

GUNSTOCK AREA COMMISSION SPECIAL MEETING

May 6, 2022

Gunstock Mountain Resort, Stockade Lodge

DRAFT MINUTES

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GAC: Peter Ness (Chair), David Strang (Vice-Chair) (via Zoom), Douglas Lambert (Secretary), Gary Kiedaisch (via Zoom), Jade Wood

GAC Chair Ness called the meeting to order at 1:30PM He explained that the purpose of the meeting was to discuss ongoing legal matters and that he had the authority to call such a special meeting pursuant to Article III, paragraph 1 (e) of the Commission's bylaws. Additionally, the agenda as noticed would be to enter a non-public session. (NP)

Secretary Lambert raised a point of order, asking that agenda be modified per Article IV, paragraph 2, (d) of the bylaws to discuss several items of business in the public portion of the meeting following the non-public session. Commissioner Kiedaisch asked why any other matters could not wait until the next regular meeting and Secretary Lambert responded that they were time-sensitive issues that should be addressed at this meeting.

ACTION

Motion: Secretary Lambert made a motion to adjust the agenda to allow for issues to be considered in public following the non-public session

Second: Commissioner Wood

Discussion: Commissioner Kiedaisch pressed Commissioner Lambert as to the subject matter and it was stated to involve a pending RTK 91A request as well as a potential matter depending upon the outcome of the NP session.

Roll Call Vote: Commissioner Kiedaisch- ABSTAIN
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

ACTION

Motion: Chairman Ness made a motion to enter non-public session to discuss ongoing legal matters pursuant to RSA 91-A:3, II (I).

Second: Commissioner Wood

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Roll Call Vote: Commissioner Kiedaisch- YES
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

Members of the public were asked to exit the building.

NON-PUBLIC SESSION

Members of the Commission reviewed a report distributed by Chairman Ness prepared by Atty Callaghan of the PretiFlaherty law firm as a result of a motion at the April 20 GAC meeting “to engage legal counsel to review the question brought by the Delegation regarding this litigation”

Commissioner Kiedaisch questioned the process of the selection of the law firm, whether it had worked previously with GMR, and what was their hourly rate. He further stated that the conclusions are an interpretation.

Vice-Chair Strang observed that the report consists of (3) points: the so-called Ethics Policy of the GAC; the GAC investigation of Commissioner Ness; and the foundation and/or frivolity of the GAC lawsuit against the Belknap County delegation. He stated it was mentioned in the 3rd report that additional information was needed and asked how much more time it would take to bring this matter to a conclusion.

Chair Ness responded that there are several matters included in the report that could take some time- especially the request for additional information and all related files noted within the billing records paid by GMR to legal counsel during the time period in question. He further stated that the time frame for next steps depends on what is in the files and whether 3rd party interviews and cooperation might be needed.

Commissioner Wood expressed serious concerns about extending the timeline of this investigation and matter and would like to try to get it done by the end of May.

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Secretary Lambert also expressed concern as to the timeline, cost, and ongoing publicity that could have a negative impact on customer ticket purchasing decisions. He wants the truth found and disseminated to the public as quickly as possible.

ACTION

Motion: Chairman Ness made a motion for the GAC to accept the report

Second: Secretary Lambert

Discussion: Most of everyone's concerns were expressed in the discussion prior to the motion. Commissioner Wood noted she had not had enough time to fully digest it and would abstain. Commissioner Kiedaisch did not want to be misconstrued as agreeing with any assertions or conclusions made in the report.

Roll Call Vote: Commissioner Kiedaisch- NO
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- ABSTAIN

Motion passes.

ACTION

Motion: Chairman Ness made a motion to release the report to the Belknap County Delegation via its chair

Second: Commissioner Wood

Discussion: Vice Chair Strang stated he felt there is nothing considered sensitive, and it should be released to the public. Commissioner Kiedaisch wanted to make sure that the public was made aware that the acceptance of the report was not a unanimous vote. Secretary Lambert noted that once it gets shared with an outside 3rd party, the attorney client privilege is waived. Chair Ness then agreed it should be released to the public. Chair Ness then withdrew his original motion.

Motion withdrawn.

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ACTION

Motion: Chair Ness motioned to release and publish the PretiFlaherty Preliminary report to the public.

