

TOWN OF NEW LONDON
BOARD OF SELECTMEN
MEETING MINUTES – JUNE 4, 2007

PRESENT:

Ruth I. Clough, Chairman Board of Selectmen
Mark Kaplan, Selectman
Larry Ballin, Selectman
Jessie Levine, Town Administrator

ALSO:

David Cook, Resident & Prospective Conservation Land Donor
Celeste Cook, Resident & Prospective Conservation Land Donor
Leslie Norman, Chairman, New London Conservation Commission
Sue Andrews, Resident, Abutter to the Cook Conservation Easement
Debbie Stanley, Executive Director, Ausbon Sargent Land Preservation Trust
Lori Manor Underwood, Senior Director Planning and Projects for New London Hospital
Todd Cartier, Superintendent, New London-Springfield Water Precinct
Jim Cricenti, Commissioner, New London-Springfield Water Precinct
Richard Lee, Director, New London Public Works Department
Debbie Cross, *InterTown Record*
Philip Stake, *Argus Champion*

By speaker phone during discussion of the Newport/County Roads Intersection/Roundabout:

Rob Faulkner, Engineer Clough Harbour Associates
Rob Pinckney, Engineer Clough Harbour Associates

Sue Clough opened the meeting at 8 a.m., and the Selectmen addressed 11 areas of business during this meeting.

1. Public Hearing on Proposed Gift of Conservation Land—Pursuant to RSA 36:A-4, the Selectmen have scheduled this public hearing to receive comment on the proposed gift of real property from the David W. Cook and Celeste C. Hartwell Revocable Trust to the Town of New Land Conservation Commission. This property consists of 69 acres and is subject to a conservation easement granted to the Ausbon Sargent Land Preservation Trust. The property is located on Whitney Brook Road.

Sue Clough read the Notice of Hearing as posted, and opened the floor to comments and/or questions.

David Cook provided to the Hearing copies of the Conservation Easement Deed and the proposed Quitclaim Deed that will convey the land to the Town of New London (including two paragraphs to be added into the latter per recommendation of legal counsel); as well as color renderings of the property showing its location, abutters, and the property's propinquity to other conservation lands, specifically the Deming land, the Webb land, the Andrews land and Carol Kantor's land that includes a portion of the Pleasant Lake High Trail; and a black and white map delineating existing trails on the property.

He gave a brief history of the property going back to the 1830's when it was a sheep farm, and he pointed out on the map the location of a spring and the trail that currently runs by that; location of an old quarry; location of an approximately 30' waterfall on Whitney Brook, in a hemlock glade; and the Overlook that offers--unique among all views on Pleasant Lake—a broad scope of Kearsarge, Sunapee and Ragged Mountains.

The conservation easement for which ASLPT is Grantee: prohibits subdivision; development; large scale timber harvesting (except cutting and pruning as defined in §2-A (ii) of the Conservation Easement Deed); changes in topography, wetlands, surface or subsurface water systems or natural habitat (except as delineated in §2-D of the Conservation Easement Deed); signage (other than trail signs); excavation or mining; dumping or burning; or use to satisfy density requirement of the zoning ordinance. The Conservation Easement Deed does allow the construction and maintenance of walking trails on the property, and David Cook pointed out that this work has been done in a manner consistent with the New London Conservation Commission's trail standards.

He observed that the land enjoys a diversity of wildlife and trees including at least two dozen large sugars, some large yellow birches, oaks, and other interesting species. The owners have observed many visitors, including both local and non-local to this property.

The owners' intention is to continue maintaining the property during their lifetimes, but they are making the gift now to assure its future protection and to coincide with work on the Town's Master Plan. They hope that they may, by example, encourage other land owners to provide similar protections for their properties.

In response to Mark Kaplan's question, both he and Debbie Stanley reiterated that the Conservation Easement is in perpetuity. The deed allows the owners to convey the land, but all future owners will be bound by the conservation easement's terms and restrictions.

