

Synopsis;

On the night of June 10th 2019 the Hudson Conservation Commission's Chair, Randy Brownrigg, made a motion to enter into nonpublic discussion (untelevised and/or recorded) at 8:13PM. The motion was then seconded by William Collins of the Hudson Conservation Commission (Reference 1). This motion was based on the exceptions to RSA 91 (Right To Know Regulations) as referenced by RSA 91a:3 (d). This exception was written and subsequently read aloud as follows;

VIII. Non-Public Session:

RSA 91-A:3 II (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community. The Commission may also go into non-public session for any other subject matter permitted pursuant to RSA 91-A:3 (II).

No supporting documentation and/or reference material was provided within the Hudson Conservation Commissions informational packets sent to each member prior to said meeting that would have clarified the need for a non-public discussion, thus leaving it up to the members to assume what the topic was about upon the motion being made.

Once the nonpublic session began however, David Morin, the Conservation Commission Selectmen Liaison, began to explain his disapproval of how the Commission, and a certain member, handled themselves during a recent presentation regarding 68 Pelham St. to the Board Of Selectmen (reference 3). During this nonpublic session, additional Conservation Commission members, including but not limited to the Chairman, Randy Brownrigg, also directed personal opinions and strong displeasure towards a single individual. At which point I (Brett Gagnon) declared a point of order as explained further in "violation 4"

Violation 1:

The purchase and subsequent acquisition of 68 Pelham St. Hudson NH was made into a public topic/discussion on May 13th 2019 by the Hudson Conservation Commission (reference 2). By making the purchase of 68 Pelham St a public topic, it could be declared that the exemption no longer existed or was not necessary because a Purchase and Sale agreement had been agreed upon. Simply put, there did not seem to be a risk that public discussion would "benefit a party or parties whose interest" were "adverse to those of the general community". Since the topic of 68 Pelham St became public knowledge on May 13th 2019, the meeting on June 10th 2019 did not have reasonable authorization to utilize the non public exemption of RSA 91A:3 (d) (reference 1).

Violation 2:

The RSA that would have been more applicable to reprimanding an individual or commission would be found under RSA 91A:3 (c):

“Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant. ”

With that said however, Brett Gagnon went on public record on March 26th 2019 during a public input session for the Board Of Selectmen meeting to request that all discussion, specifically regarding his actions as a Conservation Commission member, be in a public forum/setting (reference 4).

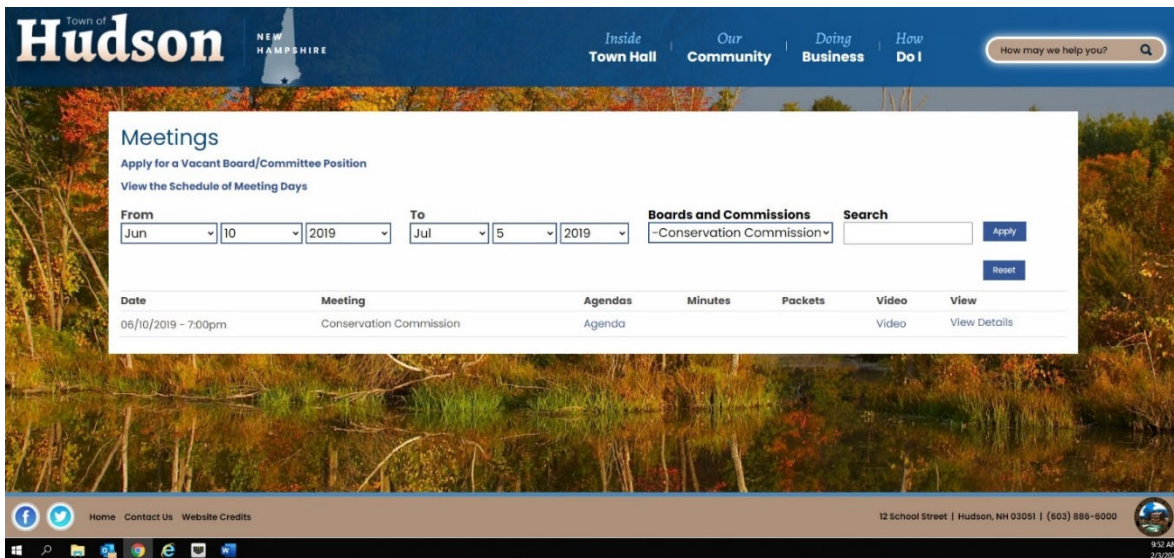
Reference:

