

COÖS COUNTY PLANNING BOARD
Granite State Room, Lancaster NH
November 17, 2015

Present from the Board: John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Ed Mellett, Mike Waddell, Rick Tillotson, Representative Leon Rideout; alternates Mark Frank and Tom McCue. *Excused:* Commissioner Tom Brady and Scott Rineer

Also in Attendance: Tara Bamford, North Country Council; Bernie Waugh Esq.; Representative Wayne Moynihan; Ron Antsy, NH Fire Marshal; David Norden, Ed Brisson, and Burt Mills, Dixville Capital, LLC; Edith Tucker, *Coös County Democrat*; Chris Jensen, *NH Public Radio*; Charlie Jordan and Donna Jordan, *Colebrook Chronicle*; and Robert Blecht, *Caledonian Record*.

John Scarinza, Chair, reopened the meeting that began on November 11, 2015 at 6:03 PM. John stated that this is a work session and normally it would take three or four meetings to go through everything but his hope is to accomplish it all in one meeting. The goal is to walk through every section of the application, come to a consensus so that Attorney Waugh can draft a list of conditions. John stated that once those conditions are drafted the board can review them and vote on the application at the scheduled meeting on December 2nd.

John informed the board that he had met with the applicants on November 13th in Littleton for the purposes of maintaining an open line of communication, bury collective frustrations and come out with a good result so this application can be ready for a vote. Because of those discussions, the applicants wanted to reinforce several items that have been said in the past. They are ready to start construction and renovation of the Dix House, Hampshire House and the expansion of the ski area on June 1, 2016. David Norden announced that they are very close to submitting details of Phase 1. David also addressed some rumors regarding the developers were only in this to make a lot of money and they would sell the Balsams to somebody. David repeated that this was not the case.

Tara Bamford reviewed the application and provided the board with a letter outlining several assumptions used in her review. The board and the applicants were seeing the analysis for the first time. David Norden requested that they be given the opportunity to review the document in more detail and be able to readdress items if there are questions. The board was agreeable to the request. Lengthy discussions ensued on each item in the report. The results of those discussions are noted in italic font. Tara's review of the Planned Unit Development Conditional Use Permit application (October 6, 2015) and supplemental material (October 29, 2015) is as follows:

REVIEW OF PLANNED UNIT DEVELOPMENT APPLICATION:

Requirement/Element	Application	Analysis	Recommendations
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Requirement/Element	Application	Analysis	Recommendations
PUD Plan Requirements (Zoning Ordinances for Coos County, as amended November 5, 2015)			
<p>1 .A location map (drawn on a USGS topographic map base or zoning map) that indicates the location of the property for which a PUD Permit is sought. This map should show all existing districts and subdistricts (4.12.7(f)).</p> <p>This information is needed to assist the Board in determining consistency with criteria a, b, d, e and h (4.12.9)</p>	The Supplement contained a revised Map H-2.	In order to ensure a clear paper trail for future boards and staff, this map needs a few minor corrections. There seems to be some annotation leftover from use with the zoning amendment, the PUD is referenced as shaded but is not shaded, and adjoining zoning districts are not labeled.	<p>Include in conditions of approval submittal of a corrected Map H-2.</p> <p><i>Applicant agreed to recommendation.</i></p>
<p>2. Present and anticipated future for 2m(s) of ownership (4.12.7(f)).</p> <p>This information is needed to assist the Board in determining consistency with criteria f, i, and k. (4.12.9).</p>	This information was provided in only very general terms in the October 6 binder (p. 5).	More detailed information will be required prior to final approval of each phase to ensure that the Board can make the judgment that an entity is in place, not only with responsibility for, but also with the ability to raise the funds necessary for long-term maintenance of roads, water, wastewater, and stormwater facilities , including a means for enforcement of that responsibility if necessary and an alternate responsible party should the initial party become unable, e.g., in the case of bankruptcy.	<p>Include in conditions of approval the requirement for more detailed information prior to approval of first subdivision or site plan in each development area.</p> <p><i>Applicant agreed.</i></p>

