



## MILTON CONSERVATION COMMISSION PO

BOX 310 MILTON, NH 03851

Meeting @ 6:00 PM, Wednesday, 1/3/2024

**NEW Milton Town Hall, 55 Industrial Way**

### Minutes

#### ATTENDANCE:

**Members:** Virginia Long (Chair), Steve Panish, Robert Weiss, Wayne Sylvester, Jeff LeClair

**Alternates:** Sharon Buttrick, Lee Pilkovsky

**Absent:**

**Public:**

**Virginia Long, Chair, opened the meeting at 6:00 PM.**

1. Welcome guests: No guests
2. Ascertain who is present and approve alternates to serves as full members as needed: All are present
3. Event announcements:
  - a. Special MCC Meeting with Guests Joe and MaryBeth Gustitus @ 6 p.m. on 1/10/2024
  - b. MMRG CC Mixer @ 5:30 pm on Feb 15 (location?)
  - c. Upcoming MMRG events, see [www.mmrgrnh.org](http://www.mmrgrnh.org)
  - d. Town deliberative session February 4. MCC will present a PowerPoint on Priority Wetlands for Zoning ordinance and also wants something on paper to hand out to attendees. She will possibly have something ready to get approved at the meeting on the 10<sup>th</sup>.
  - e. Jon Nute is willing to lead a winter walk on Saturday February 24, 10-12
  - f. NHCC NH coverts project. The event is coming up in May. Intensive 4-day training in forest stewardship and wildlife conservation. \$50 registration.
4. Display/circulate MCC mail and CC materials for lending:
5. Review/Approve 12/6/2023 meeting minutes with corrections:

***Steve made a motion to accept the 12/6/23 meeting minutes with Virginias changes. Wayne seconded the motion. All were in favor.***
6. Financial Report: There has been no changes since last month other than the small amount of interest that was earned. Steve hasn't heard anything from the budget committee as of yet. \$150 for training, \$0 for legal defense because the CC gets \$1000 a year goes into the legal defense capital reserve fund, \$4000 for professional services, \$50 for printing, \$200 for postage, \$100 for office supplies, \$700 for dues and \$100 for trail services. Total \$5300.

Virginia was approved for \$150 at the last meeting to spend at staples on some supplies that were needed. She ended up spending less that what she originally thought. The map was \$45, and she got a

plastic file folder box for \$15 for easement files that were in a box that was falling apart. She also bought 2 sheets of stamps for \$23.76.

***Steve made a motion to approve Virginias ancillary spending totaling \$83.76. Wayne seconded the motion. All were in favor.***

Virginia bought an 8-foot sheet of plexiglass for the Casey Rd conservation kiosk. She needs a truck to pick it up and then it needs to be cut in half.

7. Wetlands and Shoreland Permit Applications or Violations: None

8. Wetlands protections:

- Update on Zoning Ordinance changes on Wetlands Conservation District Ordinance and Priority Wetlands - Publicity and information dissemination (see above Event Announcements, # 3(d))
- Steep slopes ordinance

9. Update on MCC events: Winter walk with Jon Nute (see above Event Announcements, # 3(e))

10. Town-owned Easements and Conservation lands:

**FEE PROPERTIES, ('MONITOR' SHOWN IN PARENTHESES)**

- CASEY RD CONSERVATION LAND (MMRG MONITORS)
- JONES BROOK PARK/PAYNE (MMRG WILL MONITOR IN FUTURE)
- SPAULDING TURNPIKE (LEE) ANY UPDATE ON ATV USE? Virginia called the Conservation officer, Ken StPierre, and has not heard back from him. She doesn't know if he ever picked up any of the photographs or if he has identified anyone or tried to discourage anyone. She believes that this is the time of year if they want to get a gate on that property that the snowmobile club would maintain that we have to ask them to act now on that now because they would need to put their grant request in. Her thought is that if somebody gets down there, either her or someone else and sees more ATV tracks or if they hear nothing from Ken then it seems to Virginia that something else needs to be done because it seems that fish and game isn't going to be proactive enough to prevent it. That's her concern.

Wayne asked Lee if he had seen any new tracks and Lee stated that no he did not. He just saw a new fire ring but no tracks.

Steve: If the snowmobile club will put in for a gate, then that would be up during normal snow times then he doesn't see what the disadvantage of that is. It seems like it would be a good thing. It would be a little bit discouraging, gates, and signs, although ATV's can usually find their way around just about anything.

