



# Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## MERRIMACK CONSERVATION COMMISSION

APRIL 20, 2015

### MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, April 20, 2015 at 6:34 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman  
Michael Boisvert  
Cynthia Glenn  
Gage Perry  
Councilor Thomas Mahon

Members of the Commission Absent: Robert Croatti, Alternate  
Lauren Kras, Alternate

Also in Attendance: Mitch Pac, McFarland Johnson  
Eric Mitchell, Surveyor, Eric C. Mitchell & Associates, Inc.

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Chairman Tenhave informed the viewing audience of two open positions on the Commission; one full-time member and one alternate member. Individuals interested can contact Becky Thompson in the Town Manager's Office or the Chairman at [TTenhave@MerrimackNH.Gov](mailto:TTenhave@MerrimackNH.Gov).

PUBLIC COMMENT - None

APPOINTMENTS - None

### STATUTORY/ADVISORY BUSINESS

#### **1. Dredge and Fill Permit for the Beals Road Bridge at the town line with Bedford**

Review for comments to NH DES of a Dredge and Fill Permit for a bridge replacement project on Beals Road in Bedford. Project also has an impact in Merrimack.

Mr. Mitch Pac, McFarland Johnson, provided a PowerPoint presentation (can be viewed [here](#)). The project is located on Beals Road at the Baboosic Brook, which is on the Town line of Bedford and Merrimack. There is a large drain area (23.3 sq. miles/Tier 3 stream) to the bridge. The project proposes replacement of the structure over Baboosic Brook. The State is funding 80% of project cost (Bridge Red List Program). The existing bridge has a 20' wide span and a cast in place concrete deck slab (superstructure) on top of mortar rubble walls. The structure is beginning to fail. The bridge was constructed in 1928 and the superstructure replaced in 1984. There is less than desirable roadway geometry; horizontal and vertical curb don't meet current standards, and the hydraulic opening is smaller than it should be, which is creating flooding upstream of the structure.

The existing bank width is 20' wide. New Hampshire Stream Crossing Guidelines call for a span of 69'. The proposed hydraulic opening is 36' x 36'. Mr. Pac noted the proposed street would be widened to accommodate safer pedestrian travel on the road as well as snow storage.

Chairman Tenhave asked for clarification the existing rubble would be removed and the precast structure would go in on each side (3 sided), and Mr. Pac stated that to be accurate. He added it would be a bridge spanning the existing bridge. As a result, a good deal of the work would be performed outside of the wetlands.

Mr. Pac noted a few alternatives were considered during the study phase. The preferred alternative is a three-sided precast concrete rigid frame (36' span with an 8' vertical opening) with precast headwalls and wingwalls. The advantages to that can be seen in construction cost, maintenance, durability, and the fact the overall opening will decrease the 100-year flood upstream by nearly 4'.

The proposal is to reconstruct the bridge without having to replace the material in the center of the channel. Class B riprap would be put in place along the new abutments of the bridge to protect scour. The riprap will be topped with natural stream bed material. Estimated construction cost is \$740,000.

An alternative considered, which would have met the stream guidelines of the 69' span, would have involved pre-stressed NEXT beams being trucked in and bridge joints, which tend to be more of a maintenance problem than the precast structure. Estimated construction cost of \$1.2 million.

Commissioner Perry questioned the process for gaining approval for a 36' clear span as opposed to the recommended 69'. Mr. Pac stated that to be part of the permitting process. The recommended span is something that is asked for; however, construction costs are taken into consideration. These matters are discussed during pre-application meetings with the New Hampshire Department of Environmental Services (NHDES). Commissioner Perry questioned if the reduced width has already been approved, and was informed it has. Commissioner Perry questioned if the proposed 36' span could be amended. Mr. Pac responded he is unclear why that would change during the permitting process given the matter has been discussed during pre-application meetings.

Councilor Mahon commented on the total amount of State Bridge Aid currently available being significantly less than it has been in the past, and the ability for the State to fund more projects with the lesser cost proposal.

Mr. Pac noted settlement is occurring, the majority of which is on the south abutment and southeast corner.

