

**New Hampshire Council on Resources and Development****DRAFT MINUTES – January 12, 2023****MEMBERS PRESENT**

Taylor Caswell, Chair, Commissioner, NH Department of Business and Economic Affairs.
John Martin, Designee, NH Department of Health and Human Services
Mark Doyle, Designee, Department of Safety
Jack Ruderman, Designee, NH Housing Finance Authority
Shawn Jasper, Designee, Department of Agriculture
Jared Nylund, Designee, NH Department of Administrative Services
Stephen Labonte, Designee, NH Department of Transportation
Betsey McNaughten, Designee, NH Fish & Game
Patrick Hackley, Designee, NH Department of Natural and Cultural Resources
Amy Clark, Designee, Department of Education
Mark Sanborn, Department of Environmental Services

OTHER PARTICIPANTS

Stephanie Verdile, NH Office of Planning and Development (CORD Staff)
Jennifer Gilbert, Director, NH Office of Planning and Development
Allen Brooks, CORD Attorney, NH Department of Justice
Paula Bellemore, Executive Director of Land & Community Heritage Investment Program (LCHIP)
Steven Walker, NH Conservation Land Stewardship Program
Charlotte Harding, NH Conservation Land Stewardship Program
Larry Gomes, Milan Trail Huggers ATV Club trailmaster
Jamie Sayen, Stratford Citizens Nash Stream Committee
Louis Barker, NH Department of Transportation
Corey Clark, NHDES Dam Bureau
Craig Rennie, NH Department of Natural and Cultural Resources
Clinton Savage, NH Department of Natural and Cultural Resources
Jim O'Brien, The Nature Conservancy
Patrick Bell, NH Department of Environmental Services
Matt Leahy, Forest Society

ROLL CALL AND INTRODUCTIONS

The meeting was opened at 3:03 P.M. by Chair Caswell. Council members and guests then introduced themselves.

MINUTES**A. Approval of November 10, 2022, draft minutes**

MOTION: *On a motion by Mr. Martin, seconded by Mr. Doyle, the November 10, 2022, minutes were approved by a unanimous vote in favor.*

LAND & COMMUNITY HERITAGE INVESTMENT PROGRAM (LCHIP)

A. Paula Bellemore, Executive Director of Land & Community Heritage Investment Program (LCHIP). Request for distribution of Community Conservation Endowment monitoring funds.

Paula Bellemore, Executive Director of LCHIP, stated LCHIP annually comes before the Council (CORD) to seek approval to expend monies from the Community Conservation Endowment (CCE) fund. In 2022, LCHIP deposited \$409,000 into the CCE. She continued that LCHIP respectfully requests CORD approve disbursement of \$207,026.00 for the purpose of funding fiscal year 2023 comprising up to \$156,000 for the purpose of awarding FY23 Stewardship Grants and \$51,026 for the purpose of supporting LCHIP's annual monitoring and stewardship program.

Ms. Bellemore provided a brief update on the status after a question from Mr. Caswell.

MOTION: *Motion made by Mr. Jasper, seconded by Ms. McNaughten to approve the requested expenditure from the LCHIP Community Conservation Endowment fund in the amount of and up to \$207,026.00, comprising up to \$156,000 for the purpose of awarding FY23 Stewardship Grants and \$51,026 for the purpose of supporting LCHIP's annual monitoring and stewardship program. The approval is contingent upon LCHIP Board of Directors approval.*

LAND CONSERVATION INVESTMENT PROGRAM (LCIP)

A. Nash Stream Forest Reports

- 1. 2022 West Side Trail Monitoring Report**
- 2. 2022 Kelsey Notch Trail Environmental Compliance Report**

Chair Caswell introduced Patrick Hackley from NH Department of Natural and Cultural Resources who was there to present the reports. Mr. Hackley provided an update on general overview of Nash Stream, which is the largest state conservation property. It was acquired in 1988 and is approximately 40 thousand acres. It encompasses three townships and has about 90 seasonal cabins. The property is the Division of Forests and Lands North Region office based in Lancaster. Mr. Hackley introduced his colleagues from DNCR, Bureau of Trails – Craig Rennie and Clint Savage who were also present to answer questions.