1. Non Public Conservation Commission Reference – Forward to 1:13:00 <http://www.hudsonctv.com/CablecastPublicSite/show/8522?channel=1>
2. Public Conservation Commission Meeting on 68 Pelham St <http://www.hudsonctv.com/CablecastPublicSite/show/8467?channel=3>
3. BOS presentation of 68 Pelham St by the Conservation Commission – Forward to 1:54:00 <http://www.hudsonctv.com/CablecastPublicSite/show/8469?channel=3>
4. BOS public input – Brett Gagnon request RSA 91A:3 (c) – Forward to 0:8:50 <http://www.hudsonctv.com/CablecastPublicSite/show/8339?channel=3>

Further Investigation:

To prove these events transpired, non-public meeting minutes for June 10th 2019 would need to be reviewed as part of this complaint. Although Hudson keeps most of their videos, meeting minutes, packets and agenda’s on their website, this particular meeting did not include the meeting minutes or packet information as seen in the image below

Screen shot captured on Feb 3 2021



Once this was discovered an RSA91a request was submitted to both the Hudson NH Conservation Commission Chairman and the Hudson NH Town Engineer.

On Feb 3, 2021, at 9:56 AM, Br G <gagnon.brett@gmail.com> wrote:

EXTERNAL: Do not open attachments or click links unless you recognize and trust the sender.

Mr Dhima and Chairmen of the Conservation Commission,

I would like to request a copy of the Hudson Conservation Commission non public meeting minutes for 6/10/2019 based on RSA91a.

Reference to the meeting in question:

<http://www.hudsonctv.com/CablecastPublicSite/show/8522?channel=1>

Please note that the reason for entering non-public on this date was RSA 91a:3 (d) "acquisition of land". Since then that topic has become public and no longer requires the protection of this sub clause.

Proof of above statement:

- (Entire meeting) <http://www.hudsonctv.com/CablecastPublicSite/show/8467?channel=3>

- (forward to 1:54:00) <http://www.hudsonctv.com/CablecastPublicSite/show/8469?channel=3>

If these minutes are not available please provide specific reasoning as to why.

Thank you in advance for effort on this request

Brett Gagnon

Co-Founder and Marketing Director

Hudson Alliance for Responsible Development

<https://hudsonallianceforresponsibledevelopment.home.blog/>

Additional email sent to the Hudson Town Engineer; Mr Dhima

On Feb 3, 2021, at 11:35 AM, Br G <gagnon.brett@gmail.com> wrote:

EXTERNAL: Do not open attachments or click links unless you recognize and trust the sender.

Mr Dhima,

Thank you for your quick reply and input into this subject. Can you please confirm your statement that I "voted on sealing the minutes". This vote should have been taken in public after the non public session (Reference legal statements in below paragraph). I do not currently see any record of this vote (See image below). If there is no record of this vote to seal the minutes then the non public minutes will need to be available to the public within 72 hours of the meeting.

Furthermore, the reason for going into non-public based on RSA91a:3(d) on Jun 10th 2019 can not claim to "render the proposed action ineffective" at this time since the purchase of 68 Pelham Road is not a public issue as noted in my original email. Thus, even if these minutes were claimed to be non-public and sealed, they can no longer hold that authority to be withheld from the public.

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. **Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session,** it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, **or render the proposed action ineffective,** or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