The bridge construction will result in wetland impacts; permanent channel impact of 1,757 sq. ft. (3,637 sq. ft. temporary impact), permanent bank impacts of 1,297 sq. ft. (2,550 sq. ft. temporary impact).

There are no rare species in the area. A floodplain forest identified upstream will not be impacted. All matting being proposed for slope stabilization is wildlife friendly. Wood Turtles have been identified downstream of the project. New Hampshire Fish & Game recommended the project not include sumps in the bottom of catch basins so that wildlife falling into the basins could get back out. A decision was made not to utilize curbing along the road as another means of accommodating wildlife.

An application for a Protected Shoreland Permit has been submitted. Mr. Pac noted the project would result in no increase in base flood elevation for the regulatory floodway, no change in flood storage capacity, and although a slight increase in impervious area, it is fairly insignificant. Mr. Pac noted the Natural Heritage Bureau has stated no concerns regarding the proposed project.

Anticipated benefits include improved aquatic and wildlife passage (wider opening, no curbing, and protection in catch basins). Due to the opening of the channel, there will be reduced velocities, which create less scour, erosion, and sediment. Overall safety improvements, e.g., horizontal and vertical curves, will provide better site distance for vehicles and wider shoulders will provide for safer pedestrian travel. Permanent impacts are generally within the same footprint although increasing (outside of channel).

Commissioner Perry noted the plan refers to fertilizing the area for reseeding. The Commission recommends soil is tested to identify whether fertilizer is necessary. Given the proposed project is located next to the streambed the recommendation is for the use of no phosphate, slow release nitrogen. Councilor Mahon commented on references to hay or straw, noting the plan should cite only straw.

Chairman Tenhave remarked, further downstream in Baboosic Brook, there are issues of invasive species along the streambed, e.g., Japanese Knotweed. The request would be that, prior to any excavation work, a quick review be conducted of the area to determine whether invasives are present. If present, proper controls should be implemented.

When asked, Mr. Pac stated the proposed start date for the project has not yet been determined. However, it will not occur in the current construction season.

Chairman Tenhave noted he had submitted a letter to NHDES to inform them the Commission would be reviewing the proposed project and requesting additional days be provided for comment. The recommendations of the Commission will be forwarded in writing.

***The Commission recommended no phosphate, slow-release fertilizer be utilized if, after testing, fertilizer is deemed necessary, that reference to hay be removed from the Plan, and prior to any excavation work, the area be reviewed to identify any invasives. If invasive are identified, proper controls should be implemented to avoid disturbance.***

**2. 526 DW LLC. (applicant/owner)**

Review for recommendation to the Planning Board of an application for construction of an 11,520 sq. ft. addition to the existing building and a proposed 30,640 sq. ft. building in the C-2 (General Commercial) District and Elderly, Aquifer Conservation, and Wellhead Protection Overlay Districts. The parcel is located at 526 Daniel Webster Highway. Tax Map 5D-2, Lot 001.

Mr. Eric Mitchell, Eric C. Mitchell & Associates, Inc., stated the proposed project is located in the C-2 zone. The proposal is for the construction of a 30,640 sq. ft. building and an approximate 11,000 sq. ft. addition to an existing building. The additional separate building was intended to be leased by AIRMAX. The variance request before the Zoning Board of Adjustment (ZBA) was to allow for light manufacturing within the zone (not permitted). AIRMAX recently decided against leasing the building. However, building plans will move forward.

The Applicant is now looking at the back building to be used for the same purpose as the building located on the front of the site; motor vehicle storage (primarily RV trailers and boats). The owner now desires, instead of constructing an addition on the existing structure, to increase the size of the additional building (approx. 40,000 sq. ft.).

Mr. Mitchell stated the entire parcel is located within the Aquifer Protection Area and pointed to the plan to delineate the area across the front of the property where the Wellhead Protection Overlay is located. The building would be serviced by municipal water and sewer. The area in the front of the parcel that falls within the Wellhead Protection area would have limited improvements.

