Bill as Introduced

SJR 1 – AS AMENDED BY THE SENATE

03/06/03 0257s

2003 SESSION

03-1062
03/09

SENATE JOINT RESOLUTION *1*

A RESOLUTION approving certain uses of Weeks state park.

SPONSORS: Sen. Gallus, Dist 1

COMMITTEE: Wildlife and Recreation

ANALYSIS

In this senate joint resolution, the general court finds that the installation of communications equipment at Weeks state park serves a significant public purpose and is consistent with the conditions of the Weeks family grant, provided that certain conditions are met.

SJR 1 – AS AMENDED BY THE SENATE

03/06/03 0257s

03-1062
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

A RESOLUTION approving certain uses of Weeks state park.

Whereas, Weeks state park in the town of Lancaster is established on land granted to the state of New Hampshire by the children of John Wingate Weeks; and

Whereas, the grant of the Weeks property was intended as a memorial to John Wingate Weeks and his outstanding interest in the promotion of forestry; and

Whereas, the grant of the Weeks property was conditioned on the land and buildings being forever maintained by the state for the practice and demonstration of forestry and for the use and enjoyment of the people of New Hampshire and its visitors; and

Whereas, the state of New Hampshire accepted the Weeks grant and its conditions in 1941, 73; and

Whereas, advanced telecommunications capabilities serve important public purposes, including facilitation of forest fire protection and enhancement of the use and enjoyment of the state's resources by its citizens and its visitors; and

Whereas, installation of communications equipment on the Weeks property would serve this important public purpose; and

Whereas, communications equipment may be located within an extension of the existing stone tower in a manner that is consistent with the appearance and purposes of Weeks state park; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the general court of New Hampshire hereby finds that the installation of communications equipment at Weeks state park serves a significant public purpose and is consistent with the conditions of the Weeks family grant, provided that:

1. Any communications equipment installed at Weeks state park shall be housed in such a manner as to be consistent in appearance either with structures that are currently on the premises or with structures that have been proven to have existed on the premises.

2. Any communications equipment installed at Weeks state park shall be unobtrusive both visually and aurally.

3. The design of any communications installation within the existing tower and any necessary ancillary structures shall be approved by the Weeks State Park Association

4. Any revenue generated by the installation or lease of any communications equipment at Weeks state park which exceeds the operating expenses associated with the communications equipment shall be remitted to the department of resources and economical development, division of parks and recreation.

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SJR 1

BILL TITLE: approving certain uses of Weeks state park.

DATE: April 2, 2003

LOB ROOM: 305 **Time Public Hearing Called to Order:** 2:00 P.M.

Time Adjourned: 2:55 P.M.

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, D. Field, Russell, Bruno, D. Christensen, Akins, Camm, Ruffner, Cail, Campbell, C. LaFlamme, Merrow, Wiley, Spang, McEachern, Bleyler, Brueggemann, Donovan and Parkhurst.

Bill Sponsors: Sen. Gallus, Dist 1

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Senator John Gallus - Prime sponsor of the bill.

Rep. Bleyler: Will this bring service to Lyme? Are you aware of the noise these towers make, and its impact on birds, etc.? ANS: No, but it has probably been studied.

Rep. Spang: How does this Resolution relate to the Weeks' deed? ANS: I talked to the attorneys at Legislative Services and they think SJR 1 is proper and legal.

Rep. Merrow: Any local opposition? ANS: No.

Chairman Royce: Has Department of Safety shown interest? ANS: Not that I know of.

Rep. Parkhurst: Is this like what they're doing in church steeples? ANS: Exactly.

Richard McLeod, Director, Department of Resources and Economic Development (DRED), Division of Parks - Supports the bill. I spoke to the Attorney General this morning, they say 1941 law will have to be changed P. 83 Section IV. We can do it with an amendment to SJR 1.

Rep. Merrow: What does it say in the original deed? ANS: We'll have to look it up.

Rep. Akins: Has the Attorney General's Office looked into FCC regulations? ANS: Don't know.

Rep. Christensen: Is this not for the public good, and therefor exempt? ANS: That's up to the Attorney General.

Joel Anderson, Researcher - After SJR 1 is signed by Governor, it becomes law.