The issue of Nash Stream with off-highway recreation vehicles (OHRV) started in 2002-2003. There are two OHRV trails in the Nash Stream Forest. One is West Side Trail, established in 2002, which is approximately 9 miles long and parallels to Nash Stream on west side. Over the years, it became part of an OHRV in the Nash Stream Forest Management Plan in 2017 (updated every 10 years). Kelsey Notch Trail is 1.5 miles long and cuts across the northern side of Nash Stream Forest. It was opened in 2013. Unlike West Side Trail, it has been debated and discussed for quite some time and CORD has oversight on this trail due to it being acquired with LCIP funding. Kelsey Notch Trail was given a 3-year pilot period and 2-year extension in

2021. These periods were given to monitor and understand the impacts of the trail on water quality, soil compaction, erosion, wildlife, etc. There were multiple reports provided to give information about the condition of the trail which were made available to CORD. Today is a five-year culmination of reports. CORD received the recent reports on both trails. Mr. Hackley concluded the Kelsey Notch report is a more comprehensive one and asked the members if they would like to take some time to review it and if that was the case it could be deferred to a later meeting.

Chair Caswell stated the reports provided were designed to address the issues that were raised during the pilot project. Mr. Hackley responded that the memo from December 2016 triggered the commencement of the pilot project which began in 2017. There has been much effort made to understand the nature of the trail.

Chair Caswell asked if there are any components of the report he can discuss today. Mr. Hackley focused on the Kelsey Notch. Due to an administrative policy change in hiring private contractors, DNCR was unable to conduct its annual trail repair and maintenance at the end of the riding season. As a result, the annual report depicts trail compaction and erosion issues that were not addressed this fall. The maintenance work will be scheduled in the spring prior to new riding season. Mr. Hackley added in 2021, CORD asked for seven additional report requirements and those have been added to this report and deficiencies were also identified.

Chair Caswell asked members for questions.

Mr. Martin asked what the implications were of not closing out the trails for the season, like safety issues, etc. Mr. Hackley said at this moment it is a snowmobile trail, and they are hoping to fix the issues in the spring. Mr. Savage corroborated the trails could be opened in the spring as is, but the hope is to have them returned to their original shape and doing so by springtime. He also added there were no issues observed with water quality, surface water or wetlands.

Mr. Ruderman asked about a note about wildlife impacts from ATV noises noted on page 24 of the report and what Mr. Hackley's take was on concerns, given that there is not a lot of data/information. Mr. Hackley deferred to Ms. McNaughten. She said Fish & Game always had a concern about that, but she is not a biologist so she suggested that her supervisor and Jake Devoe are the best people to answer the question and she can follow up with them. Mr. Ruderman said he would be interested in follow up information. Ms. McNaughten noted there have been studies that have been used in the discussion of Nash Stream Forest. Mr. Hackley corroborated that in the 2020 report a study is mentioned that documented impact on wildlife but it was not done at Kelsey Notch. He also added since this is an active trail, there was no opportunity to compare active versus inactive state to study it. Ms. McNaughten added there is a program, People in Wildlife, that has studies.

Chair Caswell opened the floor to the public.

Jamie Sayen, on behalf of himself of Stratford and Citizens Nash Stream Committee, spoke about the following:

Mr. Sayen's involvement with the property goes back to the original sale when Diamond International Corporation sold it in 1988 and that he was the reporter who broke the story on it then and has been involved with it ever since. Mr. Sayen said Diamond International

