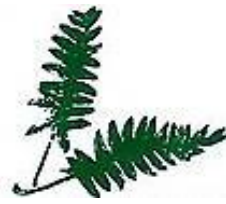


# Town of Dorset, Vermont



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=====*Chartered 1761*=====

## **Public Hearing Dorset Select Board July 5, 2017**

Present: Henry Chandler (Chairman), Jack Stannard, Tom Smith, Liz Ruffa, R. Gaiotti (Town Manager)

Absent: Megan Thorn

Also, present: Joseph O'Dea (Town Attorney), Kevin O'Toole, Chip Ams, Pam Gilbert, Art Gilbert, Michael White, Chip Watson, Roger Leeds, Carol Cooper, Mary Rite Manley, Katie Brooks, Jim Russell, Mike Connors, William Burns, Sigismund Wysolmerski (Burns' Attorney), Walt Gilbert, Jon Mathewson, Paul Greineder, Ellen Leeds, Luanne Hardy, D. Green, Joe McVicker, J> D. Sullivan, Marilyn Hand, Jim Hand, Roger Squire, Lindy Bowden, Jack Gilbert, Alan Calfee, Malcolm Cooper, Lee Romano, Ruth Stewart, Ben Weiss

H. Chandler, Chairman, called the Public Hearing to order at 7:04 p.m. thanking the audience for attending the hearing. The Town has decided under 19 VSA 301 (8) (B) to declare and claim a public trail to connect two Town properties owned ~ one of 28 acres on Owls Head and the other 260 acres below Owls Head which includes the Gettysburg Quarry. The purpose of the Public Hearing is to hear testimony from interested parties and landowner opinion regarding this action. H. Chandler opened the hearing to public comment.

M. White stated his support of the creation of a trail. R. Stewart requested some background information and H. Chandler responded that the Town owned the top of Owls Head for 60 years and recently purchased 260 acres below including the Gettysburg Quarry. It is important to formalize a trail link between the two properties.

A. Calfee (Conservation Commission member) noted that he has hiked the property since the 70's and was involved in the acquisition of the parcel. The Town Plan references the importance of recreational opportunities and the area is also of historic nature. A portion of the land was given to the Town by the Science Club in the 1960's and the new land acquisition was supported by numerous people for a link to Owls Head. He felt it was important to secure a

trail access in perpetuity which is open to everyone.

S. Wysolmerski asked the following questions:

- Is the trail for recreational purposes and H. Chandler responded that it was to connect two Town parcels.
- Would the Town take the property by eminent domain and J. O'Dea replied that the answer would call for a legal conclusion and this was not a legal debate.
- If this was private property and H. Chandler said that they hoped to find out the answer today.
- Would the Town go forward with laying out a trail without knowledge of ownership and R. Gaiotti replied that the Town has spent a great deal of money on surveys and the ownership is unclear; possibly a gore. P. Greineder, OnPoint Surveying, corrected R. Gaiotti's explanation by saying this is not a gore. A gore is an area of land where the ownership is unclear and not shown in deeds. K. O'Toole gave examples of other Dorset lands where ownership was not clear such as a Timberbrook subdivision and an area near Bond Lane.

J. Russell asked how much of the trail crossed unknown land and what would be the impact. H. Chandler replied approximately 1,200 feet and the impact would be foot traffic. R. Gaiotti explained the new trail route by noting the landmarks. B. Burns commented that the original trail was on Langway property. J. Russell stated that since he hikes a lot he would like to have access without red blazes and trail cameras as it is a magical property with historical value and unique habitat. He would like to see the Town connect the two properties.

B. Burns stated that he has shared the trails for a long time and has always been polite and understanding about co-existing. He was offended by the restriction of motorized vehicles and felt that the Town lost control of the property when they accepted grant money which placed restrictions on the land. B. Burns expressed that the Town has gone against the advice of the previous Select Board in taking grant money as the original mission of the project was to allow motorized vehicles. Increased use of the area shows that foot traffic impacts the land as much as the motorized vehicles. R. Gaiotti commented that the USFS and the Vermont Housing & Conservation grant programs require conservation easements for wheeled motorized vehicles, but not snowmobiles. L. Romano asked how much money was involved with grants that had restrictions on it and R. Gaiotti responded less than \$500,000. H. Chandler clarified that motorized vehicle restrictions were not imposed on the proposed trail claim or Owls Head. B. Burns noted that his family along with other residents who have used the land a certain way for a long time would be unable to recreate now. He felt that the previously offered right-of-way that would only exist for himself and his daughter was unfair because the Town made the decision to accept \$135,000

which did away with the unrestricted right-of-way.