Chairman Royce to Senator Gallus: Will you work with Director McLeod to work the bugs out? ANS: Both agreed.

Rep. Spang: How do you determine how tall towers have to be? ANS: Department of Safety can answer that better.

Respectfully submitted,

David H. Russell

Rep. David H. Russell
Clerk

Testimony

2-10-2003

ATTACHMENT #1

ROBERT S. BAST
191 Windrow Lane
Hinesburg, Vermont 05461
t. 802.482.2804 f. 802.482.3953 bastrood@gmavt.net

February 09, 2003

Senator John Gallus
New Hampshire State Senate
Concord, NH
FAX TRANSMITTAL 1-603-271-3027

RE: Weeks State Park Resolution, SJR 1

Dear Senator Gallus:

I write on behalf of the Weeks family to support SJR-1 on the possible location of communications equipment at the park. My grandfather and great aunt intended that the park be a memorial to their father, John W. Weeks, and as such, to convey to the people of New Hampshire the sense of wonder and humility he felt as he looked around him at one of the most magnificent views in America. We all regard great grandfather John with pride and deep regard for his selfless public achievements. We also know that Sinclair Weeks was strongly interested in the economy of the north country, and as well agreed that the public interest was served by communications equipment at the park- police and highway radio, as well as the fire watch. Given the rapidly changing world of the internet, cellular communication and the like, and the strategic position of Mt Prospect, it seems that Weeks Park can play an important role in facilitation of communications in Coos County. Some of that will serve enterprise, and at least some will facilitate citizen access to government and safety. It has been speculated that location of antennae discreetly at Mt. Prospect will keep more visible antennae from popping up in other locations , preserving views and making the landscape more attractive for all.

I have consulted with family, shared the text of the resolution, and am able to say that we feel it to be acceptable and workable. We think that the primacy of the quiet enjoyment of the park has been preserved as the main point of Weeks State Park. The conditions will allow the location of communication equipment in the tower in a manner which is not visible, and will be compatible with the appearance of the park buildings. I look forward to contributing to the proper implementation of these conditions in my role on the Weeks State Park Association Board of Directors. The family would like to thank you and the New Hampshire General Court for the careful concern shown to the Weeks family, and the respect given to the conditions of gift of Sinclair Weeks and Katherine Davidge.

Sincerely,

Robert Sinclair Bast

ATTACHMENT #2

7 February 2003

Senator John Gallus, chairman
Wildlife and Recreation Committee

Re: SJR 1

Dear John,

I want to add my support to the language in SJR 1 which effectively will allow telecommunications equipment to be placed in the fire tower atop Mount Prospect in Lancaster and Weeks State Park.

I have spoken at length with Rob Bast, a spokesman for the Weeks Family, and he assures me he has full support for the language, the tower design, placing telecom equipment there and the Joint Resolution.

Just a word about what this means to the North Country:

As you know cellphone reception north of the notches is largely hit or miss unless you are in Littleton or Berlin. With cellphones becoming ubiquitous with many life-saving applications as well as business uses, the region is at a distinct economic disadvantage in not having universal coverage.

Adding transmitters to the Weeks fire tower will substantially unlock the western side of the county to this service as cellular phone companies have been searching for appropriate tower locales. Mount Prospect always has been the most coveted due to its locale and the region's topography.

This resolution and the resulting location of telecom equipment at Weeks State Park will provide one of the keys to opening the North Country to reasonable development by communications dependent businesses.

I urge quick passage so the reconstruction of the tower can be planned and completed this coming construction season.

Thanks for your untiring efforts in behalf of your North Country constituency,

Sincerely,

Peter Riviere

Peter Riviere, executive director
Coos Economic Development Corporation

1 April 2003

Chairman
House Resources, Recreation and Development Committee
Rm. 305 LOB
Concord, NH

Dear Chairman,

I want to offer input to a Senate Bill which clarifies the Weeks Family's intentions regarding the use of the fire tower atop Mount Prospect (Weeks State Park in Lancaster) for housing telecommunications equipment.

As the Regional Development Corporation, my organization has been instrumental in fostering better communications in Coos County, both in telecom and broadband fields. A continuing issue has been siting towers for use by cell phone carriers to propagate signal into the North Country (beyond the south slope of Mount Prospect.

