

**MINUTES OF MEETING
CONWAY CONSERVATION COMMISSION
May 8, 2013**

The May meeting of the Conway Conservation Commission convened at 6:30 p.m. at the Whitaker Homesite in North Conway, NH. Members present were: Rob Adair, Carol Lyman, David Weathers, Larry Huemmler, Dan Lucy and Karla Allen.

1. Approval of Minutes 4/10/13: The following corrections were noted: Pg. 1, Spelling: Coughlin should be *Coughlan*, 6th para. Doloff sisters should be *Dahl*; Shiavi should be *Schiavi*. Pg. 2, 4th para. last line, remove the word “are” to read.....*and they also need money for the stewardship*. Pgs. 1&2 under Reports/TNC – References to Mr. Lees and Mr. Lougee should be reversed throughout. **Motion was made by Mr. Weathers, seconded by Mr. Huemmler, that the Minutes of the April 10th meeting be accepted as corrected. Motion carried by unanimous vote.**

2. Public Comment: None.

3. Reports: Mr. Adair stated Mr. Johnson would not be present and has not started any new work. He noted that the annual budget was approved as submitted and Mr. Johnson will be meeting with Mr. Sires to draft an agreement.

4. Other Business:

a. NEMBA – NHDOT Mitigation Lands – NEMBA representatives Peter Minnich; Jana Johnson and Chris Joosen, Vice President of NEMBA, joined the meeting. Mr. Minnick wished the record to show that he also has the Mountain Cycle Guide Service and is in the map-making business, having made mountain bike maps in town for 23 years.

Mr. Adair explained that NEMBA and the town of Conway have worked together for many years on many projects such as: Red Tail Trail; Recreation path bridge (town and NEMBA teamed up to procure an \$11,500 grant - NEMBA designed and constructed the bridge); timber crossing of railroad off North-South Road at Locust Lane; Pudding Pond bridge replacement (NEMBA designed and funded through a \$3200 RTP grant); Sticks & Stones Trail (expanded in 2006); Pudding Pond Bog Bridge (partnered with TNC); and Pump Track at Pudding Pond Landing. Ms. Johnson is the Dispersed Recreation Manager for the Saco Ranger District. Mr. Minnich pointed out he had removed the trails from the maps to meet the needs of the town and NEMBA, thus there are no trails on the map.

Mr. Adair explained NEMBA representatives are looking to help the town with maintenance of the existing trails in the area referred to as the State mitigation land, and have started on a mapping project. He noted the trails are really multi-use trails rather than mountain bike trails and NEMBA would like to be involved because they prefer clean trails which is why they do a lot of the trail clean up. Mr. Joosen said they maintain existing trails, have had long term coordination with other users such as snowmobilers, snowshoers, dog walkers – will spend time this summer working with those folks. Mr. Adair said they would meet with

White Mt. Milers, who use the trails a lot, the Snowmobile Club and Conservation Commission to get a consensus of what trails are good and what ones should “go away,” and make recommendations for where we collectively think new trails or connectors would be logical.

Ms. Johnson said first and foremost is maintenance of the trails, noting she works for the USFS and is Trails Chair for NEMBA. Her presence at this meeting was as a representative of NEMBA and not the Forest Service. She reported about 15 miles of trail was formalized two years ago, including all basic maintenance, cleaning the corridor, dealing with places that might be problematic in the future. She said the trails on the mitigation land are what they are interested in presently. Ms. Johnson provided maps for review, noting Rattlesnake and Side Hill Trail are the two main trails they are interested in.

Regarding the question of liability, Mr. Adair checked with the Town Manager and it was felt a basic Memorandum of Understanding would be a good idea. NEMBA will do maintenance and work cooperatively with the town to resolve any issues. NEMBA has an insurance policy that covers them on any regularly scheduled trail work days doing drainage work, building bridges, etc. He said by getting approval from the town to do maintenance work, that puts NEMBA’s insurance policy in effect and allows us to use NEMBA resources to spend money on materials.

