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Judge Denies Injunctive Relief Sought For Dalton Petitioned Articles

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Coos County courthouse, Lancaster. (File photo)

After a hearing on Wednesday, a Coos Superior Court judge denied a motion for emergency injunctive relief that sought to stop the proposed elimination of the Dalton Planning Board and conservation commission, which will be proposed at Tuesday's town meeting as petitioned warrant articles.

Attorney Jeremy Eggleton, representing plaintiffs Jon Swan, chair of the Dalton Conservation Commission, and Adam Finkel, alternate member of the Dalton Planning Board, argued that his clients would be directly affected because they would be out of their jobs of serving on the bo

and the petitioners don't actually seek to abolish the two bodies, but reconstitute them with new members, though that isn't stated in the two articles.

Eggleton argued that Dalton voters would be casting votes based on misleading and incomplete information, and the articles, therefore, are unlawful under RSA 39:2, New Hampshire's statute on town meetings, which requires that "The subject matter of all business to be acted on at town meeting shall be distinctly stated in the warrant ..."

But attorney Richard Lehmann, representing respondents and Dalton residents James Dannis, Pam Kathan, Robin Pilotte and Vic St. Cyr, argued that the two articles are legal under the RSA, are part of the democratic and town meeting process, have been discussed and will be discussed on town meeting day, and the respondents have made known in the public sphere their intentions about the planning board and conservation commission.

Judge Peter Bornstein agreed with Lehmann, and after listening to all arguments from the parties, denied the plaintiffs' petition for emergency injunctive relief.

"In my view, the warrant articles comply with the statute, that is they do accurately and distinctly state the subject matter of the meeting," said Bornstein. "To the extent there is a hidden agenda, and having read the more recent pleadings, the agenda's not all that hidden, but to the extent there is a further motive, that is what happens next if and when articles 2 and 14 are affirmatively adopted by a majority of the voters ... Each of the warrant articles themselves simply provides for the abolition of each respective town board and that's it."

What happens in the 12 months following Tuesday if the articles succeed is part of the democratic process, he said.

"It sounds like there's already been a fair amount of public discussion by all parties," said Bornstein. "That the warrant articles violate the statute, I simply don't find that they do ... The plain language complies with the statute. That the intent is not included in the articles in my view does not contravene the statute."

The town of Dalton was named as a respondent because it had to be named to effect the legal relief requested.

Town legal counsel Laura Spector-Morgan said while the Dalton Select Board does not agree with either petitioned article, the board would have been in violation of RSA 39:3-b had it not placed them on the warrant.

During Tuesday's town meeting, the planning board question will go to a ballot vote throughout the day.

The conservation commission question will be a traditional town meeting vote during the evening business portion of the meeting.

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