K. O'Toole stated that the Conservation Commission Board members unanimously support the proposed trail access as just and fair because it is not being taken, but purchased. B. Burns stated that this is his land.

C. Cooper noted that there seemed to be two issues: the use of the trail and who owns the strip of land. She asked if it was clear that B. Burns owned the property. H. Chandler responded that they hoped to receive evidence of ownership tonight as this would be the proper venue for this information. R. Stewart asked B. Burns if the proposed trail impacted the use of motorized vehicles on his land and B. Burns replied that the land has been in his family for 150 years (five generations) and he plans to keep it and pass it on to future generations. He further noted that wheeled motor vehicle use was previously allowed on Town, Dworkin, Linen and Runnette properties until the Town accepted the grant and the Town land was now off limits. B. Burns said that he has respected the Town's position and stayed off their property, but the Town has not given the same respect to him in staying off his land. H. Chandler clarified that the restriction is on the 260 acre parcel which was just purchased below the trail and Owls Head. M. Connors stated that in the 1950's, his father logged B. Burns' land and he logged it in the 1980's twice. The Connors originally cut the logging roads up there and M. Connors questioned why a trail would be placed up a gully. M. Connors felt that the trail acquisition by the Town was wrong.

R. Manley asked if there was a lack of deeds for the property and R. Gaiotti replied that the existing trail and new trail are not on the Burns' land based on recorded titles. S. Wysolmerski asked if the surveyor found monuments and P. Greineder responded that B. Burns' property recording has no boundary line monuments, but has metes and bounds. He explained the Vermont Marble Company 1900's survey of the Owls Head established lines between M. Connors and B. Burns and he also explained the map layout of iron pipes and monuments. C. Ams asked what the acreage of the Burns' property is and P. Greineder replied 20 acres. M. Hand stated that logging property does not prove ownership and B. Burns disagreed as no one would cut over their property lines. B. Weiss asked if B. Burns has provided proof of ownership and S. Wysolmerski responded that B. Burns does not have to prove ownership, but the Town has to prove it does not belong to B. Burns.

B. Burns noted that he received a certified letter regarding the meeting on July 1, 2017 at 1:00 p.m., but the meeting was changed to 4:00 p.m. He was confused by the change in scheduling without receiving a second notification. R. Gaiotti explained that he consulted with the Town Attorney concerning the weather and attendee schedules and so there were two groups for the site visit ~ one at 1:00 p.m. and one at 4:00 p.m. R. Gaiotti noted that he spoke to B. Burns' lawyer at the site location at 1:00 p.m. and the site visit was done the same day twice to

accommodate weather and attendee schedules. It was posted at five (5) locations in Town and the Town web site. R. Gaiotti noted that the certified letter to B. Burns was not accepted and returned to the Town.

J. O'Dea noted that this is a two-step process: Do you lay out the trail and does anyone receive compensation for the trail you lay out. This hearing was warned to take testimony on these two steps. So if anyone feels that they have had land taken as result of laying out the trail, they have an obligation at this hearing to present their claim for compensation so that it can be considered and a decision made as to whether or not to award compensation. And part of this claim for compensation is to establish that they own the land taken. The claimant has to prove ownership, the Town does not have to assume the burden of proof.

