

New Hampshire Council on Resources and Development

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FINAL Minutes – January 14, 2021

MEMBERS PRESENT (via remote participation)

Jared Chicoine, Chair, Director, NH Office of Strategic Initiatives (alone)
Tracy Boisvert, Designee, NH Department of Natural and Cultural Resources (alone)
Shawn Jasper, Commissioner, Department of Agriculture (alone)
John Martin, Designee, NH Department of Health and Human Services (alone)
Stephen McLocklin, Designee, Department of Administrative Services (alone)
Adam Smith, Designee, NH Department of Transportation (alone)
Sarah Stewart, Commissioner, NH Department of Natural and Cultural Resources (alone)
Amy Clark, Designee, Department of Education (alone)
Marta Modigliani, Designee, Department of Safety (alone)
Jack Ruderman, Designee, NH Housing Finance Authority (alone)
Betsey McNaughten, Designee, NH Fish and Game (alone)

OTHER PARTICIPANTS

Michael Klass, NH Office of Strategic Initiatives
Clinton Savage, NH Bureau of Trails
Margaret Machinist, NH Division of Forests and Lands
Allen Brooks, NH Department of Justice
Patrick Hackley, NH Division of Forests and Lands
Philip Bryce, NH Division of Parks and Recreation
Erin Zayac, NH Military Affairs and Veterans Services
Zachary Boyajian, NH Military Affairs and Veterans Services
Jared Nylund, NH Department of Administrative Services
Dijit Taylor, NH Land Conservation Heritage Program

I. ROLL CALL AND INTRODUCTIONS

The meeting was opened at 9:31 AM by Chairman Chicoine who began with a right-to-know compliance checklist as this was a virtual meeting. Chairman Chicoine noted that Tim Drew, DES designee on CORD, retired on December 31, 2020. He also clarified that Sarah Stewart, Commissioner of DNCR would be participating in the Kelsey Notch Trail 3 Year Assessment discussion, but that Tracy Boisvert would cover the remaining items on behalf of DNCR. He finished with a roll call for CORD member attendance.

II. MINUTES

A. Approval of November 12, 2020 draft minutes

MOTION: On a motion by Commissioner Jasper, seconded by Stephen McLocklin, the November 12, 2020 minutes were approved unanimously by the Council, with Amy Clark, Betsey McNaughten, Marta Modigliani, Jack Ruderman, and Adam Smith abstaining (via roll call vote).

III. LAND CONSERVATION INVESTMENT PROGRAM (LCIP)

A. Kelsey Notch Trail 3-Year Assessment

Chairman Chicoine reminded members that this is a continuation of a previously discussed item. CORD made findings in 2016 with regard to ATV/UTV use in Nash Stream Forest, including requiring a 3-year assessment of ATV use on the Kelsey Notch Trail, which has now passed. CORD is now tasked with determining whether: additional information is necessary; or if use of ATV/UTV on Kelsey Notch Trail is consistent with RSA 162-C:6; or if use of ATV/UTV on Kelsey Notch Trail is not consistent with RSA 162-C:6 and the trail should cease to be open for ATV/UTV use.

Chair Chicoine suggested CORD focus its discussion on specific language contained in RSA 162-C:6, III, "The council shall manage the lands acquired under the former RSA 221-A so as to preserve the natural beauty, landscape, rural character, natural resources, and high quality of life in New Hampshire. The council shall maintain and protect benefits derived from such lands and maintain public access to such lands, where appropriate."

Commissioner Stewart read a prepared statement on behalf of DNCR. As outlined in a letter dated September 3, 2020, DNCR has requested additional time to study the impacts of OHRV usage on the Kelsey Notch Trail in order to ensure a balance between outdoor recreation and the integrity of Nash Stream Forest. Additional time will allow DNCR to work with Fish and Game to not only continue monitoring potential impacts and usage of Kelsey Notch Trail, but also to determine how it integrates into a strategic vision currently under development for OHRV use in the North Country. DNCR is committed to use that is consistent with DNCR's mission. Commissioner Stewart noted that DNCR Division of Forests and Lands North Country Regional Forester Margaret Machinist and interim Trails Bureau chief Clinton Savage were also present at the meeting and available to answer questions.