For some time US Cellular has identified Mt. Prospect as a key link into Lancaster and the North Country to the north. The hitch was that the fire tower atop the mountain was inadequate to handle additional communications equipment and it was believed the Weeks descendants' conveyance document forbade commercial applications.

In lengthy discussions with Senate Gallus, the Weeks family has made their intentions clear that cell phone service and high-speed broadband transmission are public benefits and should not be proscribed atop Mt. Prospect.

The Senate Bill you are considering merely clarifies this point and opens the door for development of the necessary facilities in the fire tower to accomplish these ends.

I urge you and your committee members to give this a quick turnaround so we can ensure that the necessary alterations be made this construction season and service can begin in the fall.

At present, cell phone users north of Whitefield are without much in the way of alternatives on the road, off-road, in the woods or whatnot for business or emergency use of cell phones.

As an economic development initiative this bill is key to unlocking the potential of the North Country in an area many below the notches consider a ubiquitous service.

If you have questions, please don't hesitate to call me at (603) 788-3900.

Thanks,

Peter Riviere, executive director, Coos Economic Development Corporation

Rich

STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION of PARKS and RECREATION
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

GEORGE M. BALD
Commissioner

RICHARD MCLEOD
Director
603 271-3556

FAX 603 271-3553
WEB: www.nhparks.state.nh.us
E-MAIL: nhparks@dred.state.nh.us

November 13, 2002

Mr. Robert S. Bast
Bast & Rood Architects
P.O. Box 220
187 Windrow Lane
Hinesburg, VT 05461

Re: Weeks State Park – Cellular Tower Proposal

Dear Mr. Bast:

This letter is in response to your email to Allison McLean dated October 17, 2002 regarding the above referenced issue. I recognize and appreciate the amount of work you and the Weeks State Park Association (WSPA) have contributed to this issue, especially in the review of cellular tower design proposals and the conscientious study of Chapter 73 of the Laws of 1941 (Senate Bill 8).

Allow me to provide you with an update of where this issue lies within the regulatory and review agencies and the process that the Division of Parks and Recreation (Division) must undertake. We are awaiting a decision from to Attorney General's office regarding the interpretation of Chapter 73 of the Laws of 1941. Additionally, this project requires State Historic Preservation Office review as Weeks State Park is a listed on the National Register of Historic Places and as it is required for all cellular tower proposals by the Federal Telecommunications Act of 1996 (refer to 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act). The Division has an established process in which this review can be accomplished.

Along with federal historical resources compliance, the Department of Resources and Economic Development (Department) has its own policy on the Use and Management of Mountaintops for Communication Facilities. The policy provides guidelines and considerations concerning such facilities as cellular towers. These guidelines require review by the Communication Site Advisory Committee; coordination with the municipality and regional planning commission and public hearings in accordance with RSA 674:54 II; and contains other details regarding communication facilities.

It is important to get a clear interpretation from the Attorney General's office regarding Chapter 73 of the Laws of 1941 prior to any further action taken regarding a cellular tower proposal at Weeks State Park. We will let you and the WSPA know what the Attorney General's office advises; meanwhile, feel free to contact my office should you have any questions.

Sincerely,

Richard McLeod, Director
Division of Parks and Recreation

cc: Anne Edwards, Associate Attorney General
Scott Burns, President, Weeks State Park Association
Philip Bryce, Director, Division of Forests and Lands
Paul Leary, Forest Ranger, Division of Forests and Lands
Allison McLean, Supervisor of Park Operations
Mike Johnson, North Region Park Supervisor

CHAPTER 72.

AN ACT RELATING TO A PUBLIC PARK AND RECREATIONAL AREA ON LONG ISLAND IN THE TOWN OF MOULTONBOROUGH.

Be it enacted by the Senate and House of Representatives in General Court convened:

1. Town of Moultonborough. Amend section 2 of chapter 191 of the Laws of 1939 by striking out said section and inserting in place thereof the following: **2. Transfer of Land.** When said property has been acquired as provided by section 1 hereof the governor and council shall transfer the title thereof to the town of Moultonborough and said property shall thereafter be held and maintained as a public park and recreational area by said town.

