

Town of Hawley, Massachusetts
Minutes of a
Selectboard / Board of Health / Zoning Board of Appeals Meeting
In Person & via Zoom
October 10, 2023

Present: Hussain Hamdan, Robert MacLean – Selectboard
Tinky Weisblat, Gal Friday
Virginia Gabert, Treasurer and Financial Administrator
Gary Mitchell, Chris Tirone, Wayne Lemoine, Mark Stinson, Dean Desmarais,
Maria Desmarais, Georgette deFriesse, Peter Mitchell, and Lloyd Crawford

The meeting was called to order at 7 p.m. Warrants and minutes from a previous meeting were signed. Hussain asked for a motion that he be appointed interim chair until October 24 since regular chair Will Cosby was indisposed. Bob made a motion to that effect, Hussain seconded, and both voted in favor. Then:

1. **The Selectboard discussed the town's two culvert projects.** At Sears Road, Hussain had been told, Verizon still had to come to move over the telephone cable to the new pole. This was currently holding up the project; the MBI fiber and electric lines had already been moved. Lloyd Crawford offered to call the construction company, Davenport, the following morning, to get a progress update and urge them to move the project forward.

As for King Corner, Hussain reported that he had been present at a recent site visit to the dam near the construction site and had asked Mark Stinson of the Department of Environmental Protection to attend the evening's Selectboard meeting. Hussain briefly outlined the history of the project, including the fire department's use of the dam pond as a dry hydrant and the board's concerns about the Division of Ecological Restoration (DER)'s desire to have the dam removed. He noted that the removal would be complicated. The dam was on private property, and the landowners (Dean and Maria Desmarais) opposed its removal. Also, there would be a need for significant permitting, even were the landowners agreeable. Hussain added that the board had discussed a couple of alternatives to removing the dam, building some kind of fish ladder or moving the road away from the dam.

As chair of the conservation commission, Lloyd observed that the scope of services in Hawley's contract with the DER discussed exploring the replacement of the culvert and dam; the town had not promised to remove the dam, only to consider removing it. He suggested that the project be split in two and that the town go ahead with the main objective, replacing the culvert. State officials could act (or not) on the dam later; that would be between them and the landowner. He also suggested that perhaps a maintenance agreement could be drawn up for the dam, although he admitted that beaver activity might throw a wrench into any maintenance.

Mark asked about the right of way in the area, which he said was 50 feet wide. Lloyd estimated that the road was probably in the middle of the right of way. Mark asked whether the dry hydrant could be moved to the other side of the road. Hussain said that might be possible, but it would do nothing about the permit issues and landowner objections. Mark briefly discussed the issue of proving any violations of the Wetlands Protection Act.

He confirmed that a notice of intent could be filed to maintain the dam, although the DEP really was not in favor of seeing the dam reinforced; the goal of stream continuity ran counter to that. Lloyd countered that he didn't understand why another structure couldn't be installed nearby to help the fish move. He added that the engineers had said that a bridge could be installed and the culvert replaced without removing the dam. He also said that there had been no pond on the other side of the road when grant was awarded. The beavers had built that afterwards.

Dean asked whether the elevation on the opposite side of the road might be too high for the Fire Department's uses. Upon considering this, Hussain and Chris Tirone agreed that Dean was likely right, that the move would be unworkable. Chris also noted that there was a second dam nearby in the state forest. Dean noted that the dam on his property was a berm with a stone spillway; it had originally been man made, although the beavers might have contributed to it over the years. The one downstream was a beaver dam, he noted.

Hussain said that the bottom line was that as long as the beaver dam existed, it accomplished nothing to take out the man-made dam in terms of animal crossings and stream continuity. Mark briefly discussed the differences between the ability to regulate natural and man made structures.

Lloyd asked again about permanent ongoing maintenance. Mark explained that the landowner (or the town with the landowner's permission) would need a notice of intent for maintenance and for maintenance of the dry hydrant.

Lloyd explained that the dam had been pulled apart a few years earlier by a town resident. There was discussion about who exactly had restored the dam.

Lloyd returned to the idea of approaching the Department of Ecological Restoration about fixing the road and the culvert and letting them negotiate with the landowners and the Fire Department about the dam. Mark deemed that possible regulation-wise, and Hussain thanked him for coming.

While Mark was there, Lloyd mentioned that the Conservation Commission had received new paperwork from Magnus Thorsson and Courtney Bourn; they were hoping to make their driveway on Middle Road a shared one, he added. In response to one of Lloyd's questions, Mark confirmed that the Conservation Commission would need to have a hearing but also had to await word that the Zoning Board of Appeals (ZBA) had approved permits required on its end. Lloyd proposed that, given the overlap in membership between the Conservation Commission and the ZBA, they should hold a joint hearing. Mark said it sounded as though things were on the right track.

Before Mark left, Dean said he wanted to clarify his understanding that the culvert project could move forward without the removal of the dam and asked to be contacted if anything changed. Hussain confirmed that that was his understanding.

2. **Discussion moved to broadband possibilities.** Hussain said that it looked as though there were multiple funding avenues and possible vendors. He suggested that it made sense to hold off on further discussion of funding until the state provided more information. He reminded the group that WiValley was hoping to come talk about the broadband issue soon.