Mark Kaplan asked about the cost of maintaining the trails on the property. Conservation Commission Chair Les Norman said as far as trail maintenance goes, the only financial costs are relevant to wetland crossings. For example, right now, the Commission is in process of replacing the boardwalks at the Bog, and covering cost of lumber for that. For upland trails like those on the Cook property, all work is by volunteers, with no cash outlay. Sue Clough clarified that there are four small bridges on this property. David Cook agreed and said that only the one that crosses a stream under the power-line has ever been knocked down (this when PSNH does its cutting about every four years). He said that it would be the Conservation Commission's prerogative to add more trails if it wishes. Les Norman indicated that is not likely in the near future. There are *plenty* of trails there now.

Larry Ballin asked about the quarry. David Cook said that is largely a surface quarry, not more than five feet deep at the most, but mostly less than that. It very briefly holds water in the springtime.

He added that he feels the only safety issue that may exist on the property is the potential for people to try to reach the Overlook by climbing a granite ledge. For that reason, they have provided an alternate, safer route around the ledge to reach the Overlook.

Sue Clough commented that the property is extraordinary, as is the trail system with its markers. David Cook said they have been fortunate in that the neighbors have all agreed to allow extension of the trail system onto their properties as well. Sue Andrews said as an abutter, she is excited about this, and hopes the Town will agree to accept the gift.

Larry Ballin referred to the second proposed amendment to the Quitclaim Deed, where it refers to current owners—the Cooks, specifically, and suggested that be clarified to cover future owners. Debbie Stanley added that the first proposed amendment may also need to be clarified, as it refers only to foot traffic, while the conservation easement does allow horseback riding. She suggested that ASLPT be allowed to

review the draft of the Quitclaim Deed before it is finalized. Jessie Levine agreed that the paperwork has not yet been finalized. The purpose of this hearing is simply to see if the Selectmen will accept the gift.

Mark Kaplan moved that the Selectmen accept this gift subject to the two additions to the Quitclaim deed being written in, and that deed being reviewed by Town counsel. Larry Ballin seconded. No further discussion. Motion unanimously approved.

2. New London Inn Property (the purchase of designated green space between Town office and Inn). Jessie Levine said they closed on this on Friday. She added that she will put out a press release regarding this purchase and the Cook property gift.

She went on to say that she and Connie are working on updating the application form for use of the Town Common. It needs to be reconciled with the Town's alcohol policy. She noted that unlike most Towns, New London does allow some alcohol consumption on Town property with permission of the Selectmen, and only if the organizing group has obtained a liquor license or if there is a designated individual or individuals to oversee distribution of alcohol, and provision of designated drives. The difficulty here is that people have been accustomed in the past to bringing their own alcohol for certain events that have been held on this portion of the Inn property—such as the Freese Brothers concert on Hospital Days. Now that the Town owns that property, that could result in some liability for the Town.

Mark Kaplan said he is comfortable with the current policy. Jessie Levine pointed out that the concern is not for such scheduled events as the Fire Department, Library or Garden Club occasionally hold, but for the types of events that would be held outside or under a tent where people are likely to walk in, bringing their own alcohol. That is different than when one party or organization provides the alcohol. The Town will have to make sure that the Town's policy is clear to people who are accustomed to bringing their own drinks for events held in the open on that Inn property. Lori Manor Underwood agreed that, as far as Hospital Days are concerned, they need to be prepared for any change like that.

Jessie Levine said she brought this up at this meeting, just to let people know they are working on it. Sue Clough agreed that it needs to be considered.

On a related note, she asked about the parking planned for this newly acquired piece of land. Jessie Levine said they will probably not get to that for the next year or two. New London Inn has a good drawing by George Pelletieri proposing some parking and landscaping, and although that is probably not precisely the plan that the Town would go with, it is a very good start. One of the ideas they will be considering is a cross-easement allowing one-way traffic in on the Inn's side of the property line, and out on the Town's side. Combining the entrance and egress like that would allow more landscaped area on the Inn property.

And, finally, the fate of the red statue was discussed.

3. Planning Board Update: Larry Ballin said in preparation for the Master Plan work, a Visioning Committee has been formed and will meet Thursday night.