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<p>6. <i>Anticipated distribution of permitted uses: plan-showing delineation of each land use/development area accompanied by a table containing for each such area the acreage, proposed number of dwelling units; proposed number of lodging units; and proposed square feet of other permitted use categories, e.g. commercial, industrial, recreation.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, b, c, d, e, g, h and j. (4.12.9).</p>	<p>This topic was discussed in the October 6 binder on pages 6-14 and in the Supplement on page 3-4. An estimated number of dwelling units and lodging units has been provided, along with general descriptions of likely types of development, for Development Areas A, B, C and D as well as the ski area.</p>	<p>The incremental nature of review and approval of the number of units, specific uses and square footage is of concern relative to the ability of both the Board and the applicant to adequately assess the overall impacts of the development, and the future needs relative to traffic, water and sewer, and stormwater facilities. In addition, with the lack of specifics in the application, a future holder of the PUD permit will be entitled to develop virtually any land use permitted in the zoning district provided other conditions of approval have been met.</p>	<p>Include in conditions of approval the requirement for more detailed information for subject Development Area prior to approval of first subdivision or site plan in that Development Area. In addition, require as a condition of approval that prior to issuing any subdivision, site plan or building permits for Development Areas E, F, G, h, I, J, and K, a PUD plan amendment be applied for to ensure that any such development will be consistent with the PUD plan currently under review. Include clarification that development of these areas would be part of, not in addition to, the 4,600 units.</p> <p><i>It was agreed that the condition will be changed to require a plan amendment if the development area information changes from what is in the current PUD application.</i></p>

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<p>7. <i>Basis for calculation of carrying capacity of each development area including soil types, topography, proposed method of water supply, wastewater treatment and stormwater management, suitability of safe access.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, c, d, i, j, and k. (4.12.9).</p>	<p>This item was mentioned on page 14 of the October 6 binder and page 5 of the Supplement. However, the required information has not been provided.</p>	<p>The applicant has provided the basis for the requested allowable number of units in the ski area carrying capacity at build-out. However, the intent of this item is to demonstrate the capacity of the land and surrounding transportation system to support the development without causing unsafe conditions or degradation of resources and values identified in the Master Plan as high priorities. The incremental nature of review proposed is of concern relative to the ability of both the Board and the applicant to adequately assess the overall impacts of the development, and the future needs relative to traffic, water and sewer, and stormwater facilities.</p>	<p>Include in conditions of approval the requirement for more detailed information for the subject Development Area prior to approval of first subdivision or site plan in that Development Area. In addition, include in the development agreement the provision that future impact studies required may include the entire subject Development Area, or combination of Development Areas, if deemed necessary by the Board after reviewing the results of an impact study associated with a specific site plan or subdivision application.</p> <p><i>It was agreed to amend the condition to require information by phases instead of development areas. This amendment will be changed throughout the analysis.</i></p>