Mr. Mitchell spoke of meetings held with Community Development staff followed by meetings with department heads regarding the proposed access area (12' wide) noting the Fire Department has requested water access.

Improvements include re-grading and paving. Within the Wellhead Protection area there would be improvements for access points and utilities. In the back of the lot (Aquifer Conservation Area), is a proposed detention basin, which will collect stormwater and infiltrate. The project would have stormwater entering an infiltration basin at the top of the property. There is a foodplain that comes up to the back of the property. None of the proposed improvements would be within the wetland or flood zone. Because the site is very flat and soils are sandy.

The project will be submitted to the Planning Board in the coming weeks. When asked, Mr. Mitchell stated no maintenance activities would occur onsite. When asked about outflow, he stated there are no catch basins onsite that flow onto the site currently. Drainage from the roof of the proposed building would be brought into the infiltration basin in the back. When asked if there was anything coming out of the basin, Mr. Mitchell stated it would be an emergency riprap spillway. There is no proposal for a piped outlet into the wetland area.

Chairman Tenhave spoke of testing the soil prior to use of fertilizer, and, if necessary, that low phosphate, slow release fertilizer be utilized. Mr. Mitchell stated the project would follow whatever recommendations the Commission makes, e.g., as long as the area is protected and not erodible afterwards, it doesn't matter what the surface treatment is.

Commissioner Perry requested reference to hay bales be removed. Mr. Mitchell commented the Plans do not currently include a notation regarding utilization of Green SnowPro Certified individuals for treatment and/or removal of snow.

Commissioner Perry questioned the area for snow storage. Mr. Mitchell responded, if included, it would likely be in the infiltration basin itself. Some would be plowed along the edges. The areas going around the building, which will be a driveway, will be plowed. Any snow in the back of the building would likely go in the basin, but there are areas along the side of the building. The Applicant has been asked to include a sidewalk within the project.

Commissioner Perry questioned activity during the winter months. Mr. Mitchell remarked the only activity would likely be associated with someone deciding to take a vacation with their motorhome and head south. Commissioner Perry suggested sand could be utilized to provide the necessary traction for travel on the road by Fire personnel and for security purposes.

When asked, Mr. Mitchell remarked he is not sure if dumpster locations have been identified. However, placement would be in the front of the building, if needed. He added such an item would only be for the couple of daytime employees to use. No packing/unpacking takes place onsite.

Chairman Tenhave spoke of typical stormwater management plans including information regarding modeling of the water, etc. Mr. Mitchell stated the language is not yet in the plan as the process of working with staff and going before the ZBA is ongoing. Preliminary modeling has been done for pre and post; however, is not final, which is what will need to be submitted to the Town for the Site Plan. The plan would be to also incorporate an Alteration of Terrain (AoT) permit.

***The Commission recommended low phosphate, slow-release fertilizer, if, after testing, it is deemed fertilizer is necessary, that reference to hay be removed from the Plan, that de-icing compounds be minimized, that applicators be Green SnowPro Certified, and that staff review the model to ensure it is appropriate.***

#### OLD BUSINESS

##### **1. NED Pipeline**

Commission to have a general discussion on the NED project and any immediate actions it may wish to take. Discussion to include what could be next provided to the Federal Regulatory Energy Commission (FERC) and is there anything of note that has been submitted to FERC.

Chairman Tenhave spoke of Commissioner Glenn having volunteered to take on the role of gathering and disseminating information believed pertinent to the Commission as a whole. He noted his receipt of several updates, and stated his appreciation.

Commissioner Glenn informed the Commission she was able to access the Union Leader via the Town's online subscription. She will look to gain online access to the Telegraph as well.

Chairman Tenhave commented the Commission had discussed becoming more proactive and sending information to FERC, and questioned if Commissioners had specific items for consideration. He stated his belief the next step is the conduction of scoping meetings, and remarked he is unsure if they will take place prior to the next data drop by Kinder Morgan (June). He commented on the amount of data provided to date and the number of responses identified as TBD. Councilor Mahon commented that will likely remain unchanged with the next data drop. He noted, Kinder Morgan does not have to provide that information until the final application is made for the permit. He added a lot of the scoping meeting is going to be framed by information FERC has received up to the time of the meeting.