Corporation had a ban on ATV use back then. He added that the State has adopted, maintained, and perpetuated that ban. Mr. Sayen noted the easement does not mention ATV use at all and added there was an active ban on ATVs at the time of the purchase. In 1999 Nash Stream Advisory Committee, which drafted the first Management Plan, wanted to keep the ban of the ATVs. In 2001 it was opened up. There was a study committee in the Legislation and in its findings, it stated that Fish & Game cannot keep up with enforcement. Regardless, the trails were opened up but there were conditions made on the trails such as regular monitoring for the impacts of ATVs and the fact that Fish & Game cannot enter into a memorandum of understanding unless it can guarantee safety and monitoring. Fish & Game biologist requested a season without ATV use for the West Side Trail to do a base line study, which he was unable to complete as the trail was opened that same season. There was no monitoring of West Side Trail until this year, the studies were inconclusive and never done properly. When Kelsey Notch opened up, Jim Oehler submitted a report in January 2013 where he expressed concerns about monitoring and that Fish & Game did not have the capability of either monitoring or enforcement. The trail was opened without any studies and there was no monitoring until 2016 when CORD required it. John Magee went up there and noted there was tremendous erosion there. It did not get addressed until late fall of 2017 when many truckloads of fill were brought in to fill in erosion. In 2017 the monitoring began, and it was done after fall maintenance, therefore, not looking at the ATV impacts but in fact looking at the quality of the maintenance job. ATVs are high impact machines. Maggie Machinist recommended monitoring before the end of season which is how it was done since then until 2020. It is still done after the maintenance, although this year there was no maintenance. Erosion issues are found but there were no studies on water quality. Mr. Sayen asked for such a study but was told it was too expensive. ATV counters were put in after all. Given the concern with ATV noise in breeding/reading season during May to June there were 1056 ATVs counted over May 28-29. There is inadequate monitoring, reports, no baseline data, no studies, violation of RSA 215-A:42.I(B) and the easement does not bring much comfort in justifying this. The Board needs to at least take a site visit. There is no reason for ATV use in Nash Stream Forest except for satisfying the very vocal lobby. When the State opened up the Ride the Wilds there was no master plan, and it has been a 'wild wild west' out there since then. The Coos County is really suffering and not getting the economic benefit from the ATVs use.

Ms. Sayen concluded with urging CORD to kill the Kelsey Notch ATV trail use and revisit legitimacy of West Side ATV trail use.

Chair Caswell noted that Mr. Sayen spoke for 6 minutes and offered other public members to address the Board keeping in mind the other agenda items. He noted Nash Stream will possibly be discussed again in a future meeting as well.

Larry Gomes, Trail master for Milan Trail Huggers ATV Club who has also been involved with Nash Stream for many years, spoke about the following:

There was a local citizens committee involved with the Nash Stream Forest for all the years that it has been open. Approving the trails did go through a process and were approved by CORD. When Nash Stream Forest was purchased, it had three stated goals:

1. Ensure that the property continues to contribute to forest economy through the sale of wood products;
2. Provide continued public access for recreation; and
3. Protect the area's natural beauty and ecological values.

Nash Stream has always been a working forest, and access to public recreation has been provided before the trails were opened. The trails do not impact the heart of the forest being

only on the northern and western sides. Kelsey Notch trails are a very small part of the forest but are very critical in providing a riding link to other trails systems, such as Stratford on the west, Pittsburgh and Colebrook on the north, and Millsfield on the east. That is why there is a lot of traffic due to Kelsey Notch linking areas. There are economic impacts due to closures of businesses in the area as summertime has proven difficult for them. With the ATV's coming in, there has been a big difference in the economy of the North Country and there is a study on ATVs that is included in packet that corroborates that ATV's are a very big part of the economy now. There were no ATV restrictions when the State bought the property, and the easement does not mention anything about ATVs. Motorized vehicle recreation is allowed. Mr. Gomes asked the Board to take all that into consideration.

Chair Caswell asked if there was any other discussion.

Mr. Sanborn had a procedural question on what the Board has to vote on. Chair Caswell echoed his sentiment and asked related question. Chair Caswell said West Side trail has been around longer than Kelsey Notch and it began its existence as a pilot trail much like Kelsey Notch trail now. He then asked how did West Side trail become recognized and not Kelsey Notch?

Mr. Savage said CORD adopted West Side Trail after it had been a pilot program and it was included in Management Plan.

Mr. Hackley stated in 2002 they were part of DRED (Department of Resources and Economic Development) and a lot of attention was given to the North Country economic state and businesses and ATV influence on them and that played into the CORD's decision at that time.

Chair Caswell referenced the 2016 CORD findings that were contained in the packet and said that it was the last time CORD took official action, short of receiving the annual monitoring reports and allowing the pilot project to continue. He compared this process to someone applying for a permit or variance. He then asked Mr. Hackley how often the Management Plan gets updated and whether there is any opportunity for the public input during that process, to which he said was every 10 years and yes to the public input.

Commissioner Caswell then asked Attorney Brooks for his insight on what CORD's role is in this situation.

Mr. Hackley said the 2016 legal memo, provided by CORD Attorney Aslin, provided a very good overview of what CORD's role in this, and added the monitoring period is over and it is time for a decision, which does not have to happen today. He added if CORD members would like to have a site visit, it could be arranged, although it may postpone the decision. Mr. Martin said that this would be really helpful.