4. Other Boards/Committees: Selectmen agreed that they need to complete the appointment process as soon as possible. Still remaining to be filled are a seat on the Zoning Board of Adjustment, and a Planning Board alternate seat, and they have yet to discuss or meet with volunteers for the Solid Waste Committee and Energy Committee.

Mark Kaplan opened some discussion on the formation of a Sewer Advisory Committee, reminding the Board that originally they had hoped to have the outgoing Sewer Commission form the nucleus of that advisory board but those members declined. Larry Ballin said his feeling still is that the Selectmen need to get up to speed on sewer issues themselves before appointing a committee.

Jessie Levine opened the possibility that an advisory board may not be necessary, as now that the Sewer Department comes under the Town's public works, there will automatically be more public input and more communication with the public. The sewer issues and budget will all be part of Richard Lee's regular updates to the Selectmen, to the Sunapee Sewer Commission, and to the New London Budget Committee. She added that there will be more communication with the heavy sewer users. But, really, it is the Town's smallest department.

Mark Kaplan pointed out that the agreement with Sunapee is still in force, and to date, the Selectmen have been meeting with the Sunapee Commission where formerly the New London Sewer Commission did that. He asked, Do we want to continue that? Jessie Levine said yes, that was part of the purpose in combining the two departments and returning authority over and regulation of the sewer department to the Selectmen—to streamline its administration.

Otherwise, she noted, there is no statutory guidance for things like the Energy Committee or Solid Waste Committee. She has heard from quite a few volunteers for the former, and hopefully, they will meet and set up their own agenda and goals. The Town will staff the Committee as necessary, and in turn the Committee will serve in an advisory function to the Selectmen, Planning Board and Master Plan Committees. Selectmen agreed to meet with the volunteers for the Energy Committee, to launch them on their work.

Jessie Levine said she has not received many volunteers for the Solid Waste Committee, so she will run a couple more ads. This Committee will look at issues as increasing recycling, the idea of pay-as-you-throw, and increasing general awareness of the environmental impact that recycling can have. Sue Clough suggested she include those points in the ad.

Debbie Cross asked why the Town's half day for hazardous waste collection was on a Friday morning—a work-day. Nobody knows, and nobody at this meeting was able to say how well attended that was. Sue Clough said there was much talk at the CAC meeting about increasing the hazardous waste collection days. Jessie Levine said they are expensive. All agreed that this is another subject that the Solid Waste Committee could address.

5. Minutes: Mark Kaplan moved to accept the CAC minutes of May 19. Larry Ballin seconded. No further discussion. Motion unanimously approved.

Mark Kaplan moved to accept the Board of Selectmen's minutes of May 21. Larry Ballin seconded. No further discussion. Motion unanimously approved.

6. Lakeside Lodge—Jessie Levine reported that the owners have appealed the ZBA's decision of March 1, 2007 to Superior Court, and she updated the Selectmen on some of the arguments they have made in their brief to the Court. They have raised the new possibility that State law may prohibit any Town control over the dock. Mark Kaplan asked what the status of the ZBA's ruling is until the Court makes a decision. Jessie Levine said until the Court rules differently, the ZBA's decision is in effect.

7. Update of the May 29 Public Hearing for Water Precinct Petition to change Springfield-New London Water Precinct Boundaries. Both Springfield and New London Boards of Selectmen voted unanimously to not change the boundaries, and they suggested that the petitioners take up the monetary matters with the precinct itself.

8. Amy Gignac-Request to Sell Homemade Ice Cream at Bucklin and Elkins Beaches—Amy Gignac provided a synopsis of her proposal and a summary of her research into State law. Her understanding is that per NH RSA 320:3 (II), she would be exempt from having to obtain a State license. She has applied for a business license under the name of Potbelly Luck.

She reiterated that her ice cream will be strictly homemade of all natural ingredients, and the packaging will be biodegradable. In response to concerns expressed at this meeting, she agreed that biodegradable or not, she will assure that all the empty containers are picked up and removed from the beaches. She proposes two size containers—a larger one that she will sell at the Wilmot Farmers market, and a smaller one that she will sell at the beaches. She is not proposing selling cones or sundaes.