Lee: He doesn't see that a big amount of the population is using that as an ATV trail. He has a feeling that it's only a handful of locals, maybe 2 or 3 at most. If they are going to ride in there a gate won't stop them or a sign. The only way to stop them is for fish and game to nail them. He thinks a gate would stop other people from going around. If the snowmobile club could get a grant money for it and get it paid for then why not.

Virginia: She thinks the snowmobile club is willing to try that. She doesn't think that he wants to particularly. She also thinks they may need to put in some of their money and might even see if the CC will put in some money. It would be worth it to them instead of the CC just closing the trails. They really don't want it closed. They would lose their continuity. It is important to them.

She did mention to the conservation officer that the CC is trying to figure out if there needs to be a gate. She also let him know that there was a meeting that night. She was really hoping to hear from him. It has been months since she's talked to him. It is possible that the trail only gets used in the summer time so we may not see tracks this time of year although we've had some nice weather. Another year or two could go by without seeing anything or Virginia can try calling Keith (snowmobile club) again to see how much work he thinks it will be. He really pushed her to call Ken StPierre. One option is that she could say that she could call Ken again to find out what the story is and what the usage is. If he has actually talked to someone or caught someone then she thinks she wouldn't go for the gate because it'll mean that he has done something, and the usage may go down. If he hasn't gotten back to it at all then she is encouraged that he is not going to.

Sharon asked if he is a volunteer. Virginia stated that he is not. That he is a paid employee and that this is his job. Steve commented that they are short staffed, and he doesn't think that it is very realistic that he is going to be able to track someone down that he sees on the trail cam unless there is a plate on the ATV, and he could identify the person from that. Steve had a lot of ATV activity on his property when he bought it and had them come out and they chased a bunch of kids.

Wayne asked if there was a trail cam there. Ken did say that he mounted one in a place that couldn't be seen so they aren't taken down.

Virginia doesn't want to miss the opportunity of getting a gate if it's needed. They could go for another year to see how it goes. Lee says that if it gets bad next summer then they can insist on getting something put up temporarily until the ground freezes.

Virginia is going to try Ken StPierre again. She's also going to call Keith (snowmobile club) and tell him that the CC probably won't use a gate this year, but they are still interested in having a gate put up in the future. Just so he doesn't assume that the CC doesn't want one. If he says they need to go for the grant this year, then the CC won't refuse.

- DAMES BROOK:
- OLD SKI AREA:
- BALL PROPERTY: Update on plan for Earth Day cleanup of old dump sites: Virginia was able to talk to Pat. He said that he wouldn't make any promises for the next person although he hopes that the next person would be trustworthy for any commitments that the department has made. All they could do is show them the minutes from the selectman meeting. Virginia looked up that meeting, so she was prepared. She thinks when there is a candidate's night for somebody running for the director of public works, she plans on trying to be there, to say so will you live up to Pat Smith's commitment and have someone out there on Earth Day to help clean up the Ball property. Sharon suggested that maybe ask whoever is running how they would support the Conservation Commission.

1. Follow-up on encroachments: Virginia called Jask Properties to ask about the stuff under the tarp and they said that it wasn't them that did it. A few days later she received an email saying that although we didn't put this there, we are showing our cooperation and removed it. He sent a picture of everything removed. The CC will have to remove the big brush pile in the woods. He didn't make any mention of it. That will be our problem and we will have to figure out what to do with it. Mostly what we need to do is make sure the signage is correct.

BOB'S comments: What is the goal for the Gustitus encroachment? Virginia said that the goal is to get the encroachments off. In other words, to our satisfaction.

Bob asked what the options are.

Virginia suggested that the CC meet with Gustitus. The committee hasn't had a chance to hear his side of the story. The main point of it as she understands is that some of those encroachments were there before he moved in and some of them give the impression that he's got farther to the boundary than he really does because his house and deck are so close

