

GUNSTOCK AREA COMMISSION MEETING
June 22, 2022 at 6PM
Belknap County Complex, Meeting Room #1
DRAFT MINUTES

GAC: Peter Ness (Chairman), David Strang (Vice-Chairman), Doug Lambert (Secretary), Gary Kiedaisch, Jade Wood,

Gunstock Personnel: Tom Day, Cathy White, Kristen Lodge, Peter Weber, Robin Rowe, Patrick McGonagle, Becky LaPense

BCD: Barbara Comtois, Mike Bordes, Travis O'Hara

Chairman Ness called the meeting to order at 6:02PM with the Pledge of Allegiance led by Commissioner Wood.

Public Comment

Chairman Ness made an announcement about the order of the agenda and public comments. He noted that during the May 18, 2022 Gunstock Area Commission (GAC) meeting, some members of the public expressed that they were unhappy with having to wait for the end of the 5 hour long meeting for public comment. In response, Chairman Ness read a trial policy change (already posted on the Gunstock website) that moves public comment to the start of the meeting stating that the GAC will allow for a 30-minute period, allowing members of the public 3 minutes each to make their comments. Chairman Ness asked that Gunstock employees direct their questions and comments to their manager or supervisor rather than taking up the limited public comment time. Commissioner Kiedaisch expressed concern that only two commissioners were involved in making this decision and that he felt it was difficult to have public comment before the meeting takes place. Vice Chairman Strang responded that per the GAC Bylaws, the Chairman has the authority to change the agenda and its order. He added that the GAC Bylaws include a draft agenda template on page 10 that places public comment near the start of the meeting. He noted that although this template was adopted on June 27, 2018, that former Chairman Kiedaisch had changed this ordering without any discussion or vote by the GAC. Commissioner Kiedaisch recommended that after each agenda item, at the Chair's discretion and subject matter, there be an opportunity for public comment. Vice Chairman Strang said that this could add an additional 1-2 hr to the already long GAC meetings. Chairman Ness reiterated that he has proposed this change on a trial basis. Becky LaPense, Human Resources Director, asked for clarification on instructions for Gunstock employees' participation. Chairman Ness responded that many of the public comments are from Gunstock employees and proposed this alternative to allow more time in the public meeting for comments from taxpayers and the rest of the public in attendance. Tom Day, President/GM, replied that the Gunstock employees in attendance were also taxpayers. Discussion ensued and Chairman Ness opened public comment.

Gretchen Casey (Gilmanton Iron Works) - Stated that As a taxpayer and Gunstock employee she felt it was important to be recognized during public comment. She felt Many people were passionate about the mountain and had a variety of experiences that the GAC could benefit from hearing.

Ruth Larson (Alton) - Stated that As a member of the public, a taxpayer, and a former commissioner she would like to hear from the Gunstock employees. She stated that she had the utmost faith in management but would still like to hear from the employees.

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Heidi Preuss (Laconia) - Stated She was concerned about the Audit Committee and the audit itself and feels that if not allowed to comment after each agenda item, some comments must be allowed at end.

Cindy Creteau-Miller (Meredith) - Asked if the public could comment during topics. Chairman Ness replied that this was a trial period and would like to see how the meeting goes. He said that if there were areas of particular concern and he believes there were a need for comment from the public, then he would allow it. Ms. Creteau-Miller responded that she didn't know if she should make comments then or if she would have time later and it's not the public's fault that the meeting ran so long last month. Ms. Creteau-Miller also added that she felt the GAC does not care about their comments. Chairman Ness responded that he spends time every day on Gunstock and if there was an open forum then the meeting would last for even more hours.

Al Posnack (Alton Bay) - Stated He was the fifth person to speak and polled the audience on who was in favor of being able to speak later in the meeting. The majority raised their hands. Vice Chairman Strang asked if the GAC should therefore disregard last month's comments which were documented in the minutes, about having to wait till the end of the meeting to comment. Mr. Posnack stated he thought comment should be allowed during each agenda item.

ACTION

Motion: Commissioner Wood made a motion to end public comment 30 minutes after the start of the public meeting and have another 30 minutes of public comment at the end of the meeting with no public comment after each agenda item.

Second: Chairman Ness.