Sue Clough asked if a commercial kitchen license will be required. Amy Gignac said that would be if she were to do this full time, and sell the ice cream to restaurants, or have her own business location. Her understanding is that according to the State, only a Town permit is required for what she is proposing.

Larry Ballin said he feels the Selectmen should obtain an opinion from Health and Human Services. What is being proposed here is a little more than a Farmers Market. If the Town were to permit this, it would be partially responsible for the product. Sue Clough agreed that they need to find out from the State what other kinds of licenses might be necessary. Amy Gignac said that the State does allow ice cream trucks at local beaches to park for fifteen minutes. Larry Ballin said, but they must stay out on the State road. Sue Clough agreed, and if they come onto Town property, they would need a permit from the Board of Selectmen. Jessie Levine said the Selectmen may also want to consider charging a flat fee for a permit, or some percentage.

Amy Gignac said she has spoken to people at the beaches, and the feeling is that there is a need for some kind of food product there. Larry Ballin asked if she will be doing this in other places. No, just the Farmers Market and the two beaches as they are close to her home.

Larry Ballin asked if anything has been received in writing from Little Sunapee Protective Association. Jessie Levine said no, just the email summarizing the discussion at their last Board meeting. They expressed concern regarding trash and parking problems that this might generate.

Larry Ballin asked where she would park. Amy Gignac said probably alongside the road. She would not be selling out of her van, but rather would bring the coolers down to the beach.

Larry Ballin asked if, without an ordinance or official permitting process, can the Selectmen permit or deny? Jessie Levine said the Selectmen have the authority to make a decision now, or postpone a decision. Amy Gignac said that she heard from Peter Stanley that he could not say no, without an ordinance in place. Jessie Levine agreed that the staff cannot make a decision one way or the other in the absence of a policy, but the Selectmen manage Town land and are authorized to grant or deny a permit.

Larry Ballin expressed appreciation of Amy Gignac's entrepreneurial spirit, but said he is not sure the beaches are the right place for this without doing further research on some points, specifically, the State

health regulations regarding perishable food items. He said the whole thing needs more study. Mark Kaplan would also like to see more facts regarding the law, and to hear from the two lake associations.

Jessie Levine said an ordinance would require a public hearing. She suggested that the ordinance should not be limited to the two beaches, but would serve the entire town, and she also suggested that it not be limited to health concerns. What if someone wanted to sell tee shirts, for example?

Larry Ballin said that without guidance, he goes back to the idea that the Selectmen can say neither yes nor no. Jessie Levine said legally, the Selectmen can, but she agreed that there is no guidance.

Selectmen agreed to postpone a decision on this, until more facts have been obtained. From those, they can develop a policy. Once that is in place, the process can be opened up and anyone can apply.

9. Roundabout—Jessie Levine said they received bids from BUR, Whitcomb and Northeast Earth, and the lowest bid was from BUR at \$1,139,000. That includes both the Town and water precinct work. They have budgeted for both those a total of \$850,000 (though that would not include the grinding of the pavement on County Road, landscaping, and bid alternatives.) She said that if the Town cannot afford to move forward now, the options include scaling back the scope of the project (if the State would allow that), rebidding in fall for the next construction season with the hope of getting the specs out earlier and getting more bids, or doing nothing.

Larry Ballin asked why the lowest bid came in so much higher than the estimate. Rob Faulkner of Clough Harbour (on speakerphone) said he feels it is the timing. He said that their estimate for the project based on the 60% design was in line with another estimate the Town got. These bids went out late, and schedules are filled for this year. Also, in general, construction costs continue to rise.

In response to Selectmen's question, Richard Lee said he has worked a bit with Whitcomb, but he is not familiar with the other two. He agreed that this is a timing issue. Jessie Levine said the hospital has used BUR for some of its work.