to the boundary line. No one would think that the boundary line was only three feet away. He would have had to do his due diligence to check. For those reasons and to demonstrate some willingness to hear from him she thought it would be helpful to have him come in to talk to the committee. He sent the CC a letter with his suggestions. Virginia doesn't think they should discuss specific solutions until they have their meeting. Bob thinks that since they will be meeting with him next week then maybe the committee should have a discussion tonight. Virginia thinks they should discuss everything with him there, so he gets to hear what they have said. Bob read the transfer deed and his opinions have changed on the whole thing after reading them. Virginia said that she thinks that is important. She really doesn't know what the CC's responsibility is in terms of having someone present when you are having a discussion versus not. She doesn't know if there are rules about it in town because for example, they have other encroachments that they discuss. It was Chris Jacobs' policy that every time the select board had him on the agenda, he somehow notified Gustitus that he was going to be discussed at the meeting and when she first mentioned it to Gustitus that is when he said he was going to be out of town for their normal meeting and he could meet the next week. She asked him to bring a sketch of it in so everyone could have it in their minds. Bob seriously doubts that they can come up with a definitive solution next week. Virginia thinks it's possible that we could come up with a solution to a few things. Sharon asked Bob what it was in the transfer deed that made him change his mind. Bob asked if it can be discussed. Sharon thinks that if these things are discussed now then at the meeting, they aren't going to sound unprofessional. She feels that they all ought to know and to be on the same page. She didn't read the transfer deed and would like to know what Bob saw that changed his mind. Before Bob answered Virginia asked if everyone else was alright if they discussed this. Wayne thought it was fine. Sharon stated that it was discussed without him before when they did the monitoring report. Virginia asked if the meeting was being recorded. The Land Use Clerk stated that it was however the volume part wasn't working but that she is recording it on a recording app as back up. Virginia asked her if she could provide the portion of it for Virginia to send to Gustitus and the Clerk stated that she isn't sure because she had never tried before. Sharon asked why is that relevant. Virginia answered that she doesn't want him to feel like we are discussing things behind his back. She thinks that's important. Steve stated that we notified him that we were going to discuss it and we gave him the opportunity to come. Virginia stated that that was incorrect that once we found out that he couldn't make it then the meeting was changed to the 10<sup>th</sup>. She didn't tell him it was going to be discussed without him present. Lee asked if they could at least discuss his response because he has already responded once with his proposed solutions. Could we at least discuss that? Sharon says that it just seems weird to wait until next week and then they would be like "what were you thinking?" And "Oh I thought you were on this page" and "I thought we were on this page and now we are on this page?". Virginia doesn't know the proper way to go about it, but she doesn't want Gustitus to be frustrated or feel like they have done stuff that he is not privy to like being discussed as if they were in a private meeting. Remember these are supposed to be public meetings. This is the most sort of landowner sensitive content that they've had here that she is aware of. She thinks one time they discussed it in a non-public session because she didn't want his name to be said in the public portion. She doesn't really know the answer to all this. In some ways she is sympathetic to the concept of getting everyone to be on the same page, but they don't have to be all on the same page. They don't have to all vote the same. They can have 3 people against and two people for it and that is legitimate. We could have a discussion with him. Asking questions and changing each other's minds is legitimate too. That is how boards are supposed to act. That's how the select board had to act. They are not allowed to discuss things except in public, and of course we are in public. He is an important part of this discussion. She is not totally against it, but she just wants to make sure that he gets to hear it because this is relevant for him. Steve said that he can have the opportunity, but he also

thinks it saves some time. If we have already discussed some stuff prior to the next meeting and had a chance for their thoughts to evolve then they do not have to do it during the course of the next meeting. He doesn't really think that they need to be anymore hamstrung than the laws already. Sharon thinks it more educational. Let's all understand each other and what the situation is. More than we've already talked about. It's not anything we are going to vote on or something when he hasn't been able to have his say. Virginia says as long as they are not going to vote on anything. Sharon says no we aren't going to vote or make a decision and we might all have our minds changed after we go home and think about what Bob said. Virginia says after we talk to him next time too. Sharon says right, they may change their minds as well. Virginia is ok with it as long as the Land Use Clerk will have something for him. Bob says that one of the options that Gustitus brought up was a transfer of land. After reading the transfer deed, there's nothing the CC can do. Virginia says that he has been told that. She doesn't know why it was brought up again. Bob thinks there is a way that they could do it. He thinks getting Joan Ball's approval of it through one of her sons that live in Milton. If they could give their blessing than he could be persuaded that way. Other than that, there is no way we can transfer any land. Virginia agrees with that. She is surprised that Joe Gustitus wrote it up again. She believes Chris Jacobs informed him of the fact that in the donation deed it said the land cannot be subdivided. That took her aback. She has no idea if they will need support from the son. Instead of an outright purchase, perhaps if it was a trade for some of his land for a portion of some other part of his land. She thinks that he actually brought that up -- maybe a lot line adjustment. Her feeling is that for in order for that to be valid from the point of view of the donation then it would have to increase the conservation value of the property. At the minimum make it equal but preferably increase. That is what happens with an easement, if you do an amendment. The only time an amendment is accepted from the attorney general is if the amendment increases the conservation value of the property. But if it is decreased then it is not acceptable. This is not an easement, it's simply a donation deed. We may be able to apply the same principal. Sharon says his suggestion of what he would be considering doing the lot line adjustment -- It almost sounded like it was going to benefit the town because they would have a better turnaround. Not necessarily the conservation land getting bigger. Virginia agrees and says it would be under our judgment and in fact if they were going to go that route, she would want to get the advice of someone who is a professional in conservation. Like Matt Tarr or Rebecca who took us on a walk there and who could look at this land and say that the plot of land that he has that his shed or dock is on isn't as valuable as if there was more land around the pond to protect it. She has no idea though if that is really true and it may not be because the land up next to the lake may be the greatest conservation value. Steve says is certainly of the greatest financial value. It would have to be a significant change. Virginia says and then it's a matter of legalities. We would have to ask the town attorney, but she isn't sure. There are a lot of questions. Steve says there would be a lot of expenses and the homeowner would have to pay for that. Bob states that technically if you read the transfer deed then he has to get all that stuff off of there. Virginia says that it is possible that we have a time frame if he promises to do certain things on certain dates. But part of the problem is that he says the dock has always been there, it's probably true. She did look up the old monitoring reports. It sounded like there were some pretty iffy boundary up to the water's edge that no one was sure about. It seems as though when we had Noray Plains do it that was the first time it was marked in a long time so that is part of the problem although the landowner is responsible for knowing their own boundary. There was a previous letter sent to the previous owner about him mowing an area essentially where the shed is now and that shouldn't have been mowed. She believes the letter was sent, it was remarked in the baseline amendment whether it was acted on or if anyone followed up. She hasn't seen any evidence of that. Steve remembers that there was a letter sent and he thinks there was more than one and the CC had never heard from the previous owners and then they moved and did not inform the