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<p>9. <i>Summary of proposed traffic impact, including preliminary estimates of trip generation, trip distribution, and potential needs for off-site improvements.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, d, and e (4.12.9).</p>	<p>No traffic volume estimates have been provided. Several requests for limits on responsibility for traffic studies and traffic impacts are made in the 10/6/15 Application (Page 15). In addition, the 10/6/15 Application states "The County will be responsible for installing the required improvements." The Board's acceptance of the Application on 10/21/15 provided that the Board would request more information as part of the substantive review and/or during the site plan/subdivision stage. The 10/29/15 Supplement does not provide any additional information, but instead adds the additional qualifier that "the Applicant will present additional information during Site Plan or Subdivision Review of future development phases once proposed traffic counts are projected to exceed estimated historical traffic counts of the past operating resort." (Supplement, Page</p>	<p>The applicant relies in part on the statement that there has been "significantly reduced traffic in portions of the region" since the closing of the Balsams. In fact, average daily traffic volumes on Colebrook's Main Street (US3/NH 26 south of Bridge Street) were 8900 in 2008, 8000 in 2011 and 9700 in 2014 (NHDOT). All three count locations on NH 26 in Errol showed increases as well (NHDOT). Reductions in traffic associated with the closing of the Balsams were more than offset by increases in the popularity of the region's snowmobile and ATV trails. On Main Street in West Stewartstown, the likely entry point for many of the Canadian visitors projected in the applicant's market study, traffic increased from 2400 AADT in 2009 to 2900 AADT in 2012. Approval of the application material as presented would preclude the Planning Board from carrying out its responsibility under items (d) and (e) as well its ability to adequately review and develop conditions of approval for future site plan and subdivision applications.</p> <p><i>It was agreed that the 2nd and 3rd sentence would be deleted from the recommendation.</i></p>	<p>Include in conditions of approval rejection of the Applicant's statements regarding responsibility for traffic studies and highway improvements in both the 10/6/15 Application and 10/29/15 Supplement, and state as an alternative:</p> <p>In conjunction with review of associated site plan and subdivision applications, the applicant will obtain a new or amended NHDOT access permit for the associated access(es) from the PUD road system to a public highway. The Board may also require the applicant to perform traffic studies to assess the impacts on and adequacy of any public highways in the state of New Hampshire within a twenty-mile radius of the relevant access point from the PUD's internal road system to the public road system. If improvements are required, the applicant's fair share will be determined based on the projected percentage of traffic generated by the PUD ten years into the future from the time of the construction of the required improvements. The County does not maintain a highway department or a public highway system; no responsibility on the part of the County or any other public entity regarding timing or construction of highway improvements is implied as part of this approval. Impact studies on private roads within the PUD will only be</p>

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10. Description of proposed water supply, wastewater treatment, stormwater management/treatment and other proposed utilities.	Water, wastewater, stormwater and other utilities are discussed in the 10/6/15 application on pages 11, 14, 16-17, and 18. No specifics have been provided at this point.	<p>The Applicant has requested that the County defer all authority over water, wastewater, and stormwater to state and federal authorities. The Planning Board has a responsibility that, although overlapping with the state and federal agencies to a great extent, is not exactly the same. There may be cases where any concerns of the Board will be met with provision of the required state and federal permit. There may be other instances where the Board has different or broader interests. It is important to keep in mind that state and federal review is very specific to state and federal laws. State and federal regulators do not have the discretion to provide a coordinated “big picture” manner the way a consulting engineer hired by the Board can. In addition, regulations lag behind technology and best practices.</p> <p><i>Attorney Waugh will add language to condition that the planning board can address if there is an identifiable threat to health or safety.</i></p>	<p>It is recommended that the Board include in the development agreement the requirement that approval of water, wastewater, stormwater and other utilities by state and federal agencies will be required as a condition of approval on site plan or subdivision applications. It is not recommended however that the Board defer all authority over these items to the state and federal agencies as requested by the applicant. The Board should clarify in the agreement that it has the option to hire a consulting engineer to participate in review of water, wastewater and stormwater plans, such cost to be reimbursed by the applicant.</p> <p>In addition, it is recommended that the PUD permit approval include the condition that stormwater may not leave the PUD in greater quantity, greater velocity, or lower quality after any phase of the development is constructed.</p>

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<p>11. <i>General description of proposed form of ownership of road system, water supply, wastewater collection and treatment, and stormwater management facilities, and party responsible for maintenance of each.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, f, i, and k. (4.12.9).</p>	<p>This information is contained in the October 6 binder in general terms (p. 18).</p>	<p>More detailed information will be required prior to final approval of each phase to ensure that the Board can make the judgment that an entity is in place, not only with responsibility for, but also with the ability to raise the funds necessary for long-term maintenance of roads, water, wastewater, and stormwater facilities , including a means for enforcement of that responsibility if necessary and an alternate responsible party should the initial party become unable, e.g., in the case of bankruptcy.</p>	<p>Include in conditions of approval the requirement for more detailed information prior to approval of first subdivision or site plan in each development area.</p> <p><i>Bernie will add general language to require the review of the ownership covenants for each phase so that is provides the governmental entity with enforcement rights.</i></p>
<p>12. <i>Location of natural, recreation, scenic, historic and cultural resources to be preserved.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, b, c, and g. (4.12.9).</p>	<p>This information is discussed in the October 6 binder on pages 18-21 and in the Supplement on page 7.</p>	<p>At this time it is not yet determined what mitigation areas will be included in NHDES approval.</p>	<p>The final state and federal mitigation requirements should be considered part of the approval so that future Boards do not inadvertently issue a building permit on mitigation lands.</p> <p><i>It was agreed that this will be included as a condition of approval.</i></p>