2. Extension of Time. The appropriation provided for by section 3 of chapter 191 of the Laws of 1939 shall not lapse until June 15, 1943.

3. Takes Effect. This act shall take effect upon its passage.

[Approved April 16, 1941.]

CHAPTER 73.

AN ACT PROVIDING FOR THE ACCEPTANCE OF A GIFT OF LAND AND BUILDINGS ON MOUNT PROSPECT IN THE TOWN OF LANCASTER AS A MEMORIAL TO JOHN WINGATE WEEKS.

WHEREAS, Sinclair Weeks and Katherine W. Davidge, children of the late John Wingate Weeks, a native of the town of Lancaster, in consideration of his outstanding interest in the promotion of forestry not only in this state but throughout the nation, including his sponsorship of the original law (the Weeks Law of 1911) providing for the purchase of national forests and for cooperation with the states in forest fire protection, have offered to give and grant certain premises on Mount Prospect in the town of Lancaster comprising about three hundred and fifty acres with the buildings thereon to the state as memorial to their father upon the following conditions:

I. Said land shall be forever maintained by the state for the practice and demonstration of forestry and for the use and enjoyment of the people of New Hampshire and its visitors under the supervision of the forestry and recreation commission, or other similar state board;

II. The entrance roadway leading from the Whitefield-Lancaster highway to the summit of Mount Prospect, being within the boundaries of said premises, shall be maintained by the state highway department in a serviceable condition for public travel during the months of June to October inclusive each year;

III. The stone tower with such alterations as are necessary may be maintained and used for services in forest fire protection and as an observatory by the public;

IV. The buildings, including the residence, caretaker's cottage and garage, shall serve such purposes as the said commission may deem desirable or may be razed if found to serve no useful purpose for the state, but these buildings shall not be rented or leased for any private occupancy or private commercial purposes; providing that nothing in this clause shall prohibit the commission from conducting under its own auspices or by lease to others the sale of light refreshments, smoking material or other items for the convenience of the public, such use of the premises, however, to be conducted only at the top of the mountain and not in any event in the main residence, and in such manner as to minimize any commercial aspects of such conduct of business. The state may enter into agreement with other public agencies or with societies and organizations of a semi-public nature for the operation, management and occupancy of the buildings and their use by the public.

Be it enacted by the Senate and House of Representatives in General Court convened:

1. **Gift Accepted.** The state of New Hampshire gratefully accepts the gift of Sinclair Weeks and Katherine W. Davidge for a memorial to John Wingate Weeks upon the terms and conditions hereinbefore set forth and the governor and council are hereby empowered to accept on behalf of the state a deed from said grantors of said tract of land subject to said terms and conditions.

2. Takes Effect. This act shall take effect upon its passage.

[Approved April 16, 1941]

DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT
STATEMENT OF INCOME AND EXPENSES - FISCAL YEAR 2001 & 2002
WEEKS STATE PARK

OPERATING INCOME		FISCAL 2001		FISCAL 2002
Service Charges		2,637.25		3,132.40
Store Sales (Vending)	0.00		0.00	
Less: Expenses	0.00	0.00	25.56	(25.56)
Group Reservations		0.00		0.00
Miscellaneous Income		100.00		0.00
Cash Over or (Short)		0.00		0.00
TOTAL OPERATING INCOME		2,737.25		3,106.84
LESS OPERATING EXPENSES				
Other Salaries		5,270.83		5,727.36
Benefits		403.21		438.15
Current Expenses-				
200 - Supplies	175.31		598.44	
212 - Clothing	107.28		159.90	
215 - Telephone & Telegraph	505.77		509.26	
216 - Postage	16.72		22.28	
226 - Cont Repairs - Bldg	220.00		0.00	
228 - Own Forces Repair	0.00		0.00	
235 - Vehicle Maint	3.99		0.00	
240 - Own Forces Maint	102.00		0.00	
249 - CE Earnings	180.00		0.00	
252 - Miscellaneous	191.88	1,502.95	443.36	1,733.24
Heating Fuel & Electricity		704.51		348.84
Own Forces Maint B&G		0.00		17.04
OYR-Own Forces Maint B&G		0.00		0.00
TOTAL OPERATING EXPENSES		7,881.50		8,264.63
NET OPERATING GAIN (OR LOSS)		(5,144.25)		(5,157.79)

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SJR 1

BILL TITLE: **approving certain uses of Weeks state park.**

DATE: May 7, 2003

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: (OTP) OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Lawton

Seconded by Rep. Laflamme

Vote: 16-2 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-2

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. David H. Russell, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SJR 1

BILL TITLE: **approving certain uses of Weeks state park.**

DATE: 8/7/03

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, ~~OTP/A~~, ITL, Interim Study (Please circle one.)