J. O'Dea, Town Attorney, asked R. Gaiotti the following questions:

- Does the Town have any other access other than by this trail to the Owls Head parcel?
  - R. Gaiotti responded no.
- When did the Town begin the process to acquire the Gettysburg parcel?
  - R. Gaiotti responded in November 2013 and it was public news when the Select Board formally approve go along with the acquisition.
- When did the no trespassing signs and cameras appear on that section of the trail?
  - R. Gaiotti responded late summer 2014 ~
- So after the Town already announced their intent to pursue purchase of the Gettysburg Quarry?
  - R. Gaiotti responded yes
- How long was a trail to Owls Head used?
  - R. Gaiotti responded since the Town's ownership in 1963, but there has been access to Owls Head since the 1920's
- What was the booklet you showed me and does it describe the very trail we are talking about now and when was it written?
  - R. Gaiotti responded the booklet is called the Dorset Trail and yes it describes the trail and was written in 1928.
- In your opinion, would the Town of Dorset have purchased the Gettysburg Quarry if they couldn't get access over it and up to the Owls Head parcel?
- R. Gaiotti responded probably not, but the majority of hiking trail is at least 85% on the Gettysburg parcel and an integral part of buying the parcel was to conserve the quarry and preserve the hiking accesses
- Who is the VYCC?
  - R. Gaiotti responded that they are the Vermont Youth

Conservation Corps and in the process of procuring the property, the Town was fortunate to have a benefactor underwrite some trail building time last summer and this summer and we established a partnership with VYCC to bring crews with young adults aged 15-18 years old to help build sustainable hiking trails. Currently they are working to re-route Owls Head and Gilbert's Lookout trail.

- How many kids involved?
  - R. Gaiotti responded ten to twelve youths on a crew.
- Does the acquisition and development conform to the Town Plan?
  - R. Gaiotti responded yes.
- Does the 174 members of the Conservation Commission support the trail access unanimously?
  - R. Gaiotti responded yes – 4 members of the Conservation Commission and 175 donors support the project and donated \$210,000 in support of project.
- In the Town Manager's opinion, is development of this property and undertaking of the trail for the public good of the Town of Dorset?
  - R. Gaiotti responded yes.
- You have already testified that this is the only access, so is it true that this is a necessity and it is certainly more convenient to go up this way?
  - R. Gaiotti responded yes.

S. Wyslomerski asked:

- If the Town was taking the land for recreational purposes.
  - R. Gaiotti responded that the Town was taking in accordance with the language of the State statute.
- If this would connect two recreational parcels
  - R. Gaiotti answered yes, as explained in the first part of the State statute.
- Does the Town Plan allow for use motorized vehicles in the woods/trails of Town?
  - R. Gaiotti did not know if the Town Plan speaks to motorized vehicles.
- Is the trail, as proposed, a re-route from what is the traditional trail mentioned in the 1928 booklet
  - R. Gaiotti replied that the trail currently proposed is a re-route of the trail that been in use since 1963 under Town ownership; if not before.
- The trail being proposed is not the current trail?
  - R. Gaiotti said that is correct

M. White noted that the area was not just for recreation, but could be logged and used for forest management purposes and R. Gaiotti confirmed this. R. Squire

asked if there are other trails in Dorset (like Nichols Hill) had the similar rules/restrictions. R. Gaiotti explained that the Nichols Hill trail is basically a legal trail (road) and Dorset has 8 miles of legal trails which used to be roads for motor vehicles which were reclassified. In terms of hiking trails, there are other places with restrictions on trails crossing land.

K. O'Toole clarified that the proposed connecting trail has no restrictions for motorized vehicles and the Town is free under the statutes to place restrictions if they wanted. There are only restrictions on the Town owned land. L. Romano asked if the access to Gilbert Lookout will be re-routed and R. Gaiotti answered that the VYCC will be building a re-routed path to the summit and Gilbert Lookout coming to the east. T. Smith noted that what the VYCC is doing now is totally within the Town owned parcel. C. Cooper asked why the access is being changed and R. Gaiotti said that it is a more direct route. B. Burns noted that the original trail was on Langway property where it is flat and asked why not use that access. R. Gaiotti commented that Owls Head is ahead of you when walking for the view and that the Langway approach is longer with more trail to build. B. Burns asked when the proposed trail will be built and R. Gaiotti responded when the process is over. B. Burns questioned that it was not built already as there seemed to be an impressive trail there now. R. Gaiotti said no, it was not built already in a long-term, sustainable way and H. Chandler clarified that there is a walking path there now. B. Burns stated that he believed the trail was built already with hand tools.

The Public Hearing was closed at 8:15 p.m. J. Stannard moved and L. Ruffa seconded to move to Executive Session at 8:20 p.m. Motion carried 4-0.

Respectfully submitted,

Nancy Aversano