



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION JANUARY 3, 2022 MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, January 3, 2022, at 6:30 p.m. in the Merrimack Memorial Conference Room.

Steven Perkins, Chair, presided:

Members of the Commission Present:

Michael Boisvert, Vice Chair
Gina Rosati, Secretary
Cynthia Glenn
Gage Perry
Eric Starr
Michael Drouin, Alternate Member
Ellen Kolb, Alternate Member
David Trippett, Alternate Member
Councilor Andy Hunter

Members of the Commission Absent:

None

Also Participating:

Jeff Hoyer, 7 Tomahawk Drive, Merrimack

Jayson Brennen, 23 Aldrich Street Litchfield. Litchfield Conservation Commission

Jeff Kevan, Civil Project Supervisor, Principal, TFMoran, representing Kerner's Car Care

Jason Conquest, 41 Peter Road, Merrimack

PUBLIC COMMENT

Jeff Hoyer spoke about the need for a 10 year plan for Sklar Waterfront Park, storage, and sub-contracting work. Mr. Hoyer believes a documented plan should be put forward before implementing any changes to Sklar. Mr. Hoyer shared additional concerns regarding the responsibility and cost constructing a storage shed would incur. He felt it would be best to have document who would be responsible for tool maintenance, shed inventory, and shed

access. Mr. Hoye continued on to state that if significant projects arise involving forestry, ecology, or beaver management he believes the Conservation Commission should consider subcontracting the work out.

Jayson Brennen from Litchfield Conservation Commission spoke of the possibility of collaborating on projects spanning across both municipalities (Litchfield and Merrimack). He believed it may be helpful for both Towns' Conservation Commissions to learn about each other's properties, citing how the Towns share a significant border and both have lots of Conservation land along the Merrimack River.

Commissioner Drouin went on to state that he received two questions from the public. One was from Merrimack resident Steve Larson regarding when repairs to the North Loop Bridge at Wildcat Falls would take place. Commissioner Rosati stated this would be discussed at the Wildcat Falls Subcommittee meeting on January 11. The second question received was when the Mountain View map at the Outlook of Grater Woods would be redone.

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS –

Kerner's Car Care (applicant) and DKERN II, LLC (Owner) for review for acceptance and consideration of approval for a site plan for a change of use from a limited automotive service (oil changes and car wash) facility to a full automobile service and repair facility in addition to the existing car wash use. The parcel is located at 386 DW Highway in the C-2 (General Commercial), Elderly Housing Overlay & Aquifer Conservation Districts. Tax Map 4D-3, Lot 28.

This project was presented by Jeff Kevan, Civil Project Supervisor, Principal, TFMoran. The building at 386 Daniel Webster Highway has been there over 30 years. There were previously two express lube bays and four car wash bays. Kerner's would like to change the use to keep the lube bays, but convert the car wash to car repair bays.

The floor drains have been plugged and filled to comply with Merrimack Fire standards. The only changes on site will be the restriping of parking spaces, identification of the circulation pattern around the property, and the landscaping. There are currently some catch basins on the property that flow to Daniel Webster Highway, this would not change. Chair Perkins referenced the Stormwater Report provided noting that when comparing the pre and post runoffs numbers, they were identical.

Vice-Chair Boisvert questioned snow storage and removal plans. Mr. Kevan stated that there is a bit of room for snow storage in the front of the building and around the perimeter. However, anything of excess would need to be hauled off site.

Recommendations made by the MCC are as follows:

1. Green Snow-Pro certified contractors for snow removal/ice treatment.
2. Only non-invasive plants may be planted.
3. If necessary, straw will be used, not hay.

NEW BUSINESS

Request from resident Jason Conquest to hunt on open land behind Riverside Park Subdivision. Parcel is 4B 035 on Riverside Drive.

Mr. Conquest has walked the property and noted that it is Conservation land. He had trouble finding information regarding whether or not hunting was permitted on the land. He hunts with a bow, so there is not noise and wondered if a change could be allowed for bow only hunting. The land appears to not have had any activity, and it would be nice to open the land up a bit.

