Green.

Ms. Snow asked what happens if the abutters default on the bond payments.

Mr. DegliAngeli explained that the Town would be responsible, however, they would then go through the process of taking the abutters property and that would be worth far more than the amount of the loan.

Ms. Snow asked who the abutters were.

It was stated that it was Settlers Green and the Fairway Nominee Trust, or Mr. Mullins.

Mr. DegliAngeli stated that the Attorney for Settlers Green had reached out to the Attorney for Mr. Mullins today.

Mr. Bergeron stated that before this meeting, his client Mr. Mullins had not heard from Mr. Barsamian.

Mr. DegliAngeli read the following email from counsel for Settlers Green to counsel for Mr. Mullins:

Hi Phil,

It has been quite a while since we've been in touch. I hope all's well with you.

I'm reaching out because I understand that you represent the Fairway Nominee Trust and Joe Mullins and that you have expressed potential concern on his behalf about the petition submitted to the Town of Conway by Settlers Green with respect to the taking of the private portion of Common Court as a Town road. As you may know, I represent Settlers Green, and I have been involved in drafting and advocating for the petition.

I would be happy to talk with you about the petition and the rationale behind it. Additionally, I'm sure that I arrange to have my client, Rob Barsamian, reach out directly to Mr. Mullins if Mr. Mullins would prefer that. In short, we are hopeful we can address any concerns you and Mr. Mullins may have, as we think a Town taking of the road will be good for the Town, for Settlers Green, and for Mullins' property located on Common Court.

Feel free to email or call me at your convenience.

Janine Bean asked if the abutters have to agree to pay.

Mr. DegliAngeli explained that by statute when petitioning under a betterment assessment, if an abutter is not happy, they can appeal to the Board of Selectmen.

They could petition the Selectmen that they do not feel they should pay a certain amount and then it would be up to the Board to decide.

It was stated that if the voter's turn down this petition, then the issue of an abutter needed to appeal the betterment assessment would no longer be needed as the roads would not be accepted.

Mr. Weathers closed the public hearing at 4:39 pm.

DISCUSSION OF DISSOLUTION OF CVFD

CVFD Commissioner Steve Bamsey appeared before the Board.

He stated that he was here with the Selectmen to address the question that they are getting from the public of whether or not the Town has the authority to take over water and sewer if the Fire District dissolves.

He stated that they have a statement from DES stating that the Town has the authority to take it over and operate it as it exists today.

It was discussed that it would take a warrant article and the vote of the legislative body to allow changes and/or expansion of sewer and water in Conway.

Mr. Bamsey stated that the Commissioners could support an amendment of their article this year to change the year that the Town would take the district over from 2024 to 2025 in order to get an article on the warrant next year for water and sewer.

Commissioner Mike DiGregorio arrive at the meeting.

Mr. Weathers asked if the district could expand beyond its boundary limits knowing their current debt.

Mr. Bamsey stated that they could but it would be cost prohibitive.

It was stated that it would be possible if a developer wanted to pay for it.

Mr. Thibodeau stated that it he sees it as an all or nothing situation and they would need to take over water and sewer with the goal to expand.

Ms. Seavey stated she sees this as more of a time element and that it might be premature to do for 2024.

Mr. DiGregorio asked to have a few minutes out in the hall with Mr. Bamsey because they have not had a chance to discuss this.

He noted that he had posted a meeting for this so if anyone wanted to come listen in the hallway they were more than welcome to.

DISCUSSION OF LETTER OF INTENT FOR KEARSARGE SOLAR LLC

Mr. DegliAngeli explained that the Board may remember a proposed solar farm for the landfill.

He explained that the company that they had contracted with had only a certain amount of time to produce a project and that never happened.

He noted that Kearsarge Solar LLC had approached the Town because they believe there is a viable project at the landfill.

They have produced a letter of intent for the Selectmen to sign in they are amenable.

Sam Feigenbaum and Tom Flynn from Kearsarge Solar LLC appeared before the Board via Zoom.

They explained that they are based in Boston and act as the developer and owner operator of renewable energy projects.

Mr. Feigenbaum emphasized that everything they develop, they operate themselves.

Mr. Feigenbaum gave a brief history of their company.

He explained that they own and operate the Manchester Landfill solar project and have another 22 projects in development in New Hampshire.

He added that they like to build projects on land that is not ever going to be used for any other purpose.

There was discussion regarding the maximum size allowed on this site.

Mr. Colbath asked how much electricity this could produce.

It was estimated that it could provide electricity for about 150-200 households.

Mr. Feigenbaum noted that they had taken the terms from the previous PILOT the Town had.

They noted that the Town would be looking at more than \$400,000 in cash flow over a 45 year term.

Mr. Feigenbaum noted that they could have the project operational by quarter 2 in 2025.

There was discussion regarding what it would take to make the project larger in the future.

Mr. Feigenbaum noted that it would be possible, but more difficult as they would most likely need a new interconnection.

There was discussion regarding the fact that the Town does not currently have enough power needs in the Eversource district to be an off taker, or user of the electricity.

There was note that they could potentially partner with the schools in order to accomplish this.