Sue Clough asked if BUR provided references. Jessie Levine said no, but it doesn't matter. The Town is obliged to go with the lowest qualified bidder.

Mark Kaplan asked if we can go out and rebid. Jessie Levine said yes, but not for this season. In rebidding, the hope would be that they could receive more bids from companies whose 2008 schedules have not yet been filled. Sue Clough asked if the Town can encumber the money from this year to next. Jessie Levine said yes, and by rebidding this year for next year's season, they would know by Town meeting if they need to appropriate more.

Larry Ballin asked how these numbers will affect the grant. Jessie Levine said that when the lowest bid comes in above estimate, but proposed work remains within the scope of the project, the State can find funds to make up the additional amount necessary for its 80% of the grant. She does not know if the grant will be affected if the Town decides to rebid for next season. She does not think so, but will check on that today.

Larry Ballin asked, if the State could make up the additional funds for its 80%, how much would the Town need to add. Water Precinct Commissioner Todd Cartier said the water precinct cannot apply for more. They are paying a premium as it is, and their funds are limited. He would urge rebidding. Water Precinct Commissioner Jim Cricenti agreed that the water precinct is limited to what it can raise. With

this bid, they would need 25% more than what was bonded. Clough Harbor Engineer Rob Pinckney agreed that the water precinct bonded \$300,000 for their portion of this project, and with this bid, their portion would cost \$312,000—and that number does not include the engineering costs which would probably be about \$50,000.

Mark Kaplan asked the Clough Harbour engineers if, after these high bids came in, they went back and looked at their own calculations. Rob Pinkney said the sources they used in coming up with their estimate were the numbers for a similar project they were doing in Keene, as well as another roundabout in Keene being done by the State. They also used the DOT data base for some of the unit costs, and figures from Underwood Engineers for the estimates for the water precinct work. He does not feel there was any error in their calculations.

Richard Lee agreed that this is a timing issue. He said an independent estimate he got fell within 10% of Clough Harbour's. One of the problems with going to bid so late is that even if companies wished to bid, their best superintendents were already committed to projects contracted for earlier in the year. In conclusion, he said he would favor going out to rebid with an eye to beginning next spring. The advantages include getting more bids, as companies will not have filled their 2008 schedules yet, and also the work could be completed before the summer peak season.

Mark Kaplan moved that the Town send this out for rebidding, with the work to be done next season. Jessie Levine added that will be pending confirmation from the State that the grant is not time sensitive. Larry Ballin seconded. No further discussion. Motion unanimously approved.

Lori Manor Underwood said this should not be a problem for the hospital. They can do their on-site work first, and will not be completing that until 2008-2009. She asked if they have considered inflation. Jessie Levine said the engineers feel that inflation will be offset by the improved timing.

Selectmen agreed that pending approval by the State, they will send this back out for bids at the end of August. The specs need not be changed, but they can allow more time for people to submit their bids. They should have an agreement for the work by December.

Larry Ballin asked if the easements are written in the deeds or are they with the property owners—will they be okay if property owners change between now and next spring. Jessie Levine said they permanent easements are written in the deeds and will go from owner to owner. The construction easements are with the owners.

10. Per RSA 91-A:3 II (a), the Selectmen went into non-public session to discuss a personnel matter.

11. Selectmen reentered public session to sign the following items:

Building Permits:

- John and Pat King, 541 Route 103A (Map 091, Lot 035), permit to demolish portion of existing first floor and up and build new larger structure on same site – Approved (Permit 07-039)
- Brian and Tracy Prescott, 242 Elkins Road (Map 077, Lot 041), permit to add deck 24' x 30' x 14' to the street side of house – Approved (Permit 07-040)
- Richard and Deborah Reed, 118 Old Coach Road (Map 123, Lot 021), permit to replace existing porch floor and put on T-111 siding. No structured changes, no change in footprint – Approved (Permit 07-041)

