

Meeting with Conservation Commission: Issues include

- Purchase of the Renna property
- Purchase of the Monfet property
- Having the town write a letter to the AG about amending the conservation easement deed on the Gerrior subdivision
- Disbanding Isinglass Committee
- Update on Calef Easement
- Update by Conservation Commission of bylaws which the CC has authority to adopt
- Board of Selectmen exempted town owned land in Clark Goodwill associated with lot 1 from 50 foot buffer for entrance to American Legion and its own lot.
- Wetlands Buffer Ordinance
- Subcommittees, in particular: Natural Resources Committee, subcommittee of CC - chair is/was Marika Wilde, Town Forest Task Force, subcommittee of CC - chair is/was Matt Carpenter, and Trails Committee, which Recreation does not have as a subcommittee yet Conservation Commission thinks it is under Recreation - chair is/was Charlie Tatham.

Action

Sale of Small Road Tax Deeded Property: The town took this lake front cottage in 2007 for taxes. We have had no success contacting the prior owner, although we did reach one cousin who apparently does not have contact with the cousin, but the boat which apparently had been fully renovated at some point before being parked has been removed. There is still some camping gear inside cottage, but our recommendation is we sell cottage with the personnel property inside as outlined by our attorney. My recommendation is we proceed with a sealed bid (saving the auctioneer's 10%) no minimum (right to reject bids if not high enough). ***Does the Board vote to proceed this way?***

No Through Trucking on Tolend Road: There has been another complaint about trucks on Tolend Road. The complainant, Randal Heller, noted and asked: "...a member of the Board of Selectmen whose family has a business association with the local trucking industry. I respectfully ask that member to recuse herself from deliberation and vote on this matter to avoid any perceived conflict of interest".

Here is a comment from the NHMA attorney (note the Federal Government gets involved) The procedure to adopt a regulation of this type would be derived from the Selectmen's authority to regulate the use of highways, RSA 41:11, as further embellished by RSA 47:17 (VIII) (a) that would allow the Selectmen "[t]o make special regulations as to the use of vehicles upon particular highways, except as to speed." These statutes do not prescribe the number and type of public hearings, or the type of notice that must be provided for such public hearings, except to the extent that RSA 47:18 would require publication of the proposed ordinance in a newspaper in general circulation in the Town prior to public hearing and adoption. At a minimum, at least one public hearing with posted and published notice 15 (fifteen) days before the hearing would be recommended. That being said, prohibition of through trucking will entangle the Town in federal regulations that generally prohibit local laws that impede motor carrier transportation. Those regulations, and in particular 23 CFR Part 658.19, §658.19

“Reasonable access” will likely preclude any attempt to bar through trucking. You should carefully consult this federal regulation in consultation with your Town Attorney to determine if Barrington is permitted to adopt such a no through trucking ordinance on the roads or roads in Town that are the target of this effort. ***Does the Board wish to take action to stop through trucks on Tolend Road?***

Solar RFQ: Given the uncertainty about the Highway Garage and availability of capacity, I would like to reformat (and likely scale back the total KW) to indicate we have three buildings on which solar can go (gym/library, safety complex and current highway garage/transfer station. I have a question if we should reroof these before they put the solar up (i.e. what happens if the roof needs replacing in 10 years) This would take ground mount off the table. I am looking into a completely different garage design that would result in a south facing roof (doors east and west end to still avoid North facing doors), but my plan is that the highway needs drive the garage, not the solar. ***Is this a good plan?***

Earned Time: ***Does the Board wish to do something with the proposed earned time changes for new employees as regards revisions to proposal or setting a hearing?***

There will be a request for a nonpublic for personnel regarding a promotion.

Right to Know: I have copied and pasted from NHMA documents to create a two page summary. What I added related to the Board and recognition. Here is the current list of what I believe to be official committees for the Town (alphabetic order of committee with subcommittees noted under committee which appointed). I believe there may be other subcommittees. The school wants a list for purposes of scheduling rooms and I believe we should give our insurance carrier a list.

