

Dalton voters to decide on abolishing parts of town government, after suit dismissed

## New Hampshire Public Radio | By Mara Hoplamazian

Published March 9, 2023 at 6:40 PM EST



*Mara Hoplamazian For NHPR /*

Dalton residents will vote on whether the town should abolish their planning board and conservation commission on March 14.

A Coos County judge has thrown out a lawsuit that sought to block a set of warrant articles going before voters in Dalton next week that would abolish two parts of the town's government.

Dalton voters will decide whether they want to abolish their town's planning board and conservation commission. Those questions come as a result of petitions to put them up to a vote at Town Meeting. But plaintiffs Adam Finkel and Jon Swan say the articles are misleading voters.

Finkel and Swan serve on the town's planning board and conservation commission, respectively. Their attorney, Jeremy Eggleton, argued in a civil complaint that the warrant articles mislead voters because a group of people who helped organize the petitions are actually planning to bring those bodies back with different leadership, not abolish them forever.

The initial complaint says one Dalton resident who helped organize the warrant articles, Jim Dannis, wrote, "The Dalton majority can 'take back' our other boards. We can do it now, at the upcoming March town meeting. How? We can SIMPLY ABOLISH THEM."

Later in the same statement, which was "widely and openly published," according to the defendants, Dannis continues, "Later on, when we have a new selectboard, we can bring these boards back. The new selectboard can appoint a planning board and a conservation commission who will act for the whole town."

The conflict comes in the wake of years of debate in Dalton about the development of a new landfill in the town, proposed by Casella Waste Systems.

Lawyers for the defendants say the petitioners are hoping to replace the planning board and conservation commission with members who support the landfill development, after the planning board denied requests from Casella. Finkel and Swan are both active opponents of the landfill.

The defendants say they have "diverse viewpoints on whether or not the landfill project is in the best interest of the town," but share the belief that "offices held by what they consider to be single-issue zealots do not function in the best interests of the town."

They also argue that they haven't done anything to mislead voters, and that the ability of the town to create a new conservation commission and planning board at a town meeting in the future has always existed.

In a hearing Wednesday, a lawyer for the defendants, Richard Lehmann, told the judge that the subject matter of the warrant article is different from the intent of the people advocating for the warrant article.

"If these two warrant articles pass, on March 15 the planning board will have been abolished. On March 15, the conservation commission will have been abolished," he said. "What happens next is another year of the town figuring out what it wants to do at the 2024 town meeting, another year, potentially, of politicking and people talking and trying to persuade their neighbors."

Lehmann argued Judge Peter Bornstein should stay out of the matter and let voters decide, referencing the First Amendment.

"The fact of the matter is there is no penalty for saying things that aren't true in the context of political debate," Lehmann said. "There's no truth squad, there's no arbiter. The people make up their mind about what they think is true and vote accordingly."

The town of Dalton was also named as a defendant in the case. A lawyer for the town, Laura Specter-Morgan, said the warrant articles distinctly state the action that would happen if they are passed: the board and the commission would be abolished.

"We don't like them. We don't agree with them. But we think they're legal articles," she said.

In an interview Thursday, plaintiff Adam Finkel said the case pointed to a need for new legislation in New Hampshire.

"I come away saying, 'Sorry, we lost,' but I think we actually made a point that the state needs a better ballot law that doesn't treat a ballot petition article like First Amendment speech," he said. "Because it's important for democracy to have true ballot articles."

Pam Kathan, one of the named defendants in the case, also referenced democracy in her statement after the case was thrown out of court.

"This is an important victory for citizens' democracy," she said. "The right of New Hampshire citizens to submit warrant articles for a town-wide vote is the sacred cornerstone of our state's centuries-old local governance traditions. This includes the right of town residents to dissolve town boards, and that's exactly what our petitions seek to do."

Voters in Dalton will decide about the future of the planning board and conservation commission on Tuesday, March 14.