

Town of Hawley, Massachusetts
Minutes of a
Selectboard / Board of Health / Zoning Board of Appeals Meeting
In Person & via Zoom
September 26, 2023

Present: Hussain Hamdan, Robert MacLean – Selectboard
Tinky Weisblat, Gal Friday
Virginia Gabert, Treasurer and Financial Administrator
Gary Mitchell, Chris Tirone, Wayne Lemoine, Donna Lemoine, Christine Hicks,
Dean Desmarais, Maria Desmarais, Georgette deFriesse,
and via Zoom Courtney Bourns, Lloyd Crawford, and Leslie Clark

The meeting was called to order at 7 p.m. Warrants and minutes from a previous meeting were signed. Hussain, who was chairing for the evening, said he knew that everyone wished Will, who was ill, a speedy recovery. He added that a couple of agenda items, discussion of broadband funding and the topic of a shared conservation agent, were being deferred at Will's request. Then:

1. **The Selectboard discussed the town's two culvert projects.** Gary said he wasn't sure exactly how things were progressing at Sears Road, where work had started, but he believed that there was an issue with fiberoptic cable that needed to be moved. Hussain said he would ask Lark to reach out to Michael Baldino at the Massachusetts Broadband Institute to clarify ownership of the cable and (he hoped) facilitate moving it.

King Corner was more complicated, the group agreed. Hussain explained that the Department of Ecological Restoration (which had provided grant funding) wanted to see the dam above the culvert removed. He noted that there were a couple of problems with the dam removal. First, the dam was on private property. Second, it would take substantial permitting. He said that he and Lloyd had discussed the issue and were considering getting Hawley's legislators involved.

Lloyd noted that the contract with the DER revolved around replacing the culvert and didn't mention dam removal at all. He said careful strategy would be involved in negotiating with the DER. He said one possibility might be a step progression allowing fish to swim upstream. He also noted that the town seemed to have until the end of the current fiscal year to act.

Hussain recognized Dean and Maria Demarais, the property owners, to speak about their concerns. Dean said that the couple had acquired the land from the town in 2010. They didn't spend a lot of time on it, he observed, but they appreciated the view. He said that he had willingly agreed to let state engineers go on his property, but he had felt perplexed and even threatened after Lloyd had said that the Conservation Commission would be sending him an enforcement order about the property. Dean also stated that Will had approached him to tell him the dam was coming down. Dean made clear he had never done any work on the property or dam.

He said he felt that the contact from the town had not been adequate and he did not feel that he and Maria had been included in discussions or properly engaged with by town officials. After hearing Lloyd at this meeting, he added, he was comfortable that possibilities other than removing the dam on his property were being considered. Nevertheless, he insisted, he needed to be consulted and informed going forward.

Hussain said that as far as he was concerned, Dean and Maria had done nothing wrong. A different individual, who had broken up the dam in 2018, had indeed received an enforcement order (meant to preserve the dam). The town had wanted to keep the dam because the water body it held back was a fire pond used by emergency services. Hussain reiterated his suggestion that the town's legislators be consulted.

Lloyd, who had switched to the telephone when he was no longer audible on Zoom, said that a key issue was whether the culvert could be replaced without affecting the wing walls of the dam. He said he had a question for Dean: could the town shore up the wingwall with the roadway? He observed that it wasn't legal to work on the dam without filing a notice of intent and his main concern was getting the road repaired.

Dean said that he and Maria had always been willing to listen and would be open to temporary measures necessary to fix the road (along with restoration and not including permanent dam removal), but that the town needed to reach out. He stated that he had only found out after the fact that in 2018 the town had built the dam back up after a neighbor had destroyed it. He didn't mind the Fire Department's repairs, he stated, but would have liked to have known beforehand. He said he did not want the dam removed. Lloyd reiterated his suggestion about constructing a stair-step pool for fish.

Hussain said that it might help to raise the emergency-services usefulness of the pond in arguing against the destruction of the dam with the State.

Georgette deFriesse asked whether the DER's main issue was fish. Lloyd said that fish passage was important to the DER. Georgette said that the idea of beaver dams impeding fish was a myth.

Lloyd, Hussain, and Dean repeated points they had previously made. Dean then suggested that there were options for using nearby state-owned land for the culvert replacement. He suggested that a new culvert could be installed on state land; during construction, the old road and culvert would be used for traffic. Lloyd and Hussain both agreed on the merits of looking into this idea.