- Advisory Budget Committee
- Board of Selectmen
- Cemetery Trustees
- Conservation Commission
- Library Trustees
 - Building Committee
 - Fund Raising
- Planning Board
 - Visioning Steering Committee
 - The Natural Resources and Rural Character
 - Community Development/Community Gathering Spaces
 - Life Long Learning
 - Growth and Development: ID Sites/Zoning/Business Development
 - Communication Recreation Commission
- Supervisors of the Checklist
- Trustees of the Trust Fund
- Zoning Board of Adjustment

There appear to be several that I believe have not met recently and are probably only theoretical in nature including: Natural Resources Committee, subcommittee of CC - chair is/was Marika Wilde, Town Forest Task Force, subcommittee of CC - chair is/was Matt Carpenter, and Trails Committee, which Recreation does not have as a subcommittee yet Conservation Commission thinks it is under Recreation - chair is/was Charlie Tatham.

Does the Board have changes to either the list or the document?

Changing law regarding building on a restricted road: (email from Tom Abbott) Per our conversation this morning relative to private and Class VI roads, I have attempted to lay out the issue as I perceive it as well as a potential solution to the issue

Issue:

New Hampshire RSA 674:41 prohibits the erection of buildings and the issuance of building permits on Class VI and private roads, unless the “street giving access to the lot” (frontage) meets one of five exceptions articulated in 674:41 paragraph 1.

Therefore when an applicant submits a building permit application for the construction of a “building” on a private or Class VI road, which does not comply with one of the statutory exceptions, the applicant is required to have the local governing body, after review and comment by the Planning Board, vote to authorize the issuance of the building permit on such road(s). The applicant is further required to provide evidence that a notice of limits of municipal liability has been recorded with the county registry of deeds.

The issue arises in the fact that the law applies to all buildings, as well as additions or conversions to year round use of an existing building (Chapter 7 of “A Hard Road to Travel: New Hampshire Law of Local Highways, Streets and Trails”)and nothing in the language of the statute limits the number of times the property owner is required to have the governing body approve building permits for future buildings/additions.

Should the applicant wish to appeal the denial of the permit to the Zoning Board of Adjustment, the ZBA must find in part that “the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets” (Seth Peters, et al vs. Town of Nottingham – Rockingham Superior Court).

The statute additionally provides that: “This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section”. This leaves little flexibility for municipalities to apply the regulation in a manner that would address the specific concerns and/or conditions related to each individual property.

Solution:

While respecting the legislatures desire to indemnify municipalities from liability related to the use of class V and private roads, it would not seem unreasonable to

modify the statute to require only one vote of the governing body prior to the issuance of any future permit(s) related to the subject property, assuming no change and/or expansion of use (ie: single family to duplex or multi-family, starting a daycare...) that might increase the municipalities exposure to future liability.

Is the Board of Selectmen in favor of requesting NHMA and our legislative delegation support this change in law?

Information

Wetlands Buffer on Clark Goodwill lot 1: The Planning Board has the right to hold a public hearing on this project should it so desire provided it meets the test of substantial change. I doubt a driveway meets that criteria. Relevant RSA 647:54 is at end of this report.

Board needs to sign Wilhelm deed for acceptance and recording.

Demolition of Old Town Hall and New Hampshire Division Historic Resources (DHR). I wrote: In the 1930's the town built a 2 story brick building for the school. Some reports indicate WPA was involved. In the 1950's a one story addition was added. In the 1960's a second floor was added to the addition. When the school stopped using it as classroom it functioned as town offices, SAU offices and some recreational use. There was water damage and by 2011 all office use stopped (still some records stored there and a fire repeater is on the roof). The office use stopped after numerous staff became ill from mold and some were instructed by their doctors not to work in the building. Numerous studies indicating we should not be using the building because of mold (see attached summary). The building cannot be reoccupied because of the mold, ADA issues (four levels) now it has been out of use, new energy code which kicks in if extensive rehab occurs, etc. Two attempts to obtain funding to rehabilitate the building have failed at Town Meeting. The building has been cleared of asbestos (certified). The Board of Selectmen is expecting to ask the voters for permission to demolish the building in 2015. The building is not on the National Historic Register. And asked: **Are there any restrictions of a historical nature to demolishing the building of which you are aware?**

Based on our phone conversation today, it appears that the Town has done quite a bit of due diligence on the property and has looked into a number of alternatives.