Councilor Mahon spoke of the information that is readily available and could be electronically submitted to FERC, e.g., Master Plan, Definitive Plan, Ecological and Forestry Plan, etc. He suggested the information could be forwarded with an explanation of the current work underway to update the information, which will also be forwarded when complete.

***The Commission stated agreement the information readily available should be submitted. It was understood the information would not be the most recent, up-to-date information the Commission would hope to submit; however, given time constraints, it is believed best to submit what is available noting updates are forthcoming.***

***Chairman Tenhave stated he would submit the information along with a cover letter identifying each piece.***

Commissioner Perry commented on the map data provided by Kinder Morgan, which identified the proposed pipeline being placed in the area where the Merrimack Premium Outlets is located; however, the google maps used predate the construction of the mall. He questioned whether the Commission should be providing

information that accurately depicts potential impacts, etc., which are not highlighted on the information presented to date by Kinder Morgan.

Councilor Mahon noted the intent of Kinder Morgan to gain aerial photography of the entire area. He remarked there will come a time when FERC requires updated information that identifies, as clearly as possible, what is currently on the ground. He remarked there would be no harm in submitting updated maps, etc.

Chairman Tenhave stated FERC is only required to conduct a single scoping meeting in each of the counties impacted. He requested Commissioners give consideration to the key topics to bring up during a scoping meeting. The issue will be discussed at the Commission's next meeting.

Commissioner Glenn questioned whether there were updates on the letter regarding the request to survey Town owned land. Councilor Mahon stated the agreement was sent back to Kinder Morgan with amendments. Kinder Morgan had requested the language be amended to remove the requirement for Town personnel to accompany surveyors. The Council was not acceptable to removing that requirement, and has made that known. Another change proposed by Kinder Morgan was to remove the requirement for the Town to have the opportunity to review draft reports. The Council viewed that as minor change given the reports would be submitted and available for review at some point in time.

Chairman Tenhave stated an interest in understanding when the surveying process would begin. Councilor Mahon responded there is no indication of when that work would begin.

## NEW BUSINESS

### **1. NHACC Upcoming Classes**

Commission to discuss the upcoming schedule of classes proposed by the NHACC and see if it wishes to attend any of these.

Chairman Tenhave spoke of information provided the Commission regarding educational opportunities offered by the New Hampshire Association of Conservation Commissions (NHACC). He questioned the will of the Commission with regard to attending any of the offered workshops. He noted Commissioners Glenn and Perry have both expressed interest in attending the workshop on Mitigating Wetland Losses being held on April 23<sup>rd</sup>.

When asked for an update on the Vernal Pool Party scheduled to occur during the school vacation week, Commissioner Perry stated he has spoken with Emily Lord, Program Manager, NHACC, who informed him she had not seen a lot of interest expressed. Information has been forwarded to the school Biology and Science teachers, etc.

Chairman Tenhave stated interest in the workshop titled Wetland Assessment scheduled for June 26<sup>th</sup> in Concord, and commented on the need for the Commission to be able to do its own assessments.

***The consensus of the Commission was to utilize Commission funds to cover the cost of attendance.***

Chairman Perry stated he would meet with Ms. Lord and work out the details of payment for the Vernal Pool Party event. If necessary, he would pay the fee and look to be reimbursed.

## OTHER BUSINESS

- Beaver Management and Other Water Level Control Activities

Commissioner Perry informed the Commission the comments prepared by the Commission have been turned over to Tracy Tarr, GZA GeoEnvironmental, Inc. (GZA), and are being incorporated into the Beaver Management Study.

Commissioner Perry spoke of time remaining in the contract, and stated there to be options to be considered. Originally the Commission had intended for GZA to monitor the installations conducted on the initial 10 sites. Three sites were monitored last fall. There is not much involved in the monitoring process. However, it was a learning experience for GZA, generated some photographs, and allowed for training of Town personnel on the

devices installed. Although monitoring activities could certainly continue, there is a willingness to utilize remaining contract hours on other activities.