Attorney Brooks said there was a site visit awhile back and it was very helpful, albeit very long. There were no current CORD members who were on CORD back then.

Chair Caswell offered to have OPD staff to prepare a historic document for CORD members and to work with Attorney Brooks on legal questions for the next meeting. He said if CORD determines that a road trip is needed, it could be decided then. He added there might be some other issues to address before visiting.

Mr. Jasper stated said he would like to see what has happened, can the trails continue to be maintained to remain in the same condition and are not deteriorating. He added as much as he prefers land and trail to remain pristine, he understands the importance of economic benefits. Ms. McNaughten stated she would like an opportunity to talk to Mr. Hackley as Mr. Sayen brought up a lot of things that she remembered but would need to confirm them. She suggested having John Magee to come to talk more about it.

Chair Caswell said there is nothing to table and a decision will have to be made at some point. He urged members to read the 2016 CORD findings as earlier CORD is telling the current/future CORD on what needs to be done. Then members will decide on the agenda and plan to discuss this in March.

Mr. Ruderman asked about when the second 2-year extension ends. Mr. Hackley said that it is still in the zone. Mr. Savage said that OHRV season opens on May 23, 2023.

Chair Caswell thanked the members of the public for providing information. Mr. Sayen said he has prepared the chronology of events and will send it to Ms. Verdile.

B. Steve Walker, Director Conservation Land Stewardship Program (CLS) update.

Chair Caswell introduced Mr. Walker's update for the Conservation and Stewardship Program. Mr. Walker stated they wanted to be more part of the process and asked for any suggestions for what CORD may want from CLS. He added Ms. Harding will put an educational PowerPoint together on the program for CORD members. Mr. Walker also mentioned that LCIP and LCHIP are different and that this conversation was about LCIP.

Chair Caswell said it would be good to discuss these items at some point.

SURPLUS LAND REVIEW

A. 2023 SLR 001

Request from the New Hampshire Department of Transportation (NHDOT), to lease 375 feet of water frontage on Lake Winnisquam at the site owned Concord-Lincoln Railroad Corridor to the Town of Belmont to an abutter for installation, use, and maintenance of a dock in accordance with RSA 228:57-a. The proposed lease is for five (5) years with an option for five (5) year renewal. The property is located at US Route 3, Belmont, NH.

Chair Caswell asked Ms. Verdile to present the details. Ms. Verdile provided a brief summary of SLR request. Louis Barker NHDOT provided information on the application. He said the request was received in the summer of 2022 and NHDES and Attorney General's Office both concurred that this is a legal use that meets NHDES criteria. A dock application will be needed. The request is deemed fair and legal by the Agency. Mr. Barker than answered questions from the Board about crossing the railroad track, lease cost per foot, market rate, etc.

MOTION: Mr. Sanborn made a motion, which was duly seconded by Mr. Doyle to recommend the proposed lease of 375 feet of water frontage on Lake Winnisquam at the site owned Concord-Lincoln Railroad Corridor to the Town of Belmont to an abutter for installation, use, and maintenance of a dock in accordance with RSA 228:57-a. The proposed lease is for five (5) years with an option for five (5) year renewal. The property is located at US Route 3, Belmont, NH.

This recommendation is contingent upon any recommendations/conditions made by:

- *The Public Water Access Advisory Board.*
- *The Lakes Management and Protection Program, through the Rivers and Lakes Program Coordinator.*
- *The Rivers Management and Protection Program, through the Rivers and Lakes Program Coordinator.*

Motion carried by a majority vote in favor with Mr. Labonte abstaining.

B. 2023 SLR 002

Request from the New Hampshire Department of Environmental Services (NHDES) to transfer ownership of the Weeks Crossing Dam and associated property and easements to the Town of Warren. The dam is a 113-foot long, 14-foot-high concrete structure with earth abutments. The associated property and easements total 0.42 acres. The dam and property are located on Black Brook off Gould Hill Road in Warren, NH.