Mr. Weathers questioned liability, for instance, if someone gets hurt on the trail if NEMBA does the work, whether the town is going to be a part of that lawsuit as well as NEMBA, noting the town would not be doing any of the work and is not really aware of where the trails are. Mr. Adair said the Recreation Statute states if you allow use of the land without charging money, you are not liable. He cited also a Duty of Care Statute RSA 212:34 which covers such activities as collecting firewood, bird watching, biking, which says the landowner is not liable. He noted also that Statute was changed this year to add technical rock climbing and bouldering. Mr. Adair said if a person files suit against the land owner and it is thrown out, that person is liable for the legal costs.

Mr. Weathers questioned what happens if something goes wrong with one of the bridges done by NEMBA. Mr. Adair said you are not liable as long as you do not charge to use, adding that the State still owns the land, the town should not be party to the lawsuit.

Mr. Minnich questioned now that this land has become open for public use, whether that means he would be authorized to put it on his map? Mr. Adair advised first we have to get over this first hurdle. Mr. Weathers noted access onto their property is a concern, pointing out if it is put on the map, it has not been settled as to where the town would like to see access yet.

Ms. Allen said if it is a parcel where 4-wheelers are going and are not supposed to be there and it starts to be heavily used, the 4-wheelers tend to back off. Mr. Minnich noted that area has been frequently used by motorized vehicles. Mr. Adair noted we do not see a lot of motorized use off the power lines. Mr. Weathers felt it would be most effective to provide a place that is legal for motorized vehicles to go. Ms. Lyman questioned why the trails are not marked. Mr. Adair stated no one has been given the authority to go in and put signs up.

Motion was made by Mr. Weathers, seconded by Ms. Allen, to draft a Memorandum of Understanding between the town and NEMBA. Motion carried by unanimous vote.

Mr. Adair will contact the Town Manager who has a template which could be used for such a document, to be signed by the Selectmen.

b. Whitaker Woods Events – Jackson 5K run changed to June 1st – Jackson 5th & 6th Graders originally were approved to run a 5K race on May 18th and are now requesting a change to June 1st. Mr. Weathers noted Selectmen had to sign a permit for it and he questioned why Jackson would be coming to Conway to hold a fundraiser. Mr. Adair said he did not know. Mr. Huemmler questioned whether there is a calendar of events going on at Whitaker Woods, his concern being duplication of dates. Mr. Weathers explained they have to meet with the Recreation Dept. for scheduling first so that should not be a problem.

Motion was made by Mr. Huemmler, seconded by Ms. Allen, to approve the change in dates for the Jackson 5K run from May 18th to June 1st if there is no conflict. The motion passed by unanimous vote. Mr. Huemmler requested a copy of the list of events scheduled.

c. Selectmen’s Report – Mr. Weathers reported the first public hearing has been held on land on Pequawket Drive that the Conway Village Fire District wants to put a lift station on. The second hearing will be held in two weeks.

Mr. Weathers said as regards the Marshall land, Sut Marshall is having another appraisal done (at his own expense) and is having a timber cruise done to value the timber. It is expected it will take about a month to get that appraisal.

He reported the new fence is up at Hussey Field and new gravel has been placed; more signs are being prepared to advise of rules and regulations. The Police Dept. will be in charge of closing the gate. The vendors are paying for all the materials.

d. Wetlands Applications – Mr. Weathers reported there were none.

e. Member Round Table – Ms. Lyman reported there is one disconnected portion of the split rail fence at Shedd Woods that is half off and half on. Mr. Adair will look into it. Mr. Weathers stated the town crew will take care of it.

Mr. Adair announced there is a NH Community Tree Farm Day scheduled at UNH on June 1st from 9:00 a.m. to 3:45 p.m. and questioned whether anyone is interested in attending. He noted also the Tree Farm group is sponsoring a Spring Wood Lot Series on Thursday evening in Canaan and in Alton.

Adjourn: There being no further business, **Motion was made by Mr. Weathers, seconded by Mr. Huemmler and carried, that the meeting be adjourned at 7:05 p.m.**

Respectfully submitted,
Gail T. Carrier, Recording Secretary