Under current law, the accounts have to be associated within the municipality.

Mr. Weathers asked how the Town would see the revenue.

Mr. Feigenbaum explained that you could either receive cash or see credits off the electric bill.

Mr. Colbath moved, seconded by Ms. Seavey, to authorize the Chairman to sign the letter of intent with Kearsarge Solar LLC. The motion carried unanimously.

The Board returned to the discussion of the potential dissolution of the Conway Village Fire District with Mr. Bamsey and Mr. DiGregorio.

Mr. Bamsey stated that while they still need to meet with their legal counsel, they are considering changing the time frame in which the Town would take over by amending their warrant article from 2024 to 2025.

He explained that this would push everything back a year to allow for more education.

There was brief discussion regarding a developer who had come up with a conceptual plan and had inquired about water and sewer service outside of the current precinct boundaries.

Mr. Thibodeau asked Mr. DegliAngeli if there was anything preventing the Town from taking over in 2024.

Mr. DegliAngeli explained that there are multiple statutes in the books.

He explained that their position is supported by NHMA Attorney Steve Buckley and Attorney Jason Dennis that the Town would take over the existing plant and run it as it.

In 2024, a warrant article can go before the voters to expand the existing operations.

Mr. DegliAngeli discussed the argument that the Town would not have funds to run the water, sewer and fire from January 2024-April 2024 until the Town vote.

He explained that they would run it the same as they do any Department.

He added that they would have the precincts budget.

Mr. Bamsey stated that the people who are currently servicing the precinct debt would be the same people and it would not be passed on to the other taxpayers.

It was stated that if dissolution occurs, Conway Village and non-precinct fire areas would be combined and the need to a non-precinct fire agreement could potentially go away.

Mr. Thibodeau asked if CVFD had considered contractual obligations with Albany.

Mr. DegliAngeli noted that he was sure Albany would still be interested in Conway providing Fire service.

He added that the cost for those contracts would go up.

Chief Solomon noted that Albany is aware of this potential situation and they are already working to increase their contract.

He elaborated to say that they would plan to run out their current contract and then use a similar formula as the Town does with the Solid Waste District to equalize the cost of the Fire Department.

Mr. Bamsey stated that they would proposed an amending to change the year from 2024 to 2025 and add “pending approval of the Town of Conway”.

Mr. DegliAngeli asked why they would add “pending approval of the Town”.

Ms. Snow stated because before the Town could expand the voters would need to pass the provisions.

Mr. Bamsey stated that the rationale was to give better clarity for the residents of the district instead of asking the voters to go into something that is not clear.

Janine Bean stated that she believed they could all agree that they are interested in the same thing and share an interest to enhance the Town.

She noted that a new Master Plan was in the works as well as the potential for a Charter Commission.

She stated that she does not think anyone is against the dissolution in general, but more the way they are going about it.

She explained that the RSA's raise more questions then they do answers.

She suggested waiting until the Master Plan was developed.

Chief Solomon stated that Attorney Steve Buckley said that the Conway Select Board would wind up the affairs of the district if it dissolves.

He added that the Town already has the legal authority to provide fire service.

Bill Marvel asked if the Town would be operating sewer and water at the Town's expense.

Mr. DiGregorio stated that the costs would be on the existing users.

Mr. Marvel stated that their appears to be a consensus that expansion is a good thing as it would increase the tax base.

However, the stated that compared to 1977 in which his taxes were less than 4% of his annual income, this year's taxes were almost 20% of his total income.

He stated that the idea that expansion will ease the tax burden is naïve.

Mr. DiGregorio stated that there is no question that the cost of the Fire Department will increase.

He stated that the Fire Department runs mostly with paid staff and that volunteers don't show up anymore.

Mr. Weathers stated that this was false and volunteers are still a large part of the response.

DISCUSSION OF PICKLEBALL COURTS

Mr. Eastman noted that Mr. Lane had been asked to get pricing for redoing the tennis courts to create additional pickleball courts.

Mr. Lane explained that the plan would be to turn court 1 into 4 pickleball courts and court 2 and 3 would be redone, but remain as tennis court.

He noted that the courts need to be fixed right now anyway because there are a lot of cracks in the surface.

Mr. Lane stated that the low bid was \$33,300 that included new tennis nets and 4 new pickleball nets.

The goal completion date would be sometime in July.

Ms. Seavey stated that she would like to see specific times designated to residents like they do at the Rec Center.

Mr. Eastman stated that enforcement would be difficult but potentially having a coordinator could be looked into.

Mr. Lane will think about how he could satisfy Ms. Seavey's request for a potential league.

Mr. Colbath asked if Mr. Lane was comfortable with the company that had the low bid.

He stated that he was.

Mr. Colbath moved, seconded by Mr. Thibodeau, to utilize \$33,300 from the Recreation Revolving Fund to redo the tennis courts at Davis Park which includes the creation of four pickleball courts. The motion carried unanimously.

DISCUSSION OF PARKING ON RIVER ROAD

There was discussion regarding the topic of banning cars from parking on the public portion of River Road from second bridge to the intersection of River Road and Westside Road.