<http://www.gencourt.state.nh.us/rsa/html/vi/91-A/91-A-mrg.htm>

Sincerely,

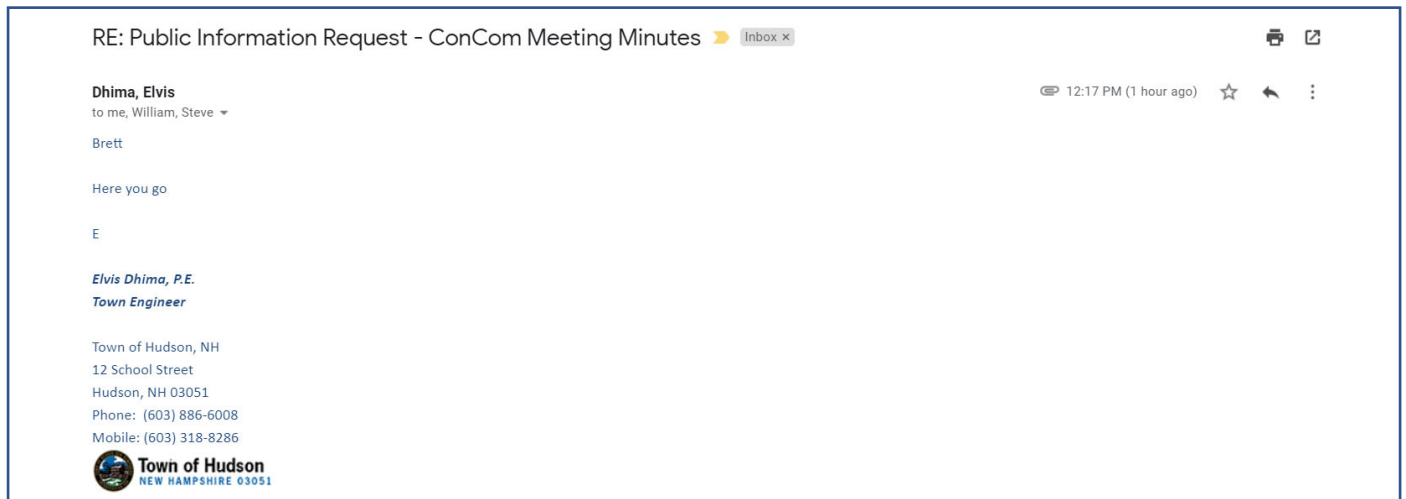
Brett Gagnon

Co-Founder and Marketing Director

Hudson Alliance for Responsible Development

<https://hudsonallianceforresponsibledevelopment.home.blog/>

The response from Hudson Town Engineer; Mr Dhima



Note: See PDF attachment for the provided nonpublic meeting minutes

Violation 3:

For the town engineer to produce meeting minutes by request despite other meeting minutes being available on the town's website, seems to be a violation of RSA A:2 II-b.

If a public body maintains an Internet website or contracts with a third party to maintain an Internet website on its behalf, it shall either post its approved minutes in a consistent and reasonably accessible location on the website or post and maintain a notice on the website stating where the minutes may be reviewed and copies requested.)

Ethical Concerns:

I believe the meeting minutes received for June 10th were created for this specific RSA91a request on Feb 3rd 2021. If you review the Hudson Conservation Commission meeting minute archive from June 2019 through Dec 2019 you will not see "approval of minutes" for the June 10th meeting anywhere. This shows that the commission was never given the June 10th minutes to review and accept for accuracy. As such, I (Brett Gagnon) never had a chance to review the minutes in question in my official duty as a Conservation Commission member and furthermore, as the target of this non public session aggression. With that said, I do not believe the current minutes reflect the actual events that transpired.

From			To			Boards and Commissions	Search		
Jun	10	2019	Dec	31	2019	-Conservation Commission	<input type="text"/>	Apply	
<input type="button" value="Reset"/>									
Date	Meeting	Agendas	Minutes	Packets	Video	View			
12/09/2019 - 7:00pm	CANCELLED - Conservation Commission					View Details			
11/18/2019 - 7:00pm	Conservation Committee	Agenda	Minutes		Video	View Details			
10/21/2019 - 7:00pm	Conservation Commission	Agenda	Minutes		Video	View Details			
09/30/2019 - 7:00pm	Conservation Commission	Agenda			Video	View Details			
09/26/2019 - 7:00pm	Conservation Commission	Agenda				View Details			
09/09/2019 - 7:00pm	Conservation Commission	Agenda		Packet	Video	View Details			
08/12/2019 - 7:00pm	CANCELLED - Conservation Commission					View Details			
07/19/2019 - 8:00am	Conservation Commission - Site Walk - Kimball Hill	Agenda	Minutes			View Details			
07/08/2019 - 7:00pm	Conservation Commission	Agenda			Video	View Details			
06/10/2019 - 7:00pm	Conservation Commission	Agenda			Video	View Details			

Meeting Minutes, as listed in above table, for Sept 9th 2019

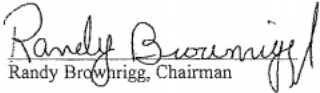
VI. Approval of Minutes:

VII. Commissioner's Comments:

VIII. Non-Public Session:

RSA 91-A:3 II (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community. The Commission may also go into non-public session for any other subject matter permitted pursuant to RSA 91-A:3 (II).

*Next Meeting: October 21, 2019 at 7:00 p.m. (*Third Monday due to Columbus Day holiday.)*


Randy Brownrigg, Chairman

Meeting minutes, as listed in above table, for Oct 21st 2019

XI. Approval of Minutes

Mr. Dickinson moved to accept the HCC regular meeting minutes for September 9, 2019.
Motion seconded by Mr. Brownrigg. Motion Carried 5/0/0

Mr. Dickinson moved to accept the HCC Non-public meeting minutes for September 9, 2019.
Motion seconded by Mr. Brownrigg. Motion Carried 5/0/0

Meeting minutes, as listed in above table, for Nov 18th 2019

X. Approval of Minutes

Mr. Gagnon moved to accept the October 21, 2019 regular meeting minutes as presented. Motion seconded by Mrs. Parkhurst. Motion carried 5/0/0

Mr. Gagnon moved to accept the October 21, 2019 non-public meeting minutes as presented. Motion seconded by Mr. Brownrigg. Motion carried 5/0/0