Nadine Peterson of DHR called back and asked some additional questions, including if we considered selling the building, renovation costs, and grants. She then emailed: "There would be no regulatory oversight by the DHR unless federal funds, permitting or licensing is involved. At this point it time, it does not appear that federal involvement is likely and therefore, there would be no required DHR review. If plans should change and you need any assistance in the preservation of the building (i.e. best practices, funding etc.) Please feel free to contact us (Div Historic Resources)."

IPAD: I have decided the best use at this time is as a document storage devise and for access to the Internet at Land Use meetings (Zoning Ordinance, Site Review, Subdivision as well as state RSA) This reduces the need to carry large documents (currently I have over 500 pages loaded). Also other

documents related to a proposal before the Board and various forms can be uploaded onto the device for meetings as needed.

Temporary Construction Easement Clark Goodwill (American Legion easement): I assume I have authority to sign the Temporary Construction Easement as drawn up by our attorney. I plan to have it recorded the next time someone goes to the registry.

Draft Proposal for changes to Earned Time for New Employees:

Summary of changes: Same basic total accumulation, but 4.4% of the total percentages are changed to non-cashable sick time. The total accumulation is dropped about 1/3. The buyout amount is also dropped (varies by longevity).

EARNED TIME for employees hired after July 1, 2014

This policy to allow Earned Time Payment was developed to provide paid time off from work for vacations and personal reasons.

A. The following schedule details the rate at which time will be accrued for all

Employees hired after July 1, 2014, for the indicated consecutive years of employment, prorated by the number of hours regularly scheduled. Earned time shall apply to all employees regularly working 20 hours or more.

Group A: 0-4 years of service 4%

Group B: 5-9 years of service 6%

Group C: 10+ years of service 8%

Example: An employee is regularly scheduled for 40 hours per pay period. His/her time is calculated by multiplying the hours scheduled by the accumulation percentage and adding the number to the employee's earned time bank.

Town Employees

Group A: 40 hours x 4% = 1.6 hours per week

Group B: 40 hours x 6% = 2.4 hours per week

Group C: 40 hours x 8% = 3.2 hours

Earned Time General Rules are the same as other employees as specified in the Personnel Plan except maximum accrual shall read as follows:

3. Earned Time can be accrued to a maximum of 200 hours for full-time employees. Part time employees may accumulate to a maximum of 5 times their regular weekly schedule, for example 20 hours per week times 5 equals 100 hours maximum for that part-time employee. Starting January 1, 2014, and at each subsequent January 1, any hours in excess of that maximum limit will be lost without

compensation for them, reducing the total earned time down to the maximum. The Town Administrator has the authority to grant a temporary excess of hours for a limited period of time based upon unique circumstances. Upon leaving service an employee will not be paid for more than the maximum number of hours allowed above.

Earned Time Scheduling: Except in emergencies beyond the employee's control, (e.g., an illness for which an employee has no sick time, unexpected appointment or occurrence, etc.) all requests to utilize Earned Time shall be granted or denied at the discretion of the employee's immediate supervisor as work schedule permits and on a first come/first served basis. Requests for more than two days will be treated according to the vacation policy in this agreement.

Maternity: See Family Medical Leave section of this personnel policy.

Earned Time Exceptions: Any variation from this Earned Time Policy will require the approval of the Board of Selectmen.