Moved by Rep. Lawton

Seconded by Rep. LaFlamme

Vote: 16-2 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.) Yes

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. David H. Russell, Clerk

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: SJR 1 **Title:** approving certain uses of Weeks state park

PH Date: 4/2/03 **Exec Session Date:** 5/7/03

Motion: OTP **Amendment #:**

MEMBER	YEAS	NAYS
Royce. H Charles. Chairman	✓	
Lawton. David M. V Chairman	✓	
Coonev. Richard T		
Fields. Dennis H	✓	
Russell. David H	✓	
Bruno. Pierre W	✓	
Christensen. D L Chris	✓	
Akins. Ralph L		
Camm. Kevin L		
Ruffner. Walter D	✓	
Cail. Kenneth B	✓	
Campbell. W Packy	✓	
Laflamme. Charles F	✓	
Merrow. Harry C	✓	
Wiley. Robert W	✓	
Spang. Judith T	✓	
Donovan. Thomas E		✓
McEachern. Paul	✓	
Blevler. Ruth Z		✓
Brueggemann. Donald A	✓	
Parkhurst. Henry A L	✓	
TOTAL VOTE:	16	2

Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **SJR 1**

TITLE: approving certain uses of Weeks state park.

DATE: May 7, 2003 CONSENT CALENDAR YES ☒ NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This legislation encourages the Division of Parks and Recreation to enter into a lease agreement with a cellular communications provider. The agreement would allow for the installation of cellular communications equipment entirely within the existing stone structure of the Weeks State Park in Lancaster, New Hampshire. After careful consideration, and further consultation with the State Attorney General's Office, the committee endorses this resolution and strongly believes that the proposed use is in keeping with the stipulated deed restrictions of the Weeks' Estate. Further, the committee agreed that the contract will hopefully make the state park self-funded and the enhanced communications will improve both the safety and economic vitality in this rural region of the state.

Vote 16-2.

Rep. David M. Lawton
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Resources, Recreation and Development

SJR 1, approving certain uses of Weeks state park. **OUGHT TO PASS**

Rep. David M. Lawton for Resources, Recreation and Development: This legislation encourages the Division of Parks and Recreation to enter into a lease agreement with a cellular communications provider. The agreement would allow for the installation of cellular communications equipment entirely within the existing stone structure of the Weeks State Park in Lancaster, New Hampshire. After careful consideration, and further consultation with the State Attorney General's Office, the committee endorses this resolution and strongly believes that the proposed use is in keeping with the stipulated deed restrictions of the Weeks' Estate. Further, the committee agreed that the contract will hopefully make the state park self-funded and the enhanced communications will improve both the safety and economic vitality in this rural region of the state. **Vote 16-2.**

Rep Lawton for Resources Committee:

This legislation encourages the ~~Dept. of~~

→ This joint resolution will put the NH ~~Legislative~~ legislature on record

This legislation encourages the Division of Parks and Recreation to enter into a lease agreement with a cellular communications provider. The agreement would allow for the ~~i~~stallation of ~~a~~ cellular communications equipment entirely within the existing stone structure at the Weeks state park in Lancaster, N.H.

After careful consideration, and further consultation with the State Attorney General's office, the committee ~~recommends~~ endorses this resolution and strongly believes that the proposed use is in keeping with the stipulated deed restrictions of the Weeks' estate. ~~Further~~ Further, the committee agreed that ~~the~~ contract will ~~hopefully~~ hopefully make the state park self-funded and the enhanced communications will improve both the safety and economic vitality in this rural ~~area~~ region of ~~New Hamp~~ the state.

David M. Pauer