Chair Chicoine noted that CORD in 2016 granted a three-year conditional opening of trail and required receipt of annual reports, which CORD has received for 2017 - 2020. He asked how much time DNCR is asking for and about the strategic vision related to Nash Stream and the Trails.

With regard to strategic vision, Commissioner Stewart noted that DNCR has five division including Parks and Recreation and Forests and Lands. The Bureau of Trails is charged with

maintaining an interconnected trails system throughout the state with input from the Division of Forest and Lands to make sure that it is being done appropriately. Commissioner Stewart further stated that Nash Stream Forest is a great example of working collaboratively with additional oversight from Fish and Game. She also noted that the Kelsey Notch Trail is the link between the Northern and Southern trail systems. The question is does this trail support interconnection and the balance of nature. Based on internal assessment DNCR is aware that there is various activity in Nash Stream Forest, but it is in need additional data to support a strong decision.

Clinton Savage said that the Kelsey Notch Trail is an important trail to the whole system and connects the north and south. Closure of the trail would have significant impacts. He noted that his bureau has just begun monitoring number of users of the Kelsey Notch Trail. The Trails Bureau would like to monitor usage over the next two years to see if additional traffic or use would have additional impact to the property.

Margaret Machinist said that it is up to CORD to decide if additional information is needed. She noted that the Nash Stream West Side Trail was originally a 3-year pilot, and then extended for two more years for a 5-year pilot. If CORD is mimicking that, a 5-year pilot for Kelsey Notch would be appropriate.

Commissioner Stewart clarified that in the letter dated September 3, 2020, DNCR requested an additional two years.

Commissioner Chicoine asked if the Trails Bureau uses traffic counters to gather usage data. Mr. Savage said yes and that last year there were 2,500 trips on the property, including 100 trips by staff doing maintenance. Last year was the first year that trail counters were used, but that it would put the counters back out with the start of the next riding season and would continue to monitor usage over the next two years.

Commissioner Stewart said that new Fish and Game Director Scott Mason has been involved with discussions about outdoor recreation, and that DNCR is in the middle of hiring a new Trails Bureau Chief. DNCR is also figuring out the strategic vision of OHRV use in New Hampshire over the next two years. She noted that Kelsey Notch and Nashua Stream are part of a larger system and DNCR wants to make sure the trail system strikes proper balance.

Commissioner Chicoine asked if three years of use data from trail counters would be sufficient for CORD to make a decision. Mr. Savage said that with the addition of motorized usage counting data beginning in Spring 2021 and Spring 2022 along with the 2020 data would be adequate for CORD to make a decision.

Mr. Ruderman asked how two additional years of data showing an increase or decline in usage is going to help inform CORD's decision. Commissioner Stewart responded that DNCR is here to provide data to help CORD make the best decision possible. Mr. Savage responded that collecting additional usage data, will help determine impact to the property. Additional data will also show how many additional users the trail can handle with regards to impact.

Ms. McNaughten noted that Fish & Game would also evaluate the condition of the trail and how it affects the habitat and wildlife and impact on the land.

Commissioner Jasper asked whether CORD's recommendation is consistent with restrictions in deed. He asked for a more thorough explanation of how CORD is supposed to weigh impacts in making a recommendation.

Chairman Chicoine said that this started with the letter from DNCR in what they were looking for. He said that CORD can go back to the statute, RSA 162-C:6, which states that CORD should balance impacts to the environment with public access. Chairman Chicoine suggested that CORD first determine whether OHRV use is an allowable use and then go from there.

Mr. Smith asked if there is a Trail Management Plan that would help determine how to measure and limit impacts and whether five years of data on Westside Trail produced any changes in management that could inform management of the Kelsey Notch Trail?

Ms. Machinist said that DNCR did collect data on the Westside Trail in the early 2000's including user information, water quality data, a bird survey, and a noise decibel survey. She noted that some of the data collected was inconclusive especially as relates to wildlife studies. There is no specific trail management plan, just a Nash Stream Forest Management Plan.

Mr. Savage said the Bureau of Trails follows Best Management Practices when building trail to minimize impact to properties. He also noted that there still hasn't been many wildlife studies done with regard to impacts and that additional data would help CORD make decisions about future uses.