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<p>13. <i>Description and location of proposed major open space areas, recreation areas/facilities, conservation lands.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a, b, and g. (4.12.9).</p>	<p>This item is discussed on page 21 of the October 6 binder and a revised Map K-6 in the Supplement.</p>	<p>Map K-6 continues to show potential Development Areas overlapping with several mitigation areas.</p>	<p>The final state and federal mitigation requirements should be considered part of the approval so that future Boards do not inadvertently issue a building permit on mitigation lands.</p> <p><i>It was agreed that Map K-1 will be updated when mitigation lands are decided.</i></p>
<p>14. <i>Sustainable design and construction practices promoting energy conservation.</i></p> <p>This information is needed to assist the Board in determining consistency with criteria a and g. (4.12.9).</p>	<p>The 10/6/15 Application states that the applicant will comply with sustainable design and construction practices mandated by the State of New Hampshire. (Page 21)</p>	<p>It appears from the Zoning Ordinance that the expectation was for more than what is required by law. "Contemporary planning principles" include "green buildings," recycling/composting, building siting to enable use of renewable energy.</p>	<p>At a minimum the conditions of approval should specify compliance with both the Commercial Energy Code and Residential Energy Code as adopted by Building Code Review Board as required by state law.</p> <p><i>It was agreed to include in conditions because it is already state law.</i></p>

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<p>16. <i>Proposed time schedule and phasing plan with enough information for the Board's determination that essential services and amenities will be completed in an appropriate order relative to the overall Planned Unit Development.</i> This information is needed to assist the Board in determining consistency with criteria a, f, l, j and k (4.12.9).</p>	<p>This information has been provided on pages 7-8 of the Supplement.</p>	<p>A similar timetable will be needed by the Board for each phase.</p>	<p>Include in conditions of approval the requirement for a time schedule for development of the subject Development Area with the first subdivision and site plan application within that development area, along with any updated information available on phasing of the overall PUD.</p> <p><i>It was agreed that the applicant will provide the board an update on construction schedule on an annual basis.</i></p>
<p>17. <i>General description of provisions of fire fighting, police, and emergency medical services.</i></p>	<p>Emergency services are described in the 10/6/15 Application on pages 22-23.</p>	<p>Arrangements for emergency services are adequately described in the 10/6/15 Application. As development occurs in phases, it will be necessary for the Board to have the information needed to assess the adequacy of these arrangements.</p>	<p>The development agreement should require notification to the Planning Board when there are substantial changes to emergency services/providers.</p> <p><i>It was agreed that the developer will have to provide updates if any service providers change.</i></p>

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<p>18. A preliminary statement of the environmental impact of the proposed development which sets forth the reasonably foreseeable adverse effects and measures to be taken by the applicant to minimize such effects. An Environmental Impact Statement (EIS) may be required after analysis of the Preliminary Impact Statement.</p>	<p>This item is discussed on pages 23-24 of the October 6 binder and pages 8-9 of the Supplement. The applicant has requested that the Board accept submissions to NHDES as part of review of specific state and federal regulations as meeting this requirement.</p>	<p>This reviewer has not had time since receiving the Supplement to review the material under review by NHDES on-line to evaluate the degree of overlap between the information provided to NHDES and the information that would typically be a part of a preliminary environmental impact study associated with a development proposal of this scale.</p>	<p>If the Board desires to accept the request of the applicants relative to this item, a hard copy of the permit and application material should be provided for the project file. In addition, conditions of approval should clarify that the Board is not making a universal abdication of its responsibility to administer the PUD regulations in regard to environmental impacts, but that environmental impacts studies may be required with future site plan and subdivision applications in addition to required state and federal permits, and that said environmental impacts studies may take into consideration the cumulative effects of related impacts from past and future phases of the PUD.</p> <p><i>The applicant requested that they be able to respond to this recommendation later.</i></p>