next homeowner that it was a problem. Virginia said that the letter didn't mention anything all the way to the lake in terms of the dock. She assumes that no one knew that the dock was on the wrong side of the boundary. Steve said that he hasn't seen anything about the dock either Lee asked if there are any of those letters still available. Virginia said yes and that she could do more research in the town files to try to get some things together that she will bring with her to the meeting next Wednesday. Lee said it would be helpful to have a paper trail. Virginia said she knows the history is relevant and it will be important for him to confirm what new things he has put there or what was there. She isn't sure what was there and who cut the trees on the tiki bar. Norway Plains said that they think the homeowners now cut those trees because they had been there recently enough. Sharon asked if those two trees in the picture that have a roof over them -- that's all on conservation land? She stated that he's going to be a sad man next week. Virginia answered saying yes that is conservation land and she thinks he knows all this. Sharon said that it's too bad and that if he ever buys another piece of property then he will check the boundaries. Virginia said that one other thing that she wants to look into is how that deck got approved when it is so close to the boundary. She wants to look in the file to see if there was a building permit for the deck. Just to know the history. It may never have been permitted, not that Gustitus would have been informed either way. She does have to say that with the deck there it gives the impression that the boundary must be over a ways, but it is right there near the deck. That is all the information. If someone else wants to research something. We should all bring in as much information as we can and if you think about other options to suggest.

**EASEMENTS:--** Review Norman Spicher's monitoring reports:

Virginia sent the new monitoring form to MMRG. They agreed to use the form. Virginia offered to fill in the easement information for them and they agreed and said that it would be very helpful. She thinks they would have to pay them more. Steve said that they need to read the easement anyway, and to become familiar with it, so it is part of their job to do it. He is afraid that they will never read the easement if we do it for them. It occurred to Virginia that it would be educational for the MCC to read the easements also. She asked the committee to maybe take one easement each and read it thoroughly and extract the information. Something like ATV's being allowed or not on the property so that when MMRG does the monitoring then they will have some useful things to look for. Jeff asked where the easements are kept. Virginia has copies, and they are at the Strafford County of Deeds and in the files at the town hall. There is some stuff in them that is not so important to read like amendments or a dispute. Reserved Rights for the Land Owner. In some cases, the landowner is allowed to post the land against trespassing or hunting and with other easements the landowner is not allowed to post the land against trespassing because it has to be open to the public. That's something that needs to be looked for. The easement holder also has some rights. Usually, the one right they have is to go out on the land to inspect it to make sure there are no violations.