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- Emmett Scanlon, Forest Acres Road (Map 105, Lot 021), permit to add 24' x 26' Carriage Style garage – Approved (Permit 07-042)
- George & Katharine Crozer, 737 Burpee Hill Road (Map 056, Lot 007), permit to add 24' x 48' greenhouse, 1,152 square foot to be used for growing orchids for Crozer and Crozer Orchids, related grading and filling, running lines to well and adjacent cottage for power and demolish derelict garage – Approved (Permit -07-043)
- F. Graham McSwiney and Carroll Jones, 280 Main Street (Map 084, Lot 056), permit to add window on Lovering Lane side of house, add and relocate non-structural walls and resurface existing walls with wallboard – Approved (Permit 07-044)
- Frank and Leigh Tappen, 168 Knollwood Road (Map 035, Lot 048), permit to convert porch to living space-no change to footprint or bedrooms – Approved (Permit 07-045)
- Charles and Cynthia Lawson, 681 Bunker Road (Map 076, Lot 043), permit to repair or replace retaining wall as approved by DES – Approved (Permit 07-046)
- Brian and Kristin Maloney, 712 Wilmot Center Road (Map 040, Lot 002), permit for barn to be built 24' x 32' – Approved (Permit 07-047)
- William Gray, 63 Laurel Lane (Map 089, Lot 001), permit to build 10' x 16' tool shed – Approved (Permit -7-048)

Sign Permits:

- Temporary Sign Permit Application for KAT Company to be placed at the Information Booth for a 6' square sandwich board sign for advertisement for KAT Mainstage Show on July 26-28 at 7:00 PM and July 28-29, 2007 at 2:00 PM at the Kearsarge Regional High School in North Sutton – Approved
- Temporary Sign Permit Application for KAT Company to be placed at the Information Booth for a 6' square sandwich board sign for advertisement for KAT Kabaret and Young Actors Showcase on July 6, 7, 13, 14, and 18, 2007 at 7:00 PM at the Kearsarge Regional High School in North Sutton – Approved
- Temporary Sign Permit Application for Tracy Memorial Library to be placed at the Information Booth for a self-supporting sign indicating “Book Sale, June 15, 9:00 AM – 5:00 PM and June 16, 2007 from 9:00 AM – 1:00 PM - Approved
- Two Temporary Sign Permit Applications for New London Hospital to be placed at the Information Booth and at the entrance to Kearsarge Regional Middle School for 2' x 3' sandwich board signs indicating “Book Sale on July 27 from 10:00 AM – 5:00 PM, July 28 from 9:00 AM – 3:00 PM – Approved
- Temporary Sign Permit Application for New London Garden Club to be placed at the Information Booth for a 6' square sandwich board sign indicating “New London Garden Club Antiques Show & Sale on Saturday, July 28, 2007 from 9:00 AM – 4:00 PM - Approved

Other Items for Signature:

- Disbursement & Payroll Vouchers for the week of May 28, and June 4, 2007 – Approved
- Warrant Yeild Tax Levy for the State of New Hampshire – Approved
- Application for Use of Whipple Memorial Town Hall by Sunapee-Kearsarge Intercommunity Theater (S.K.I.T.) for Mondays, June 11, 18, and 25, 2007 for Improv Night fro 7:00 PM – 9:00 PM – Approved

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- Application for Use of the Sydney L. Crook Conference Room by Adventures in Learning for the Fall 2007 schedule: Tuesday's from 1:00 PM – 4:00 PM from September 18 –October 30, 2007 (7 weeks); Wednesday's from 9:00 AM – 12:00 PM from September 19 – October 31, 2007 (7 weeks); Thursday's from 9:00 AM – 12:00 PM from September 20 – November 1, 2007 (7 weeks) - Approved
- Town of New London Joint Loss Management Policy and Procedures – Approved
- Notice of Intent to Cut Wood or Timber for Shaun Carroll, 105 Andover Road (Map 109, Lot 013) - Approved

Abatement Recommendation:

- Nancy Erickson, 222 Little Sunapee Road (Map 059, Lot 042) - Approved

There being no further business, the Board of Selectmen adjourned the meeting at 10:15 a.m.

Respectfully submitted,

Sarah A. Denz
Recording Secretary