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19. A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that if those resources are currently designated within Protection Districts they will receive protection that is substantially equivalent to that under the Protection District designation.	<p>The 10/6/15 application references land within the proposed PUD that is already conserved, land that may be required as mitigation by federal and state agencies, and federal and state permits as evidence that this requirement will be met. (Pages 24, 18-21) Due to the fact that federal and state permits do not provide evidence of meeting the more restrictive requirements of the Coos County Zoning Ordinance, the Board's 10/21/15 acceptance of the application provided that more information will be requested during the substantive review and/or during the site plan/subdivision stage. However, rather than providing more details on protection, the 10/29/15 Application Supplement contains the statement "...the PD districts that lie within the Development Areas illustrated on Map K-1 and the Ski Development Area may be eliminated." (Page 11)</p>	<p>The application does not provide the details the Board would need to make the required "substantially" "equivalent" determination required by the Zoning Ordinance prior to approval. Approval of the application as presented may be interpreted as precluding further discussion of protection of these resources that were identified as high priorities for the County.</p>	<p>Incorporate as a condition of approval language acknowledging that due to the nature of the proposed development with Lake Gloriette and the mountain ski terrain as focal points, it will be necessary to conduct certain development activities within certain Protection Districts. However to ensure that the impacts on these high priority resources are minimized, it is recommended that the request to universally eliminate these overlay zones be denied, and that the Board require that the PD Subdistricts to be shown on future development plans to ensure that best management practices to minimize potential impacts takes place as part of the review process, as well as incorporated in siting decisions not related to Lake Gloriette or mountain ski terrain. The approval could provide the applicants with assurance that additional mitigation land set asides (beyond existing (or renegotiated) conservation easements and that required as part of federal and state permitting) won't be required by the County as part of future site plan or subdivision approvals.</p>

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<i>20. Proposed dimensions where different than the underlying zoning district. Setbacks from parcels not included in the Planned Unit Development may not be reduced. Standards related to health and safety may not be reduced without Planning Board approval of an alternative approach providing and equivalent or higher level of protection.</i>	The application proposes the following language: where adequate access to a lot is provided by easements or other legal means, no minimum frontage is required. (D.4. Minimum road frontage, p.25). In effect, this is a waiver request from the Zoning Ordinance Section 7.03 (e) which states: For year-round dwellings, commercial, industrial and other non-residential uses involving one or more buildings, frontage shall be on a Class V or better public highway or a private road meeting County road standards and approved by the Planning Board.	The Board does not have the authority to waive this requirement of the Zoning Ordinance as it is not a dimensional requirement. Further, this requirement ensures compliance with RSA 674:41.III.	It is recommended that this request be rejected.

It was decided that the board would review all of the proposed dimension changes in 20 which are including in the application on pages 24-27; minimum overall density, minimum lot size, minimum shoreline frontage, minimum setbacks, maximum lot coverage and maximum building height. The applicants explained that their reason for proposing the changes is that changes are based on resort development not rural development. Bernie recommended that the board consider the proposed changes as a package. If there is a safety valve mechanism in the conditions of approval, it might help the board's concerns. It was decided that Bernie would draft language to include in the conditions.

Ed Brisson handed out to the board a suggested language change to maximum lot size. The language suggested that the maximum lot coverage shall be fifty percent (50%). There shall be no maximum lot coverage requirement for development subject to an approved NH DES Alteration of Terrain permit. The fourth sentence will be deleted.

The board returned to Tara's review on page 9, Part III: PUD Review Standards-Zoning Regulations Binder p. 28-29.