Discussion: Secretary Lambert added that at city council or school board meetings there were no comments after every agenda item. Commissioner Kiedaisch asked to amend the motion to allow for public comment during each agenda item, at the chair's discretion based upon the intensity of the topic. Commissioner Wood said she would not amend her motion and that her motion stood as made.

Vote: All in favor.

Motion passed

(Doug: We took this vote before the public comment section, not at the end.)

Pam Cody (Gilford) - Stated She understood that there was a request to stop the audit process because someone was not ready for the audit. She stated that if Vice-Chairman Strang was unprepared for the audit then he should be replaced. Chairman Ness replied that this was not true and he did not know where that notion came from. She added that she believes there is an issue with transparency and that is why she was anxious for the public to speak. (Doug: This comment was made right after Ruth Larson's, not at the end and after our vote)

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Skip Murphy (Gilford) - Stated At the Gilford School Board meetings the public comment is at the beginning and end but not allowed at other times. He stated They allow attendees to raise their hand and be called to the podium to speak. He added There frequently is a time constraint with too many people wanting to speak. He felt Questions can't be delayed because they can become irrelevant as the proceedings go on.

Chairman Ness closed public comment.

Minutes

The minutes of the May 18, 2022, Gunstock Area Commission public meeting were not reviewed.

ACTION

- Motion:** Secretary Lambert made a motion to defer the May 18, 2022, minutes until the July GAC meeting due to some housekeeping issues that need correcting, including titles.
- Second:** Vice Chairman Strang.
- Discussion:** Becky Lapense asked Secretary Lambert to highlight the changes and then send the corrections to the rest of the GAC.
- Vote:** All in favor.

Motion passed

Financial MD&A and Executive Summary

Cathy White, Chief Financial Officer, gave an overview of the monthly financial reports for May. Revenue for the month was \$34K, \$16K favorable to budget and \$25K favorable to last year. Operational Level EBITDA was (\$316k), \$117K favorable to budget and \$44K unfavorable to last year. Total Company EBITDA was (\$512K), \$164K favorable to budget and \$63K unfavorable to last year. She added that she included two new tabs in the workbook for P&L summer profit centers which will be included in the meeting materials each month. The summer expense centers and the new lines on the P&L for Total Electric & Insurance and Total Other Expenses were reviewed. Commissioner Kiedaisch asked since May is a partial month for revenue for profit centers, and EBITDA is in the negative, would this be corrected when a full month of revenue occurs? Cathy White responded "yes" and explained that May is when employees are brought in for training and supplies are purchased. The Adventure Park opened on May 28th and it was a partial month for retail, camping and Food and Beverage. She stated that Summer operations will go to 5 days a week during the last week of June and the budget was set as such and is looking ahead to when we are in full summer operations. Commissioner Kiedaisch asked Representative Comtois if she had any concerns and if she is comfortable with the level of information provided in the financial summaries provided. Representative Comtois responded that she was comfortable for this setting. Chairman Ness asked that Cathy White provide a core P&L summary at the next meeting.

Cathy White then presented the balance sheet and cash flow noting that Cash and Cash Equivalents is \$7.7m, \$184K favorable to budget and \$2.8m favorable to LY. Deferred Revenue is \$3.3m, \$19K favorable to budget and \$640k favorable to LY. Commissioner Kiedaisch asked where the \$7.7m is being held and who has access to the account funds. Cathy White replied

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that 98% of the cash is at Franklin Savings Bank and that the signatories are Tom Day and herself. She added that since there is no RAN funding needed, payroll and accounts and CAPEX are funded through that account.

She then reviewed the Recapture Page included with the meeting materials. EBITDA was \$164K favorable to budget but she stated there are additional spends related to timing that brought the revised EBITDA to \$61K. Commissioner Wood asked about litigation costs and legal expenses. Cathy White responded that billing through 4/30/22 was about \$1k and expected to receive the May invoice in a few days.