Mr. Smith asked if there are any seasonal restrictions on motorized use, say in Spring during the wet season. In response, Mr. Savage said May 23rd is the general opening date in Spring, but that the Trails Bureau can delay opening until mud season is over if necessary to accommodate OHRV use. Kelsey Notch Trail closes the Monday afternoon on Columbus Day.

Ms. McNaughten said that Fish and Game is supportive of the additional two years to study the Kelsey Notch Trail.

Chairman Chicoine said that CORD's 2016 findings on the Westside Trail concluded that OHRV use on the West Side Trail as currently managed is consistent with its management obligations under RSA 162-C:6 as long as the trail is maintained in a safe and environmentally appropriate manner and as long as conditions and use of the trails don't change to make the continued use of OHRV on the Westside Trail inconsistent with the requirements of RSA 162-C:6

Allen Brooks referred back to the language of the statute, specifically section 6, and the restrictions in the deed, noting that CORD has a lot of discretion in making its decision.

Chairman Chicoine asked for additional questions or opinions from CORD members.

Chairman Chicoine identified several conditions CORD might wish to require if CORD grants a two-year extension for further study: (1) annual reports submitted by November 15th with CORD to review and accept them if they are satisfactory. (2) as early as practicable within that year, the recommendations within 2020 Environmental Compliance report should be addressed, including mitigation of invasive species so that problems don't build up. And CORD should be notified when projects are completed. (3) CORD should also request an independent monitoring report from the OSI Conservation Land Stewardship Program. He concluded by noting that CORD should be serious about its responsibility here.

Mr. Martin said he is more comfortable with the extension with the conditions that Chairman Chicoine outlined.

Commissioner Jasper said that additional monitoring and review into this is a good idea. He noted that he is not a huge fan of ATVs on public property because of the destruction that they can do. He referenced a property in Hudson that ATVs aren't supposed to operate on, but that it's hard to keep them off. As a result, ATVs created a four-foot high bank in previously flat area – an issue also referenced in the Kelsey Notch annual report. He said he also doesn't have a good handle on the number of other non-ATV users including hikers that ATVs would ruin the experience for.

Chairman Chicoine asked for someone from DNCR to speak to the proximity of hiking trails to the Kelsey Notch Trail. Mr. Savage noted that there are no recognized hiking trails in proximity to Kelsey Notch Trail on state property, only snowmobile trails. Ms. Machinist said that the Cohos Trail is not on Nash Stream, but in the vicinity of the area. In response to a question from Mr. Ruderman, Ms. Machinist said she was unsure of the exact proximity/distance of the Cohos Trail from the Kelsey Notch Trail. She also noted that the area is used by hunters.

Patrick Hackley noted that the Division of Parks and Recreation Trails Bureau, the Division of Forest and Lands, and Fish and Game already monitor the Kelsey Notch Trail. He said he is concerned about a fourth agency, not familiar with the trail, monitoring it. He could suggest tightening lines of communication and adding additional parameters to the Annual Report.

Philip Bryce urged CORD to follow its statutory obligation in making a decision. He noted that the Forest Service said that OHRV is allowed with respect to restrictions of the easement. He suggested CORD should focus on its statutory responsibility and not make a value judgement about whether OHRV use is good or bad.

Chairman Chicoine asked if CORD should take from what it heard today and answers to additional questions including proximity of hiking trails to Kelsey Notch Trail and answers to any additional questions and postpone making a decision until the March 11, 2021 meeting or whether CORD wanted to make recommendations at today's meeting.

Mr. Klass asked CORD members to clarify what additional information is needed by members now.

Commissioner Jasper said he is not sure what additional information would change motion to take a particular action between now and March 11, 2021 meeting.

Chairman Chicoine asked whether someone from DNCR can speak to what was found in the 2020 Annual Report especially with regard to the invasive species found, and how it is being addressed. Ms. Machinist said that the plan is to treat the invasive species during the growing season by partnering with North Country staff from Fish & Game.

Mr. Klass noted that the 2016 findings about the Kelsey Notch Trail include six conditions under “General Findings”. Chairman Chicoine stated that all conditions included in the 2016 findings need to be a part of the two-year extension. Commissioner Jasper agreed and said the focus on degradation of land that the trails are on, including rutting, banking of corners needs to be documented on a year-by-year basis.