Commissioner Perry spoke of the possibility of generating an informational sheet on beavers, which could be utilized for educational purposes, etc. Another option would be to charge GZA to utilize remaining contract hours on invasive work. Although there are hours remaining, invasive work would likely involve the generation of lists identifying what was seen at certain areas, review the flow of the water to identify possible origination areas, other areas where there may be concern, etc. There would not be sufficient time remaining to re-visit each area to identify all locations of invasives, etc. It was noted some of the information is already included in the Study, and the Commission could generate its own list based on that information.

Chairman Tenhave stated a preference for educational materials on the beaver and control devices.

- GIS Update

Commissioner Boisvert stated the group charged with this project has discussed meeting on a monthly basis for the immediate future. The next meeting is intended to drill down to more specifics on each of the department's needs. Commissioner Perry commented the Commission was not initially part of the group, and he is pleased with the Commission's participation. Commissioner Boisvert remarked participation was welcomed.

Chairman Tenhave questioned if the need remains for GZA to provide support for the website or if the Commission would address that moving forward. Commissioner Boisvert responded he will be able to attend the meetings; however, for him it is a learning process, and he would not necessarily be able to provide input from a technical standpoint. Commissioner Perry commented he got the impression from GZA it will be important to determine who will input data, e.g., who does it for what department.

The study will include an assessment sheet. GZA will ensure it is in line with the questions the Commission would look to have in its section of the database. The training and access for the individual who will input the information will be important. There remain uncertainties with regard to how the program would be licensed, e.g., number of users permitted, etc. Commissioner Boisvert stated a willingness to continue to participate in the meetings, and keep the Commission apprised of when a more active role is necessitated.

Chairman Tenhave informed the Commission he was notified by Wastewater of concern with one of the areas the Commission has identified. Commissioner Perry will follow-up to provide input from decisions reached when the Commission met with Adam Jacobs, Operations Manager, Public Works Department. He commented on the desire for Town staff to adopt the measures the Commission has begun to utilize.

Commissioner Boisvert commented at the next meeting regarding the website, the expectation is that departmental needs will be identified. He requested the Commission give consideration to the types of layers desired, etc. Chairman Tenhave spoke of having the trail systems put on the website, which could be followed by scout projects, etc. being identified, etc.

Chairman Tenhave questioned if the maintenance agreement with the individual who installed the devices has been completed. Commissioner Perry responded that was supposed to be completed; however, he has not received confirmation. Commissioner Perry offered to follow up and inform the Commission of the status.

- Vernal Pool Party Update

Scheduled for Saturday, April 25<sup>th</sup> at the Merrimack Middle School.

- Dog Feces at our Properties

Chairman Tenhave commented on the excessive amount of dog feces seen along the trails in all three of the major parcels. He informed the viewing audience it is in violation of Town Code for dog owners not to pick up after their animal(s). Councilor Mahon questioned, and was informed there are postings at the kiosks. Chairman Tenhave requested the users of all Town property follow the law in this regard.

The law requires feces be picked up. Vice Chairman Caron spoke of witnessing users of the trails sending their dogs down trails that are closed and then retrieving them after they utilized the area.

- Update on Environmental Impact Study for HHNP and Gilmore Hill Memorial Forest

Chairman Tenhave stated Mr. Littleton is moving forward with his work, and has engaged a number of individuals to assist him in his efforts. A change order has been processed, which stayed within the bounds the Commission approved. Mr. Littleton will hire another intern to help assist him with the general work along with the turtle study.

The invoice for the purchase of radio transmitters was received. The total cost exceeded the approved \$798 by \$30. Chairman Tenhave submitted the invoice, and payment is being processed. Some work has been completed.

Users of the trails in the HHNP have forwarded information to members of the Sub-Committee regarding sightings of various critters. The information has been forwarded to Mr. Littleton who has confirmed a few of them. There have been certain turtle and snake species found that are of interest. There was a question that came up over whether bats could or do exist in the area. In order to determine that, a bat study would have to be conducted.