<p>Part III: PUD Review Standards - Zoning Regulations Binder p.28-29</p>	<p>The application proposes a new term and definition regarding “Active Outdoor Recreational Facility.” (10/6/15, Page 28)</p>	<p>This term was deliberately not included in the language of the new zoning district recently developed and approved by the Board. The concept was instead divided into different elements requiring different levels of review and approval, e.g., Recreational Lodge, Destination Resort and Ski facilities, all of which require a permit, vs. Special Events and Skills venues which would not require a permit.</p>	<p>It is recommended that approval NOT include this language.</p> <p><i>The applicant agreed that this definition would not be included.</i></p>
	<p>The application proposes new definitions for “Dwelling Unit” and “Lodging Unit” (10/6/15, p. 28). “Lodging Unit” is proposed as “Any form of residential ownership where the unit is not occupied more than 180 days per year by the same person or group of persons.”</p>	<p>Definitions for these terms were carefully considered by the Board during the development of the recent zoning amendments. Considerations included the lack of the County’s ability to enforce an Ordinance that requires observing the number of days a unit is occupied and whether or not the occupancy is by the same or different individuals. In addition, units originally build with the intent as seasonal often become year-round residences. The only real opportunity for enforcement is at the Planning Board review stage and should always include consideration of the impacts should a residence become year-round.</p>	<p>If the Board deems it mutually beneficial to the applicant and the County to include a modified definition specific to this PUD, it is recommended that the definition of “dwelling unit” be unchanged, but that the Board consider modifying the condominium portion of the Lodging definition as follows: Lodging:</p> <p>Transient accommodations, whether rented or owned, not intended for year-round occupancy or as a primary residence, such as hotels, motels, inns time-share condominiums, <u>or other form of condominium ownership where the unit is not occupied more than 180 days per year by the same person or group of persons</u>, and certain employee housing. Includes customary accessory uses for guests such as dining rooms and bars, laundry, and recreational facilities.</p>

	<p>The application proposes a new defined term “employee housing” on page 29 of the October 6 binder.</p>	<p>This request was carefully considered during the development of the DD-resort amendment to the Zoning Ordinance. It was rejected because from a planning and zoning perspective, the key point is not who lives in a dwelling unit, or where they are employed, but whether it is year-round or seasonal, how much water and wastewater, traffic etc. Instead, the definitions of “dwelling unit” and “lodging” were modified to include “certain employee housing.” What may be unclear still is where dormitory-style employee housing unique to a large resort would fit. The Board should note that the application proposes that in the case of employee housing, each 4 bedrooms be considered one of the 4,600 units.</p>	<p>It is recommended that the Board consider a new permitted use as part of the PUD Permit that would be “Dormitory-style employee housing” utilizing the applicant’s language but with the addition of the clarifying words “for rental by employees of a PUD business or for provision of use at no cost as an employee benefit.”</p> <p>Employee housing should be determined to be a dwelling or lodging unit based on the seasonality of the associated jobs.</p> <p><i>Bernie stated that the board could not amend the zoning ordinances definitions. It was decided that the applicants will delete the wording zoning regulations on page 28. Tara will rewrite this section and discuss with applicant.</i></p>
	<p>The application proposes a new defined term “hotel room” on page 29 of the October 6 binder.</p>	<p>The intent is presumed to be to provide guidance for counting the 4,600 units.</p>	<p>The addition of the clarifying word “lodging” > “A single lodging unit...” would make the intent clearer. Without that, a single family home without a full kitchen is a hotel room.</p>

Part III: PUD Review Standards - Site Plan Review Regulations Binder p. 29- 33	The application contains alternative language to the Coos County Site Plan Regulation procedures including fees, performance guarantee, inspection fees, and submission requirement. (pp. 29-31)	The applicant was informed several times by the Board Chair, planning consultant and legal counsel that revisions to site plan review procedures could not appropriately be included in a PUD approval. The applicant was requested several times to remove this section of the application.	Any motion for approval should clarify that this section is not part of the application being approved. <i>Bernie discussed that state law will supersede this section and he recommended to substitute what the state law does require.</i>
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After four and ½ hours of discussion it was decided continue the meeting to a different night. Rick Tillotson made a motion to continue this meeting on Monday, November 23, 2015 at 6 p.m. in Lancaster, NH. Rep. Leon Rideout seconded the motion and all voted yes.

Respectfully submitted,

Jennifer Fish