Second: Commissioner Wood

Discussion: Commissioner Kiedaisch expressed concern that since a majority voted to accept the report it could get misconstrued as final. Chair Ness pointed out that the report addresses the questions of law, not fact. Further answers could be contained in other documents or testimonial evidence.

Roll Call Vote: Commissioner Kiedaisch- ABSTAIN
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

Chairman Ness then discussed the **Gunstock Area Commission Document Retention and Preservation Policy** which was distributed to the Commissioners. It would be delivered to GMR President Tom Day with instruction to have it signed by various employees who might possess information covered in the document.

ACTION

Motion: Chair Ness motioned to distribute the policy as stated

Second: Commissioner Wood

Roll Call Vote: Commissioner Kiedaisch- YES
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

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ACTION

Motion: Vice-Chair Strang motioned to release the billing records from Devine/Millimet regarding the matters covered in the report

Second: Secretary Lambert

Discussion: Vice Chair Strang stated these would augment the report and make matters clearer to the public. Chair Ness stated this could be reckless given the sensitive nature of the information that still is awaiting, and some members of the public might mischaracterize what they might mean. Commissioner Kiedaisch supports the release. Vice Chair Strang mentioned the upcoming House of Reps vote on the amendment to HB 1397 and felt this information should be brought out now, in consideration of informing the Representatives voting on it. Secretary Lambert stated he always defaults to public openness in most matters, and this is certainly one. Commissioner Wood agreed that informing the public is the best option.

Roll Call Vote: Commissioner Kiedaisch- YES
Secretary Lambert- YES
Chairman Ness- NO
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

ACTION

Motion: Chair Ness motion to exit NP session

Second: Commissioner Wood

Roll Call Vote: Commissioner Kiedaisch- YES
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes

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Public Session

Members of the public were welcomed back into the meeting.

Discussion began regarding the release of costs per skier at GMR in response to a recently received RTK 91A request from Skip Murphy, a Gilford resident and media blogger. Commissioners debated whether such information was considered proprietary business financial materials not subject to public disclosure. Secretary Lambert stated that the GAC should simply instruct GMR President Day to release the requested materials. Others felt that perhaps it should be reviewed in a non-public session first.

ACTION

Motion: Vice Chair Strang motioned to inform Mr. Murphy that his request was received and was being reviewed.

Second: Commissioner Kiedaisch

Roll Call Vote: Commissioner Kiedaisch- YES
Secretary Lambert- NO
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes.

ACTION

Motion: Secretary Lambert moved that the GAC issue a statement in opposition to the amended version of HB 1397

Second: Commissioner Wood

Discussion: Secretary Lambert expressed that the system as set up in the original enabling legislation has worked well for over 60 years. The vetting and appointment of commissioners by the delegation allows for public scrutiny and questioning, while a general county wide election process favors the wealthy and local media favorites. The current structure further allows for a removal process by 18 members for cause, whereas the amendment would reduce this to just two of three Belknap County Commissioners. Commissioner Wood reiterated the detailed vetting process provided for with the current structure being the 18 elected members of Belknap County. The current setup allows for diversity in selecting Commissioners who might otherwise not be able

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to afford a campaign in either time or money. Commissioner Kiedaisch vehemently opposes this position stating that the citizens own Gunstock and have spoken clearly. The GAC responds as a board as with a business and not a typical governing body. Vice Chair Strang noted that this amendment as filed by supporters of losing GAC candidates was nothing more than an attempt to change the rules after they were unsuccessful in achieving victory for their chosen people. He likened it to “sour grapes.” Chairman Ness noted that at an earlier time, the GAC urged opposition to another pending piece of legislation, so it was appropriate for them to do so here should they vote to do so.

Roll Call Vote: Commissioner Kiedaisch- NO
Secretary Lambert- YES
Chairman Ness- YES
Vice-Chair Strang- YES
Commissioner Wood- YES

Motion passes. The GAC will issue a statement opposing HB1397 as amended.

PUBLIC COMMENT

Skip Murphy explained his RTK 91A request as discussed by the GAC. He also noted that he had hand-submitted a second one to GAC members prior to the start of the meeting.

Public comment portion was closed.

ACTION

Motion: Chairman Ness made a motion to adjourn the public meeting of the Gunstock Area Commission at 2:50 PM.

Second: Secretary Lambert.

Vote: All in favor.

The meeting was adjourned at 2:50 PM

Respectfully Submitted,

Douglas Lambert
Secretary, Gunstock Area Commission