3. **On the issue of surplus equipment**, Hussain handed the floor to Road Boss Gary Mitchell. Gary said that the road crew was in limbo waiting for truck purchases. Meanwhile, he said, they planned to move gravel to the State Forest for repairs there. He said he was looking for tires for the five-ton truck; these were expensive and might be difficult to find. Hussain noted that he had a cousin who did cross-country trucking who might be able to transport tires that had been found by Gary several states away at a reasonable rate. Hussain said he wanted to be very clear about disclosing the relationship, however, and noted that the ultimate decision about anything along these lines was Gary's.

Hussain moved on to talk about the 2003 Stevenson fire truck, which had a transmission-control-module issue. So far any possible parts in the area didn't appear compatible, he said, because most of the local trucks were of an older vintage. If the town found the appropriate part, he said, the truck could be used as a brush truck or could be auctioned off since according to Department of Defense policy (the truck had come from the DoD) the town could do this after owning it for two years. Neither option was really viable with unless the truck ran, however. He said that it might cost \$600 to \$800 to fix the thing. He asked the others for their thoughts. Bob and Gary agreed that it made sense to fix the Stevenson. Hussain asked Virginia what funds were in the account for equipment and maintenance. She said that there was currently more than enough money, although she added that she felt that the Fire Chief should make the final decision on its expenditure. Hussain suggested revisiting this issue soon.

4. **The meeting turned to the issue of fixing roads in the State Forest.** Gary noted that he was short on equipment so this task was taking longer than planned. Hussain suggested the town should update the state on the situation.
5. **Discussion moved on to the question of a shared conservation agent with other local towns.** Lloyd said that Paul McLatchy of Ashfield had organized a meeting of seven hilltowns, of which Hawley was the smallest. The group thought that the conservation issue would probably work the way the solid waste district operated. Several annual fee methodologies were discussed, including tagging the fee to population or to the number of permits. Lloyd estimated that Hawley would be paying about \$3000 a year. He added that further discussions were needed as Paul continued investigating the matter and promised to tell Tinky when it might be time to put the matter on the agenda again.
6. **Gary reported on the new plow truck**, which he said was on order. Virginia promised to let Selectboard know when the invoice with the exact price arrived. Gary assured everyone that the truck would not cost more than the amount allocated at the recent Special Town Meeting.
7. **The group talked about the possibility of doing remote meetings in the future.** Hussain noted that he wasn't a fan of such meetings. He added that the state was allowing town officials to meet remotely until 2025 and that COVID was on the rise again, which might at some point necessitate reconsidering the remote option. He also noted that that point was had not yet arisen. He asked how people felt about possibly calling a meeting entirely remotely. Bob protested that he hated remote meeting but said he would go along with them if everyone felt they was needed. Hussain said that there were alternatives: meetings could continue in person, they could be attended by different people in person or remotely as needed, or authorizations to pay bills and so forth could be issued remotely as they had been during the COVID-19 lockdown. He said he just wanted to put the issue on the table.

8. **On the issue of the books Hussain had at his home**, Hussain gave an overview what he was holding. These included Acts and Resolves, Massachusetts Census records (largely economic), Massachusetts Reports (of the courts), Journals of the House and Senate, and various other books including a few Manuals of the General Court. Many of these sets were partial or missing volumes. He observed that he could email a list of them to the Town Clerk to see what she wanted him to return to the Town Office. Most of the books were available at the State House, law libraries, and online, he noted. He recommended that the town keep only a few of them (generally from the 19th century for historic regulation reasons); the books were not Hawley-specific. Peter Mitchell said it made sense to keep anything available electronically on a thumb drive. Hussain said that the state had all this information in print and online. In the end, it was decided that that he would get in touch with the Town Clerk, and they would figure out what to do together.

In other business, Peter Mitchell notified the board that he was planning to celebrate Cider Days at his orchard on November 4 and 5 again. The day would feature cideries, cheese, and products from Hawley businesses. No vote was necessary, since the Board had earlier issued him a permanent cider-tasting permit.

Bob MacLean brought up the issue of the hot water heater in the Town Office. He suggested that it might be blocked up. Virginia said that the heater was ancient and needed replacement. Peter talked about the virtues of propane hot water, but the group decided that hooking up a propane heater could cost a lot. The Town Office had the electric lines and had solar panels to pay for electric hot water. Tinky said that she knew a reasonable electrician; she was asked to solicit his opinion.

Tinky read from an email from Christine McLaughlin, who said she had recently sold her home on East Hawley Road and recommended the town stop using FRCOG for septic inspections; Christine said that FRGOG had been sitting on a permit for some time. The group ascertained that Christine's house had in fact sold around three months earlier. Hussain said the permit application might have been "flagged" due to missing materials.

Virginia went onto the online database and confirmed that the permit did appear to have some ongoing issues. Tinky was tasked with asking health agent Randy Crochier about the delay in the permit. Dean suggested that perhaps escrow was involved. Hussain noted that the Town had received the complaint, but probably shouldn't change course based on a single opinion or bad experience.

There being no other business, the meeting was adjourned at 8:37 p.m.

Respectfully submitted, Tinky Weisblat, Gal Friday

Hussain Hamdan

Robert MacLean