Chair Perkins stated Chapter 111 governs the use of this property. The Conservation Commission is several years into revising some of the rules. Previously there were properties labeled as completely passive properties. The intent was to prohibit the discharge of firearms and target shooting. The Conservation Commission decided to clarify the restriction to prohibit target practice and the discharge of a firearm, or any weapon, in the act of target practice. It was not meant to prevent lawful hunting and lawful use of firearms or bow use during hunting season provided that fish and game laws were being followed. There are some properties in town where there is no hunting due to deed restrictions or because of things like their proximity to schools.

Mr. Conquest clarified that the only reason he was interested in this particular land was because it seemed very quiet and secluded. One side of the property is bordered by a river and the other side drops approximately 100 ft. from the road to the floodplain.

The Conservation Commission has agreed on how they want Chapter 111 to look in the future. They presented a revised version to the Town Council last May. They got a buy-in from the Council and are waiting to hear back from the Town Attorney. After the Attorney reviews the plan, it will go back to the Town Council for approval. The Conservation Commission is hopeful that the plan will be approved the way it's been presented.

Commissioner Glenn questioned how long the Riverside property has been in Chapter 111 since it's surrounded by a residential neighborhood and stated there are many acres of other open land in Town. Mr. Conquest noted this but stated that there has been a lot of people/activity on other open properties recently.

Commissioner Perry believes this land is already under Chapter 111. He doesn't think we can approve or disapprove any activity on the land. The Conservation Commission can make a recommendation to Town Council, but he doesn't think we can change the fact that the property currently prohibits firearms, bow and arrow hunting, and use of other weapons. He

continues to state that Mr. Conquest would need to go before Town Council to change Chapter 111 in this case.

Brief discussion followed regarding whether or not this property will still be under Chapter 111 after the proposed revisions. Commissioner Glenn stated that it will still be under Chapter 111 under the proposed revised chapter 111.

Mr. Conquest stated that one of the other properties he looked at was Fields Farms. He noticed there was lots of work being done at Field Farms such as the creation of bicycle trails. The Conservation Commission noted they would look into this as there is not any official work being done at Field Farms that they were aware of.

Mr. Conquest stated based on the conversation, he is not interested in pursuing permission from the Town Council to hunt on this property.

Request by Holly Hoag to place trail cameras at Wildcat Falls Conservation Area had no opposition, with the following conditions:

1. MCC and the Town of Merrimack are not responsible for lost, stolen or broken equipment.
2. Some of the Commissioners have mentioned laws in the state of NH against recording audio in public places, so make sure you aren't recording sound on your trail camera.
3. Be careful not to point camera towards someone's yard.

Chair Perkins questioned if anything needed to be posted at the kiosk to let residents using the property know they are being videoed. The group agreed that to their knowledge, there is not a reason to post a notice.

1. **OLD BUSINESS**

- Sklar Picnic table and/or boat ramp updates

Sklar Chair Drouin spoke of the Sklar subcommittee's decision to hold off on benches. He spoke of Sklar sub-committee member Martinson expressing interest in possibly creating benches. The subcommittee already voted to purchase 5 picnic tables. The last quote Sklar Chair Drouin got was approximately \$270.00 for 8 ft. picnic tables.

Vice-Chair Boisvert supports the purchase of tables, but suggested the Conservation Commission hold a meeting with the Sklar subcommittee members before purchasing them. This way everyone will be on the same page and can make sure there is a reasonable plan in place.

Chair Perkins spoke to the Hillsborough County Fish and Game Commissioner Ray Green regarding scheduling a meeting in March at Sklar to get Fish & Game feedback on the boat ramp. Ray Green put Chair Perkins in touch with the Executive Director of Fish & Game as there is a statewide public boat access program. Tuesday March 29, 2022 at 10am is a prospective date for the meeting with a few alternate dates to be set for April 2022. They hope to be able to see the terrain without mud or ice.

Chair Perkins mentioned it would be a good idea to leverage available funds in a smart way by pairing projects with grants or by Conservation Commission buying supplies and partnering with other organizations who can provide volunteers to assist with work.

Commissioner Perry questioned if a secondary location for a proposed boat ramp was decided. He thought it was proposed for an area near the waste water treatment plant. He continued on to note that the Town may support the project if the Conservation Commission can find a new location, or use the treatment plant site for the boat ramp as the town is interested in completing this project as well.

Vice-Chair Boisvert spoke with Fish & Game previously. They were not interested in that site for a boat ramp since there was not access for big boats at that site and the water is very shallow.