Earned Time Buyout Options: Earned time may be "bought out" four times a year, as indicated below. Full-time and part-time employee must retain a minimum of two weeks in their Earned Time bank when cashing out. Employees may not purchase hours that would reduce their bank below the minimum required hours. Use of this cash option will be permitted quarterly during March, June, September and December. Such requests must be submitted to Payroll in the first two weeks of the appropriate month and will be paid in the next pay period for that month. (In cases of unique hardship, a person can appeal to the Board of Selectmen for buy-out at another time.) A completed Earned Time Cash Option Form will be required and must be submitted by the employee to Payroll in a timely manner.

SICK LEAVE

Sick leave is considered to be an emergency fringe benefit used only as needed. Employees absent must report their absence to the department head, stating the reason for absence, within one-half hour of the time they are scheduled to report to work, unless physically unable to. Failure to do so will result in the forfeiture of pay. The town reserves the right to request a statement from a qualified doctor for any time missed due to illness and a return to work certificate may be required of those employees who have been ill as a result of a communicable disease. Chronic cases of absenteeism due to illness shall be reviewed periodically and a determination regarding continued payment and/or continued employment will be made by the Town Manager.

Provided the employee has accrued sick leave, paid sick leave may be granted for the following:

- Bodily injury, disease or illness.
- Illness in the employee's immediate family. The immediate family shall include spouse, children, grandchildren, step-children, mother, father, mother-in-law and father-in-law. Exceptions can be made by the Town Manager under extenuating circumstances for other family members.
- Exposure to contagious disease/quarantine.

An employee will acquire sick time at the rate of 4.4% of regularly scheduled hours per week, for example 1.76 hours a week for an employee regularly scheduled for 40 hours a week.

An employee may carry over up to 10 days annually. Sick days cannot be cashed out at any time.

CURRENT LANGUAGE

EARNED TIME

This policy to allow Earned Time Payment was developed to provide paid time off from work for such reasons as holidays, vacations, sickness, and personal reasons.

A. The following schedule details the rate at which time will be accrued for all

employees, for the indicated consecutive years of employment, prorated by the number of hours paid. (Schedule is based upon an 8-hour workday, 2080 hours worked annually and shows the highest number of vacation & sick days that can be accrued. Employees who regularly work less than 40 hours will be paid based upon the hours they are regularly scheduled to work. Earned time shall apply to all employees regularly working 20 hours or more).

Town Employees

Group A: 0-4 years of service 8.5%

10 vacation days 12 sick days

Group B: 5-9 years of service 10.4%

15 vacation days 12 sick days

Group C: 10+ years of service 12.4%

20 vacation days 12 sick days

Example: An employee is paid for 40 hours per pay period. His/her time is calculated by multiplying the hours paid by the accumulation percentage and adding the number to the employee's earned time bank.

Town Employees

Group A: 40 hours x 8.5% = 3.4 hours

Group B: 40 hours x 10.4% = 4.16 hours

Group C: 40 hours x 12.4% = 4.96 hours

Earned Time General Rules:

1. Earned Time is available for all employees who regularly work a minimum of 20 hours per week and is calculated upon the number of hours regularly scheduled up to 40 hours in a workweek. Exempt salaried employees are calculated on the basis of 40 hours per week.
2. Earned time is not accrued during any period of time when on unpaid leave including short and long term disability.
3. Earned Time can be accrued to a maximum of 320 hours for full-time employees. Part time employees may accumulate to a maximum of 8 times their regular weekly schedule, for example 20 hours per week times 8 equals 160 hours maximum for that part-time employee. Starting January 1, 2014, and at each subsequent January 1, any hours in excess of that maximum limit will be lost without compensation for them, reducing the total earned time down to the maximum. The Town Administrator has the authority to grant a temporary excess of hours for a limited period of time based upon unique circumstances. Upon leaving service an employee will not be paid for more than the maximum number of hours allowed above.
4. During the course of any year, including 2012, an employee may only cash in an amount equal to 50% of his or her total annual accrual other than upon termination of employment. During the course of any year an employee of the Police and Fire Department may only cash in an amount up to that equal to 60% of his or her total annual accrual other than upon termination of employment.
5. Earned time can be used in amounts of one hour or more.
6. When using Earned Time, the total pay for any one day shall not exceed an employee's usual work hours.
7. Only the amount of Earned time ACTUALLY accrued and deposited in the Earned Time bank shall be available for use.
8. All Earned Time requests for reimbursement must be recorded on payroll time sheets and Appendix A must be completed and submitted to Payroll.
9. Whether through a voluntary or involuntary termination of employment during the first six months, the employee shall forfeit all Earned Time benefits.
10. Upon termination of employment (other than during the first six months of employment), the employee will be paid for all Earned Time accrued and deposited in the Earned Time bank.