Mr. Thibodeau moved, seconded by Mr. Colbath, to have no parking on either side of River Road from the intersection of Route 16 and River Road to the intersections of River Road and Westside Road and to authorize Town Staff to issue tickets.

Ms. Seavey was concerned about how they would enforce this.

Ms. Burns noted that she did not think it would be a problem to include it in their regular enforcement rounds.

Resident Jim McQueeney was concerned that there would not be enough place to park if they eliminate the road as an option.

It was reiterated that there was plenty of room in the parking area.

Mr. Lane added that last year the parking lot at First Bridge was never at capacity.

The motion carried unanimously.

There was brief discussion regarding whether they should lower the parking fine that was currently set at \$100.

The consensus of the Board was that they would like to keep the fine at \$100.

Mr. Lane noted that the parking stickers have been ordered and residents should be able to go to the Town Clerk's office at the beginning of next week to get them.

REVIEW OF RECEIPTS

The receipts were available for review.

SIGNING OF DOCUMENTS

- a. Permanent Application for Property Tax Credits/Exemptions on Map/Lot 264-41
- b. Permanent Application for Property Tax Credits/Exemptions on Map/Lot 265-103
- c. Intent to Cut Wood/Timber on Map/Lot 252-62
- d. Intent to Cut Wood/Timber on Map/Lot 246-65
- e. Intent to Cut Wood/Timber on Map/Lot 262-71.11

Mr. Colbath moved, seconded by Ms. Seavey, to sign the documents listed above. The motion carried unanimously.

CONSIDERATION OF BILLS

- a. AP Manifest dated 3/2/2023

Mr. Colbath moved, seconded by Mr. Thibodeau, to sign the AP Manifest dated 3/2/2023. The motion carried unanimously.

RATIFICATION OF DOCUMENTS SIGNED OUT OF SESSION

- a. 2023 Town Warrant

Mr. Thibodeau moved, seconded by Mr. Colbath, to ratify the 2023 Town Warrant signed out of session. The motion carried unanimously.

REVIEW AND CONSIDERATION OF SPECIAL EVENT APPLICATION(S)

(none)

CONSIDERATION OF MINUTES

- a. Regular Minutes from 2/14/2023
- b. Regular Minutes from 2/21/2023
- c. Non-Profit Presentations from 2/8/2023

Mr. Colbath moved, seconded by Mr. Thibodeau, to adopt the minutes as listed above as written. The motion carried unanimously.

TOWN MANAGER REPORT

Mr. Eastman told the Board that the Town Clerks office would be at a mandatory training on Wednesday June 7, 2023.

He noted that they will be locking the lobby door but putting a phone number for people to call to access the other departments on the first floor.

BOARD REPORTS AND COMMENTS

Ms. Seavey stated that AVESTA was now taking information for people who would like to potentially rent in their new building.

She noted that Redstone had donated two lots to the Charter School.

She stated that the Economic Council is looking for funding for the expansion of Technology Lane.

Mr. Colbath noted that the ZBA would be meeting the third Wednesday of March and there were already 14 hearings scheduled.

He noted that the Budget Committee had met the previous week to make their recommendations on the Police Contract Warrant Article and the Charter Commission Warrant Article.

PUBLIC COMMENTS AND MEDIA QUESTIONS

Deb Weinstein, the Executive Director of Starting Point, appeared before the Board.

She explained that they are in the process of applying for two streams of Congressionally Directed Spending.

She explained that they plan to use the funds to make capital improvements.

They plan to make their match requirement with private donation grants.

Ms. Weinstein requested two letters of support from the Board of Selectmen to accompany her application.

Mr. Colbath moved, seconded by Ms. Seavey, to authorize the Chairman to sign two letters of support for Starting Point. The motion carried unanimously.

Daymond Steer from the Conway Daily Sun asked how the Town would insure the District if they did not have an article on the warrant for water and sewer.

Mr. Eastman believed it would fall under their Primex plan.

Chief Solomon stated that according to DES, if the precinct dissolves, the Town does own it.

NON-PUBLIC RSA 91-A:3 II (E) PENDING LITIGATION

At 7:08 pm, Mr. Colbath moved, seconded by Ms. Seavey, to go into non-public session under 91-A:3 II (e). The motion carried unanimously.

Mr. Colbath moved, seconded by Mr. Thibodeau, to seal the minutes from this non-public session as divulgence of the information would render the proposed action ineffective and . The motion carried unanimously.

At 7:33 pm, Mr. Colbath moved, seconded by Mr. Thibodeau, to go into non-public session under RSA 91-A:3 II (C). The motion carried unanimously.

NON-PUBLIC RSA 91-A:3 II (C) TAX MATTER

At 7:36, the Board returned to public session.

Mr. Colbath moved, seconded by Mr. Thibodeau, to seal the minutes from this non-public session as divulgence of the information would render the proposed action ineffective and . The motion carried unanimously.

ADJOURN

At 7:36 pm, the meeting adjourned at the Call of the Chair.

Respectfully Submitted,

Krista Day
Executive Secretary