Old Business

1) Capital Expenditure Projects- Status Reports

- a. *Gunstock Parking Lot* - Patrick McGonagle, Facility Operations Director, reported that the RFP process ended on June 3rd, and only one bid was received. He stated he had received calls and emails from other firms, but no other bids. He reviewed the details of the sole bid from DuBois & King, Inc. Vice Chairman Strang said he was eager to get the project done this year, but after speaking with many of the interested engineering firms, it was clear that the government permitting process would take a significant amount of time. Consequently, it does not look like the project can be completed this year. The sole bidder, Dubois King concurred. Vice-Chairman Strang suggested caution stating that awarding single bid contracts was always fraught with peril. He raised an additional concern that one firm had backed out of the bidding process stating they didn't think they had a chance given that former Commissioner Bob Durfee was a Vice-President at Dubois King. He added that although it wasn't Bob Durfee's fault that Dubois King was the sole bidder, given his prior service on the GAC, the Commission should hold itself to a higher standard when awarding this contract, because of public optics. He suggested informing this other firm that there was no favoritism involved and suggested reopening the bidding process to allow this other firm to compete, particularly since it was clear the project could not be completed this year. Discussion ensued around the bid process. Commissioner Kiedaisch stated that the GAC had been doing business with Dubois King for many years, even while Bob Durfee was a Commissioner, and that there was no way that he (Bob Durfee) could have benefited from this association. Vice Chairman Strang was also concerned that the bid from DuBois & King appeared to be for a design and build, but the RFP was for design only. He asked how could the GAC award a contract for a bid that did not comply with the RFP? He stated an additional engineering firm had claimed they would have bid had they realized it was for a "design and build." Pat McGonagle stated the original RFP was in fact for a design and build and it was the fault of that firm that they did not understand the RFP. In the discussion that followed, it became clear that the Dubois King bid was for a "design and supervise" (of construction), and therefore their bid did comply with the wording of the RFP. Pat McGonagle noted that when the engineering and design work was completed, the firm would hire a subcontractor to build the new lot and manage all other contracts.

Tom Day stated he did not think the bidding process could be reopened as the Dubois King bid was now public knowledge. Chairman Ness asked if there was a proposed timeline for the regulatory approvals. Pat McGonagle replied “no,” and that those questions would be addressed during the first planning meeting with the engineering firm that the GAC selected.

ACTION

Motion: Commissioner Kiedaisch made a motion for the GAC to accept the DuBois & King proposal as presented and authorize management to move forward in the process.

Second: Chairman Ness.

Discussion: Commissioner Wood asked the GAC if they were comfortable accepting the ARPA funds when people were already comfortable with the current parking lot at the resort. She would also like to explore terracing and ease of access from the parking lot to the lifts and lodges. Commissioner Kiedaisch replied that originally the GAC was looking at 50% cost reimbursement for the parking lot and self-funding the remainder. He felt that perhaps the GAC could look at cash flow and capex for funds to pay for the projects she had suggested. Patrick McGonagle replied that if mentioned during the design phase with check-ins at 60% and 90% completed, those ease of access requests could be built in with the other costs. Secretary Lambert said he was in full support of seeing what could be added in.

Vote: All in favor.

Motion passed

b. Stockade Lodge - Tom Day reviewed the survey that was sent to season’s passholders for their vote on the Stockade Lodge remodel. He reported that 60% of responses were in favor of a “grab and go” style cafeteria with booting up space and 40% for table-service restaurant and bar. He noted that 9K season’s passholders were surveyed and 14% responded. Cathy White also presented graph information that showed that of the 198K skier visits last year, 50% were passholders and 50% were ticket holders and, of the \$1.8m in F&B revenue, 80% of the purchases were made by ticket holders. She then presented blueprint plans from the architect with a compromise solution that allows for both “grab and go” and a seated bar and restaurant area. Discussion ensued. Chairman Ness asked if the equipment that was already purchased could be utilized for the revised plans and when could the architect present the revised plans as discussed. Cathy White replied that the equipment could be utilized under the compromise plan, and she should be able to have the revised architectural plans at the July GAC meeting.

ACTION

Motion: Vice Chairman Strang made a motion to expend approximately \$2500 for the architect to change the design plans of the Stockade

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Lodge to show the compromise proposed by Gunstock management.

Second: Secretary Lambert.

Vote: All in favor.

Motion passed

- c. *Cannonball Line Reconstruction*- Chairman Ness presented information regarding the Cannonball Trail line, the oldest existing snowmaking line on the mountain, noting extensive repairs were required and would cost about \$595K. Secretary Lambert reported that he had reviewed the proposals which presented two different means for connecting the pipes and the RFP responses looked straightforward. He said he was impressed with the skill level needed to complete such a specialized project. Commissioner Kiedaisch made a motion to approve the project expenditure, but Chairman Ness stated that No further action was needed since the project was already approved in the capex budget.