Sharon asked for a reminder and some clarification on MMRG taking over the monitoring of the easements and from what Virginia is asking that it would be helpful if the easements were split up to be familiar with them and to help them to know what they are looking for. Virginia said yes, we are going to pay them instead of Chris Kane and she thinks that it would be helpful for the members to just have some information filled out on the form and just give it to them and then all they would have to do is fill in the comments, what was observed, etc. Steve thinks the real value here is to MMRG because we are sparing them some work. He doesn't think that there is anything wrong with that if their price is low. Virginia said they are giving them a good price and it will be lower because Liberty Circle will not be on it. Sharon is going to monitor the Nute easements because of a conflict of interest between Jon Nute's involvement with MMRG.

Wayne thinks this form should be consistent so they should come up with a set of questions that when looking at an easement we are all looking at the same questions and making similar

notes.

Steve doesn't think there should be a uniform set of questions because you don't have a uniform set of reserved rights and easements. It is what the landowner wants to have the reserved rights to be and that is something that has been discussed between the landowner and the easement. Virginia can email a sample form.

- FRIZZELL: Norman Spicher: 100 ft wide easement along Lyman Brook. The purpose of this is to protect Lyman Brook. Within that 100 ft wide swath is a snowmobile trail. There is erosion and puddles along the snowmobile trail. Virginia doesn't know how bad it is. This easement gives snowmobiles the right of way. The landowner is allowed to post against ATV's. It doesn't say that it must but is allowed to. The purpose of the easement includes preventing activities that are detrimental to drainage, erosion, flood control, or water quality. Virginia believes that if there has been a lot of erosion that it may be contrary to the purpose especially if that erosion could drain into the brook. The first monitoring report stated that the puddles were running off into the brook. It hasn't gotten any worse. One of the solutions is to post against ATV's but it's not the MCC's land so it would be up to the landowner. She is wondering if they should ask the landowner if they can or the MCC can post against ATV's. The landowner was made to put this easement on the property in order to develop this property. In the summer they normally wouldn't have to worry about it too much but there was a lot of rain last summer, so she thinks they need to talk to the landowner to possibly get that land posted. The public is allowed access to the land from the snowmobile trail.
- LANCEY WARD: Corner of Hare Rd and 75. It's a weird, shaped easement. Last year it was reported that they couldn't find a lot of the corner markers. This year they looked specifically for them and were able to find them. They also put up some signs. There is no public access. There is some slight lawn encroachment on this easement, but Virginia doesn't want to make a big deal of it because the landowner has cleaned up a lot, but she would like him to know to let it return to its natural state. She will send an email. There is no public access.
- LAVALLIERE: Didn't really get too much info on. It was too wet.
- LYMAN BROOK: There is a lot going on here. A lot of it has been there for a few years but there is some new things. Norman didn't know how to overlay the GPS points and the boundary, so he had two separate maps. Virginia penciled in a red line to try to approximate the boundary to make sure the coop was in the boundary or not. Then she looked at old tracks from Chris Kane. In 2022 she saw a monitoring photo of boards and construction materials and then in 2023 there was a chicken coop, and she thinks it's over the boundary. They need to go out to look to see if it is actually over the boundary or not. If it is they will ask the homeowner to move it off. She doesn't know how well it's marked. They will have to go look or have a surveyor go out to mark the boundary. It is extremely wet there. Steve said this development never should have been allowed to be put there. The easement was in place before the house was bought. We need to protect this easement because the water quality needs to also be protected. It would be a good idea to walk the boundary to make sure the markers are still in place. They need to check out the culvert that someone put in there also.
- SILVER SPRINGS: Off of Silver St. There are some weird holes that have been dug here. Lee thinks they are Dakota Fire Holes. It looks like there is a tent pad there. Maybe a camp site.
- WALLACE WAY:
- NUTE HAYBARN AND PLANTATION EASEMENTS:
- LIBERTY CIRCLE:
- CURRENT:
  - Letters to encroaching landowners ?

## 11. Workshop reports

- i. Bob Weiss on Coldwater Stream Habitat Community Forum

- ii. Wayne on NHACC annual meeting
- iii. Jeff on SELT trails workshop

12. Trail Volunteers Group Update:

13. Report from TPPA including MCC joint educational outreach:

14. Other business: PLEASE THINK ABOUT PRIORITIES FOR MCC ACTION NEXT YEAR

15. Update on Tayzach Realty development of Map 5/Lot 7 on Willey Rd next to Miller Pond:

16. Recruitment of new Alternate members:

17. Virginia's report, including communications to MCC:

18. Public input:

19. Confirm date of next month's meeting: Wednesday, Feb 7, 2024, at 6 p.m.

20. Adjourn:

*Steve made a motion to adjourn the meeting at 8:01 p.m. Jeff seconded. All were in favor.*