Hussain asked who had been talking to the DER. Lloyd said that he, Will, and Rosalie Starvish at GZA had been doing so. He said it might be helpful to find someone with a little more authority than the new person at the DER to talk to about the issue.

Dean reminded all concerned that he and Maria needed to be consulted and listened to about any changes on their land, and that other options besides ripping out the dam should be explored. He asked to be kept informed.

Hussain asked Lloyd to talk with him the following week about communicating with legislators. Maria asked the pair to cc her and Dean on any correspondence.

Lloyd suggested that a conference call could be arranged with GZA, Dean, and Maria. Dean told Lloyd that he would prefer an in-person meeting to a call or Zoom but understood that such a meeting might not be possible. Maria asked whether there was a way for the fish to get up river without a dam. Dean reminded Lloyd that open communication could go a long way.

Christine Hicks said that the dam had not been taken down originally (before it was rebuilt) by anyone working for the town, and Chris Tirone said he certainly hadn't meant to trespass when he had repaired the dry hydrant; he hadn't known that the land belonged to Dean and Maria.

- 2. Discussion moved to the land co-owned by Courtney Bourns on Middle Road.** On behalf of the Conservation Commission, Lloyd reported that the landowners had been cooperative with the demands of the Conservation Commission's enforcement order. Courtney said that she and her co-owners had installed 200 feet of waddles and five water bars; they had also reseeded a lot of land to prevent erosion. She added that the owners' engineering firm was preparing a Notice of Intent to be filed with the Conservation Commission sometime during the next week. It would include the issue of sharing a driveway with neighbors. Lloyd asked whether the NOI would handle the curb-cut issue, and Courtney confirmed that it would.

Hussain thanked Courtney for her cooperation. Courtney asked about the health and building code issues. Hussain stated that although the health and building inspectors' issues seemed to be handled by the landowners' use of the property for fewer than 14 nights a year, they would have to work out proper facilities and permitting if they were hoping eventually to use the property in a more permanent manner. For the time being, however, those matters did not need to be addressed urgently. Courtney said that she understood this and viewed what was happening at present as only the first phase of something more permanent. Lloyd said he looked forward to seeing the NOI and promised to schedule a Conservation Commission meeting as soon as the NOI was assigned a file number by the Department of Environmental Protection. Courtney said that the owners wanted to hire Harris and Gray as their contractor and that if that sounded good, they would put him in touch with the engineer, Marc Volk. Lloyd said that it would be invaluable to get their joint input.

- 3. The group considered the issue of purchasing a new plow truck.** Gary said that the truck he had found had a base price of \$74,000, including the plow and sander. It still needed accessories including a radio, a headboard, and lettering on the side. He said he hoped that he would have an exact total by the time of the Special Town Meeting the following Monday but that in any case the total shouldn't be above \$85,000. Hussain said the meeting could authorize funding not to exceed that amount.

In other business, Lloyd announced (although he said this was not currently for widespread publication) that it looked as though the town was getting \$1 million from the state to work on Ashfield Road.

Georgette said that she had asked Phil at the dump about the possibility of using punch cards. Phil had said that using the cards would lead to long lines at the dump on busy days. Tinky said she would work on a diplomatic way to broach the subject with Ashfield's town administrator.

Gary reported that the town had new plow problems. The big plow truck was waiting to be fixed, he said, and might not be usable in the winter. He said he was thinking of putting a sander on the old Ford. He added that he had found another possibility: the Town of Shelburne was getting ready to replace a truck which was quite a bit younger than the Ford. Once the town replaced that truck, it would be ready to sell it. He was waiting to hear about the price, he said, but thought it might be less than the cost of fixing the big plow truck, perhaps \$6,000. Lloyd asked how the money would be found for this purchase; Gary said he could use his repair budget. He said he would report back. Hussain observed that if the truck were sold from one town to another, the bid process could be avoided. Bob added that something certainly had to be done.

Tinky briefly reported that (1) Jason Velazquez was still planning to work on his property, (2) that the front step at town hall still needed fixing, and (3) that the website might be up within the next week or two, particularly after Hussain made arrangements to get the Fire/EMS folks to get together to produce content at their upcoming weekly meeting..

There being no other business, the meeting was adjourned at 8:07 p.m.

Respectfully submitted, Tinky Weisblat, Gal Friday

Hussain Hamdan

Robert MacLean