2) Committee Reports

- a. *Legal affairs* - Vice Chairman Strang and Chairman Ness met with legal counsel (Atty. Peter Callaghan of Preti Flaherty) on 6/21/22. Atty. Callaghan is completing the requested phase II report and should have a draft for the commission to review next week. A bill will be sent after the report has been issued.
- b. *Snow Sports*- Nothing to report.
- c. *Technology*- Secretary Lambert presented a summary of his review of the technology currently in use at the mountain and how the data and information are used by management for long-range planning and daily reporting. He added that he would like to take a further look at what is in place for managing equipment maintenance- both rolling and infrastructure.
- d. *Audit Committee*- Chairman Ness reported that he had received notice that the audit had commenced on Monday, June 20 and was concerned that Vice Chairman Strang and the Audit Committee had not been involved in the process to date. He and Vice Chairman Strang spoke with the audit firm partner today and agreed that the Committee will meet with the audit partner before the process continues. A member of the public asked who was on the Audit Cmte. Chairman Ness responded that Rep. Barbara Comtois is representing the BCD and John Plumer is the member of the public and also a former BCD representative. Cathy White said she was not made aware of these appointments to the Audit Committee. She reported that the audit had already been in process as scheduled when she received the email from Chairman Ness telling her to pause the audit. She said in her opinion, an audit committee is never involved in the fieldwork, which had been scheduled for weeks before the Audit Committee was announced. She added that Chairman Ness and Vice Chairman Strang were notified via email of the audit schedule. She explained that Chairman Ness received and signed the engagement letter. Chairman Ness acknowledged the miscommunication but plans to continue with the Audit Committee's work. A Lengthy discussion ensued around communication problems between the GAC and administration and the GAC's responsibilities for oversight and resort

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management. Chairman Ness confirmed that the fieldwork may continue while the Audit Committee discusses next steps with the auditor.

Miscellaneous- None.

Public Comment-

Heidi Preuss (Laconia) - Spoke about the audit noting that in her opinion, expectations may not have been clear from the start, but this was a learning process. She stated she had been hearing a lot about expectations and thought maybe the reason why so many are “on edge” is that with a new group of people there are new expectations that are not clear and maybe those can be brought closer together to reduce tension and work on communication so everyone can be on the same page.

Kevin Leandro (Belmont) - Commented on the Bylaws provision (Article II, Section 1(c)) noting that no one commissioner can act without a vote by the other commissioners, “though not the exact language.” He reminded all that Commissioner Kiedaisch had said that former Commissioner Durfee did business with Gunstock frequently when he was on the Commission. He then said, starting in 2020 Commissioner Kiedaisch accrued legal costs for counsel against Chairman Ness for allegedly attempting to do business with Gunstock. He then asked Cmr. Kiedaisch “Did you do anything with Durfee or is the standard not the same?” Commissioner Kiedaisch replied that DuBois & King has a 40+ year history with Gunstock and former Commissioner Durfee had no means of benefitting from doing business with Gunstock as he was an employee not an owner. Mr. Leandro replied that was selective hypocrisy. Chairman Ness responded that his point was well-taken, a reasonable question to ask and he appreciated his interest.

Lisa Howard (Gilford) -Stated she thought it a mistake not to include Gunstock employees in public comment moving forward. She stated “most all of us are residents and it affects all of us.”

Ruth Larson (Alton)- Asked Chairman Ness what authority he had to order employees of Gunstock to not speak at a meeting. Chairman Ness replied it was not an order, rather the Gunstock employees were simply asked to funnel their comments through their managers at Gunstock. He reiterated This was a trial period to afford time to people who were only members of the public and not in the dual role of public and employee.

Cindy Creteau-Miller (Meredith) - Asked for clarification whether the GAC-was moving forward with approved money from last year for renovation of the Stockade Lodge. Chairman Ness replied that at the next meeting there would be an updated rendering to show the combined “grab and go”/restaurant/bar concept. Ms. Creteau-Miller stated her belief that the GAC can’t create a liability for the ski area under the 1959 Enabling Statue and that she believes the \$400k will be spent eventually. Cathy White responded that with the updated design, that equipment will be used. Ms. Creteau-Miller also asked why the GAC meetings couldn’t be held at Gunstock. Cathy White explained it was due to a lack of available meeting space while the mountain was open for business. Ms. Creteau-Miller also added that the Commission should feel fortunate to have Tom Day working for Gunstock and she was embarrassed by the last GAC meeting. She encouraged the GAC to keep this management team intact. She stated she plans

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to write a letter to the current Delegation regarding RSA 399.17 to relieve some of the Commissioners of duty. She concluded her remarks with “remember this in November.” Chairman Ness thanked Ms. Creteau-Miller for her comments.