MOTION: On a motion by Adam Smith, seconded by Commissioner Jasper, DNCR’s request for two years of additional study of OHRV use in the Kelsey Notch Trail was granted as long as the existing conditions of CORD’s 2016 findings continue to be met and with the caveat that at the next meeting CORD will discuss what additional information and data points CORD would like to see added to the Annual Report. The motion was approved unanimously by the Council (via roll call vote), with Ms. Modigliani abstaining.

IV. SURPLUS LAND REVIEW

- A. 2021 SLR 001 (Lancaster)
Request from the Department of Military Affairs and Veterans Services to convey the Lancaster Armory to NH Fish & Game

Erin Zayac, Administrator with the Department of Military Affairs and Veterans Services noted that armories and readiness centers are state owned properties. Over the past two decades there has been a change in demographics in the makeup of the NH National Guard and force structure, which has raised question of divesting certain aging properties. The Adjutant General has determined that the NH National Guard no longer has a use for the Lancaster Armory and Fish and Game has a potential use for this property.

Mr. Klass noted that there were a few comments received including a comment from DES that the property is a Small Quantity Hazard Waste Generator and a Declassification Report would need to be filed to close out the current registration number.

Ms. McNaughten of Fish & Game noted that Fish and Game is in need of property for law enforcement storage. Certain due diligence is still outstanding before transfer can be completed, but that shouldn’t hold up a recommendation by CORD.

Zachary Boyajian said the Declassification Report was already submitted in December 2020. Mr. Boyajian noted that the Department of Military Affairs and Veterans Affairs has a standard due diligence process for all divestures and that it would provide Fish & Game with this information.

MOTION: Commissioner Jasper made a motion seconded by Ms. Modigliani to recommend approval 2021 SLR 001. The motion was approved unanimously by the Council (via roll call vote)

B. 2021 SLR 002 (Concord)

Request from the Department of Administrative Services, acting on behalf of the Department of Environmental Services, to grant a utility easement to a certain DES parcel located adjacent to the south side of the I-89 right-of-way corridor on Silk Farm Road in Concord.

Mr. Klass noted that a letter dated January 5, 2021 from DHR requested Phase 1 Survey. A supplemental site visit occurred and in a subsequent letter received yesterday DHR noted it no longer has any concerns.

Jared Nylund said that this is a utility easement to Unitil and Consolidated Communications to construct an underground transmission line for a six plus acre parcel located adjacent to the south side of the I-89 right-of-way corridor on Silk Farm Road in Concord, for connection to an additional pole by Unitil to power a new DES Dam Bureau facility.

MOTION: Commissioner Jasper made a motion, seconded by Ms. Clark to approve 2021 SLR 002. The motion was approved unanimously by the Council (via roll call vote), with Mr. McLocklin abstaining.

V. LAND & COMMUNITY HERITAGE INVESTMENT PROGRAM (LCHIP)

A. Request authorization to transfer funds from the Community Conservation Endowment

Dijit Taylor said LCHIP needs to transfer funds from the Community Conservation Endowment to LCHIP funds, to pay land owners who have properly submitted monitoring reports, which have an interest to the state. As of the end of 2020 LCHIP has responsibilities for 305 properties, which represent 449 units. LCHIP gives out money based on difficulty of land owners to monitor property. Each unit pays out \$200, so need to give out \$89,800 this year for maintenance. LCHIP has already earned \$172k during the year, so this expense doesn't represent a huge expenditure. This expenditure will be approved at the January 25th LCHIP meeting.

MOTION: Commissioner Jasper made a motion, seconded by Mr. Smith to endorse an expenditure of \$200/unit up to \$89,800 from the Community Conservation Endowment Fund as incentive payments for land owners who submitted monitoring reports in calendar year 2020. The motion was approved unanimously by the Council (via roll call vote).

VI. OTHER BUSINESS

A. Smart Growth Report update

Mr. Klass says he will continue following up with CORD members about the Smart Growth Report.

MOTION: With business completed, Commissioner Jasper moved to adjourn the meeting, which Mr. McLocklin seconded. The motion was approved unanimously by the Council (via roll call vote).

Meeting adjourned at 10:59 AM

Reminder – Tentative 2021 Meeting Dates

~~January 14~~
July 8

March 11
September 9

May 13
November 11