Chairman Tenhave spoke of the annual seedling giveaway. Commissioner Perry stated the event is on target for May 9<sup>th</sup>. He has reached out to Mr. Currier to question the cost of advertising in local newspaper.

Chairman Tenhave informed the Commission he received a note from Peter Flood, Rotary Club, regarding the kiosk located near the pavilion in Watson Park. The next meeting agenda will include discussion around content for the kiosk. He requested Commissioners visit Watson Park to see the kiosk.

The Amherst Conservation Commission is holding a discussion about Garlic mustard on May 2<sup>nd</sup>. There will be a discussion of the Cottontail Rabbit at the Musquash Conservation Area in Londonderry. Ms. Glenn remarked participants will visit the area where a habitat has been created.

Chairman Tenhave noted receipt of a communication concerning the cut on Atherton Road. It appears to be a selective cut. Councilor Mahon stated the original report stated the landing was over 400' long when in fact it is 100' x 30'. He commented the reason he had suggested hiring the Forester to view the site was because of the proximity to other homes, and to identify areas that could be thinned. Almost all of the lumber has been taken offsite. It is his understanding the landing will be graded and seeded. Chairman Tenhave spoke of having seen areas where additional branch clean-up, etc. is needed. Councilor Mahon remarked, based on what he witnessed they have done a fair amount of clean-up. Having not seen the contract he is unaware of the full scope of work. Chairman Tenhave remarked he noticed a few large trees that were taken from an area he would have believed to be within the no disturb buffer around the wet area. However, there were no clear markings to identify the line. He would have preferred those that were close to have remained.

He suggested an educational aspect be added to future projects to better identify the Commission's perception/definition of a selective cut.

#### PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. . . . . March 16, 2015

*The following amendments were offered:*

Page 1, Line 51; replace "Harcross" with "Harcros"  
Page 7, Line 31; replace "pressure" with "compressor"  
Page 3, Line 43; replace "contacts" with "contracts"  
Page 3, Line 49; replace "contact" with "contract"  
Page 3, Line 46; replace "Managed" with "Manager"

**MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED**  
**MOTION SECONDED BY COMMISSIONER PERRY**  
**MOTION CARRIED**  
**6-0-0**

Merrimack Conservation Commission. . . . . April 6, 2015

*The following amendments were offered:*

In each instance it appears; replace "Sanford" with "Sandford"  
Page 5, Line 38; replace "Council" with "Selectboard"

**MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED**  
**MOTION SECONDED BY COMMISSIONER PERRY**  
**MOTION CARRIED**

**4-0-1**

*Commissioner Caron Abstained*

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Glenn stated she spoke with a representative of the UNH Cooperative Extension regarding the possibility of New England Cottontail in the HHNP. She was informed the belief is there are not; however, if the Commission is interested in creating a suitable habitat, information could be provided on who to contact. She stated her opinion the Commission should not move in such a direction until first understanding potential impacts of the proposed NED Pipeline. The representative was unaware of the Cottontail reserve located off of Back River Road.

Vice Chairman Caron reminded the viewing audience of a meeting of the Grater Woods Sub-Committee scheduled for the following evening at 6:30 p.m. As part of that meeting, the Sub-Committee would finalize the Grater Woods brochure. Commissioner Tenhave stated an agenda item would be added to the next agenda for the Commission to discuss moving forward with the increased police presence on the trails.

Councilor Mahon informed the Commission Mr. Jacobs has resigned from his position with the Town, and has accepted a position with the Town of Goffstown as the Director of their Public Works Department. The Commission wished Mr. Jacobs well in his future endeavors.

Councilor Mahon noted the Town Council would be reorganizing at its April 23<sup>rd</sup> meeting, and noted his uncertainty with whether or not he would continue on as the Council Liaison to the Commission.

ADJOURNMENT

**MOTION BY COMMISSIONER GLENN TO ADJOURN  
MOTION SECONDED BY COUNCILOR MAHON  
MOTION CARRIED  
6-0-0**

*The April 20, 2015 meeting of the Merrimack Conservation Commission was adjourned at 8:30 p.m.*

Submitted by Dawn MacMillan