Earned Time Scheduling: Except in emergencies beyond the employee's control, (e.g., an illness, unexpected appointment or occurrence, etc.) all requests to utilize Earned Time shall be granted or denied at the discretion of the employee's immediate supervisor as work schedule permits and on a first come/first served basis.

Earned Time and Sick Days: These are a part of the earned time policy or for those employees in the earned sick bank.

Earned Time: Earned time is intended to provide for the continuation of compensation. Therefore, it is advisable for an employee to accrue at least two weeks of earned time as protection for unexpected periods out of work due to illness. No employee may purchase earned time bringing him or her below two weeks of time in the Earned Time bank.

Maternity: See Family Medical Leave section of this personnel policy.

Earned Time Exceptions: Any variation from this Earned Time Policy will require the approval of the Board of Selectmen.

Earned Time Buyout Options: Earned time may be "bought out" four times a year, as indicated below. Full-time and part-time employee must retain a minimum of two weeks in their Earned Time bank when cashing out. Employees may not purchase hours that would reduce their bank below the minimum required hours. Use of this cash option will be permitted quarterly during March, June, September and December. Such requests must be submitted to Payroll in the first two weeks of the appropriate month and will be paid in the next pay period for that month. (In cases of unique hardship, a person can appeal to the Board of Selectmen for buy-out at another time. The first quarterly buy-out for 2012 will open the month following approval of the amendment with the second in December.) A completed Earned Time Cash Option Form will be required and must be submitted by the employee to Payroll in a timely manner. (See Appendix A)

674:54 Governmental Land Uses. –

I. In this section, "governmental use" means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

II. The state, university system, community college system of New Hampshire, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, explanations of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing body or planning board of the municipality may conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board may issue nonbinding written comments relative to

conformity or nonconformity of the proposal with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.

II-b. The construction and operation of any solid waste disposal facility on land owned or occupied by any city or town within another city or town shall be subject to local land use regulations to the same extent as if the land were owned and occupied by a private entity. Nothing in this paragraph shall affect the construction and operation of a solid waste facility on land owned by a solid waste management district formed under RSA 53-A or RSA 53-B or any combination of municipalities authorized by an act of the general court, if the land is located within a city or town that is part of the district.

III. This section shall not apply to:

(a) The layout or construction of public highways of any class, or to the distribution lines or transmission apparatus of governmental utilities, provided that the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title. For purposes of this subparagraph, "transmission apparatus" shall not include wireless communication facilities.

(b) The erection, installation, or maintenance of poles, structures, conduits and cables, or wires in, under, or across any public highways under RSA 231, or licenses or leases for telecommunication facilities in, under, or across railroad rights of way. For purposes of this subparagraph, "structures" shall not include wireless communications facilities.

IV. In the event of exigent circumstances where the delay entailed by compliance with this section would endanger public health or safety, the governor may declare a governmental use exempt from the requirements of this section.

Source. 1996, 262:1. 1998, 281:2. 2007, 29:1, eff. May 14, 2007; 361:32, eff. July 17, 2007.