Chair Caswell asked Ms. Verdile to present the details. Ms. Verdile said Corey Clark from NHDES Dam Bureau was there to request the SLR to be tabled. Mr. Clark requested the Warren SLR be tabled as there are still issues like ownership and deed issues that need to be addressed. He said in 2017 a dam washed out in Warren and after that, rebuilding was discussed, and the town put in a culvert. In discussions with Fish & Game it was determined that it was not an important ecological resource, so it was not in state's best interest to rebuild it. The Town on the other hand was very interested in rebuilding it. The State started drafting the agreement with the Town but never finalized it and the agreement was that the State would rebuild it with the help of funds from FEMA and then turn over to the Town. Currently NHDES is working the Town Selectboard on the details of the transfer. Mr. Clark asked if CORD would like a warrant article or signed letter from the Selectboard?

There were some comments that a warrant article is needed and follow up questions on the town budgeting process. Mr. Clark said he is working with the Town on the budgeting aspect of this transaction.

Chair Caswell suggested Mr. Clark send an email with that question to OPD staff so they could ask CORD Attorney to provide the answer.

OTHER BUSINESS

A. Next Meeting: March 9, 2023, from 3:00 to 4:00 P.M.

Ms. Verdile updated the members on the 30-day deadlines for SLR and administrative deadlines for the 2023 meetings. She added the list of deadlines will be posted on the website soon.

Mr. Sanborn suggested to extend the length of meetings to address those issues that take longer instead of making people who are waiting for action come back to the next meeting. There was discussion for a need to make the meetings longer and to have deadlines given the Nash Stream Forest discussion and how much time and information it involves.

Then members discussed there was nothing on the table for CORD to decide on regarding Nash Stream Forest as CORD is going to need to make a decision on CORD requirements. Mr. Hackley said there are legal opinions from US Fish & Game and CORD Legal Counsel that

this is a legitimate use of the trails, but it is up to CORD to make that decision. He added that there is a briefing paper that can help with history and Mr. Sayen offered to draft a chronology.

Mr. Sanborn asked Attorney Brooks if he could give CORD some guidance on what they need to do. Mr. Hackley said there was a legal memo (2016) written by Attorney Aslin in the legal guidance on page 6.

Attorney Brooks provided a brief background and said Nash Stream was delegated to DRED, which is now DNCR to manage since it is under LCIP. Consensus was Kelsey Notch and West Side was a such a big issue that CORD wanted to see how things are going. That is why DNCR is asking CORD to look at how they are maintaining the property and to approve it. He said that he will put together a memo for CORD members for some clarity. Need to have on agenda that discussion will be made.

Mr. Ruderman said a link was sent by OPD staff to CORD members in the past with the background information on the issue and he was wondering if it could be sent again.

Chair Caswell said CORD would need to make a substantial decision at the next meeting if this issue is to be discussed and members should have more knowledge about it. He also said that CORD would need to include public comment.

Mr. Sanborn said that he would like to get more information on the ATV networks and the economic impact. He added that it would be nice to hear from these groups as well. Mr. Ruderman said that he is not sure that it can all be done in one meeting with inclusion of public comment especially. He suggested to do a half day meeting.

Attorney Brooks said that the ATV affiliated groups presented information in the past. Chair Caswell said that there is a number of key documents that would need to be distributed to everyone soon. Depending on the key topics CORD can see if it can invite the right people to speak about those issues at the meeting, rather than relying on who shows up. There will have to be time allotted for public comment.

There were suggestions to move up time of the meeting and use bigger space. Another suggestion was to learn more about statutory CORD authority.

Chair Caswell said that CORD has time to meet with its attorney before the next CORD meeting and that this meeting should be focused on what CORD's authority is, what its responsibilities are, and get answers to things that are relevant to the mission of CORD.

Mr. Jasper said there was a real focus on what CORD authority was. He added that to his recollection previous CORD wanted to know if there was any degradation of trails and he was under the impression that this is what CORD would be looking at this time. He reiterated that he thought that CORD had to look at whether the trails and the land they are on were on the trajectory of being destroyed or is the maintenance sufficient for the trails to remain in good condition. Have the crossings been addressed and wetlands impacted.

There was discussion on what CORD needs to vote on and whether it is on a permanent basis or needs to be revisited.

Mr. Caswell said that members will hear back from staff on the extended meeting date and a meeting with the Attorney prior to that. A draft agenda will be sent to everyone with items for

Kelsey Notch discussion to make sure that all issues are captured on it. He added that CORD will need to make a decision.

Ms. Brooks said that he can meet with any member individually or with everyone together to address any legal questions and these are not subject to the Right-To-Know law.

MOTION: *After a motion by Mr. Sanborn the meeting was adjourned at 4:40 PM.*