Violation 4:

After review of the meeting minutes provided by the Hudson town Engineer (Mr Dhima) on Feb 3rd 2021 regarding the June 10th 2020 Conservation Commission meeting, I (Brett Gagnon) noticed that my “point of order” statement was not specifically recorded in regards to my concern noted in “violation 1” per RSA 91 A:2 (II-a)

II-a. If a member of the public body believes that any discussion in a meeting of the body, including in a nonpublic session, violates this chapter, the member may object to the discussion. If the public body continues the discussion despite the objection, the objecting member may request that his or her objection be recorded in the minutes and may then continue to participate in the discussion without being subject to the penalties of RSA 91-A:8, IV or V. Upon such a request, the public body shall record the member's objection in its minutes of the meeting. If the objection is to a discussion in nonpublic session, the objection shall also be recorded in the public minutes, but the notation in the public minutes shall include only the member's name, a statement that he or she objected to the discussion in nonpublic session, and a reference to the provision of RSA 91-A:3, II, that was the basis for the discussion.

Reconciliation Efforts:

A third email was sent to the Hudson Town Engineer further explaining the above in hopes that a reasonable conclusion or answer could be provided. Unfortunately, this was not the case. The response provided stated “Those are the minutes that you requested, and this is all we have”

Br G <gagnon.brett@gmail.com>
to Elvis, William, Steve ▾

2:01 PM (2 hours ago) ☆ ↶ ⋮

Elvis,

Thank you for providing that. As you noted earlier, I was an attendee of that meeting and distinctly remember calling a “point of order” based on RSA 91 A:2 (II-a).

II-a. If a member of the public body believes that any discussion in a meeting of the body, including in a nonpublic session, violates this chapter, the member may object to the discussion. If the public body continues the discussion despite the objection, the objecting member may request that his or her objection be recorded in the minutes and may then continue to participate in the discussion without being subject to the penalties of RSA 91-A:8, IV or V. Upon such a request, the public body shall record the member's objection in its minutes of the meeting. If the objection is to a discussion in nonpublic session, the objection shall also be recorded in the public minutes, but the notation in the public minutes shall include only the member's name, a statement that he or she objected to the discussion in nonpublic session, and a reference to the provision of RSA 91-A:3, II, that was the basis for the discussion.

I declared that the commission called out a non-public session based on RSA 91 A:3 (d) but instead was discussing a topic that should have been under RSA 91 A:3 (c).

Can you please help me to understand

1. Why don't I see my “point of order” statement recorded within the June 10th meeting minutes?

2. Why don't I see any subsequent meeting after June 10th reflect the “acceptance” of the June meeting minutes? Put differently, the commission always “accepts” the previous meeting minutes each meeting. This approval/acceptance process is to make sure the record is accurate and true. For the case of June 10th I do not see this acceptance.

–

Sincerely,

Brett Gagnon

Co-Founder and Marketing Director

Hudson Alliance for Responsible Development

<https://hudsonallianceforresponsibledevelopment.home.blog/>

Dhima, Elvis

to me, William, Steve ▾

2:09 PM (2 hours ago) ☆ ↶ ⋮

I'm not sure Brett

Those are the minutes that you requested and this is all we have

E

Elvis Dhima P.E.
Town Engineer
12 School Street
Hudson, NH 03051
Sent from my iPhone

Conclusion;

Going into Non-public discussion based on RSA 91A:3 (d) to discuss a parcel of land that has already been made a public topic, or going into RSA 91A:3 (c) to reprimand an individual who publicly asked to have discussion about himself made public, are both violations of the Right To Know regulations and furthermore are actions that can be deemed as circumventing the spirit and purpose of chapter 91A.

To further compound these violations, I find it concerning that meeting minutes were generated seemingly without any history of being provided previously. Due to this lack of review for accuracy, I (Brett Gagnon) was never able to point out the lack of detail around my “point of order” concern missing from the provided meeting minutes. Although I can understand bad documentation practices and human error, I feel there is enough evidence to show a malicious intent and disrespect for legal and proper process around public access to information as defined in RSA 91a.

Request for Remedy;

This author strongly recommends that the two main individuals associated with this infraction (David Morin of the Hudson Board Of Selectmen and Randy Brownrigg of the Hudson Conservation Commission) provide Mr. Gagnon a written, and publicly available, apology for their actions and ceases to continue similar actions in the future.

It is also recommended that Mr Morin and Mr Brownrigg be held to the follow statute in regard to “remedies” under the power of RSA 91-A;

RSA 91 A:8 V

The court may also enjoin future violations of this chapter, and may require any officer, employee, or other official of a public body or public agency found to have violated the provisions of this chapter to undergo appropriate remedial training, at such person or person's expense.