Skip Murphy (Gilford) - Admonished Ms. Creteau-Miller for injecting politics into the meeting by stating “remember this in November.” He stated He has watched management and the Commission and it is clear to him that there is a lot of animosity being directed by the employees toward the Commission. With the audience made up of employees and yelling with one voice, it is clear to him that it is political. He stated that recently the political power has shifted and many in the room don’t like it and he blames Commissioner Kiedaisch and Rep. Mike Bordes for much of this animosity. He said there will be a political attempt to change some delegation members and the root cause of problem here is political.

Dan Carbonneau - Replied to Skip Murphy stating he believed the tension was not political. He said, in the past the commissioners helped develop ideas like the master plan. And while he knew that not everyone agreed with the proposed plan, there was no new plan, just committees and investigations and nothing to help make Gunstock a better place.

Becky LaPense - Commented that she had been the Human Resources Director at Gunstock for almost 11 years and had seen a lot of commissions and dynamic changes from year to year. She believes management has tried to buffer the staff from the politics and has tried to remain apolitical. She found This past year to be difficult and not just because of politics. She believed It was the way the Commission and Delegation were handling themselves in public and felt this is was not good for Gunstock. She believed that if email was too hard to keep up with, then another form of communication should be proposed. She felt the current situation was not sustainable. Chairman Ness thanked her for her comment.

Secretary Lambert commented he had been asking questions because he believed the Commissioners were not supposed to just be a rubber stamp for management. He noted that the GAC had approved the parking lot, even with robust discussion, they voted 5-0 in favor of the contract. He stated ~~The~~ the Stockade Lodge was a productive discussion and the GAC allowed for differing opinions and had agreed to investigate a compromise that should make everyone happy. He felt that was good. He explained that the GAC needs to make sure they know where the money is going. Commissioner Wood added that she can personally attest to the advances the mountain has made and there was a misperception that they don’t want the mountain to succeed.

Non-Public meeting per RSA 91-A:3 II(a)

Tom Day requested that any discussion about him be made in a public session. Chairman Ness explained the Commissioners wanted to discuss the request from legal counsel for contact information for Gunstock employees to further the requested investigation and General Manager (GM) Day’s refusal to comply with that request. Chairman Ness said there was no protected information being requested, only personal contact information. GM Day explained he had a problem sharing personal email addresses, phone numbers, and addresses of their employees without their consent. He asked where the information was going and why legal counsel couldn’t use their Gunstock email addresses and phone numbers. Chairman Ness replied

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that he didn't have an answer to that question but that the Commission could request that information as the employer. Chairman Ness added that there may be seasonal people that need to be contacted that don't have Gunstock email addresses. GM Day said that, in those instances, Gunstock could contact them to coordinate a meeting. He added that he believed that almost none of Gunstock's employees had any involvement in GAC matters, other than what they read in the newspaper. Becky LaPense added that her immediate concern was that the request for personal contact information was requested to be sent to Chairman Ness's personal email, and because he was part of the litigation under review, the request should have come directly from legal counsel. She added that she believed Gunstock employees had an expectation of privacy so she felt that a consent form to release this information should also be presented to them. She then asked if an employee were asked to meet with legal counsel, would that time be compensable. Commissioner Kiedaisch told Chairman Ness that he and the former commissioners who were involved in these extensive legal matters could provide well documented step-by-step information and he had not been asked by legal counsel for any of that information. Discussion ensued. Chairman Ness agreed to follow up with the GAC legal counsel. He noted there were no other agenda topics for this non-public meeting, so an additional non-public session would not be necessary.

ACTION

- Motion:** Vice Chairman Strang made a motion to adjourn the public meeting of the Gunstock Area Commission at 9:56PM.
Second: Secretary Lambert.
Vote: All in favor. Motion passed.

Adjournment

Respectfully Submitted,

Douglas Lambert, Secretary
Gunstock Area Commission