Commissioner Drouin agreed funds should be leveraged in regards to the purchase of a boat ramp. He continued to state the picnic tables are backed up and he doesn't expect them to be available before April 2022. He would like their purchase to be considered fairly soon so the tables can be used over the Summer. Commissioner Rosati's concern was that lots of trash would be generated from leaving picnic tables. It may be best to start slow by purchasing one or two tables.

Councilor Hunter stated perhaps before asking for money for Sklar, it would be prudent to come up with a plan for the property. It is a great property, but a list of priorities would be very helpful so that money is not spent frivolously on things that don't support a long range plan.

Commissioner Drouin commented that Sklar subcommittee would like a more professionally done plan, but they don't have the ability to create one. Commissioner Perry stated other subcommittees have created their own plans, professional made plans are usually not necessary in these instances. It can however be very cost effective and save time to have a plan for any projects that need to be completed by subcontractors in the future.

- MCC Storage update

Chair Perkins shared that Town Manager Paul Micali and Community Development Director Tim Thompson were able to assist in finding some space for tool storage at Town Hall. Members needing to access tools for weekend work would need to access them on Friday since the Town Hall is

not open on weekends. This is temporary tool storage, but allows the Conservation Commission to gauge how much they have to store and how frequently tools are used.

Commissioner Drouin questioned if gasoline needs to be emptied out of any power tools before they are stored in the building.

Commissioner Perry commented the Conservation Commission doesn't own any power tools and Commissioner Rosati added that this space is just for storage of tools the Conservation Commissions owns. Councilor Hunter spoke to the Town Manager and based on feedback from the insurance company, there should not be any volunteers using chainsaws on Conservation or Town property.

If something needs to be taken down with a chainsaw the Department of Public Works is to be contacted, or the work needs to be subcontracted out. This rule is for all members of the Conservation Commission as well as all subcommittee members. This was in response to some safety issues being spoken about at the last meeting. Councilor Hunter will find out who to contact at the Department of Public Works in regards to any work requests.

The Town Manager, Paul Micali, also suggested there should be a volunteer form that Conservation Commission members fill out when they are out doing work. The form would state that the Town is not responsible for any damage to personal equipment used.

The Town doesn't want to be liable for reimbursing individuals for their personal expenses if members are working with their personal tools. Commissioner Perry suggested creating an online form to keep track of how much work the Conservation Commission is requesting from the Department of Public Works.

- Warrant article update

Commissioner Drouin stated the Conservation Commission is losing \$35,000 a month. Commissioner Rosati clarified that they are not losing money, it just goes back to the General Fund for the Town because it is money they did not need to spend. Commissioner Drouin believes that the money is being lost by the Conservation Commission and it could be used for projects. He spoke of the money coming from developers making monthly payments on land they've put into current use. Chair Perkins noted there is a misconception about how those funds are paid. They are paid only when the property is taken out of general use and put into current use.

Councilor Hunter added that the developer pays 10% of the assessed value at the time the land is taken out of current use. It isn't a monthly payment. The way it's currently

set up, 50% goes to the Conservation Commission and 50% goes back to the tax funds to pay down the property tax rate.

The Conservation Commission is at the cap of 1 million currently. If anyone takes the land out of current use, 100% of it goes to pay the property tax rate for the residents of Merrimack. None gets wasted or lost, it goes right back to the taxpayers.

Commissioner Drouin questioned how they could get rid of this 1 million cap and whether that decision would go through the Town Council or through a warrant article. Councilor Hunter responded it would have to be through a warrant article, which is how the cap was originally put in place.

Commissioner Drouin stated the cap should be removed as they will eventually run out of money and there is not a lot of land in current use anymore. This would allow some money to accumulate. Councilor Hunter questioned why the cap would need to be raised. There is not currently any reason or plan that the money could be used for. There is currently no good justification for just wanting the money instead of having it go back to the taxpayers.

Councilor Hunter doesn't know where the \$35,000 figure came from. The 50% not going to the Conservation Commission comes out to \$150,000 for the entire year which would amount to less than \$15,000 a month.

Mr. Hoyer commented it would benefit everyone to hear from the trustees to better understand the nature of the fund and how it develops. It would be good to understand what the accrual rate is. The money may never run out if it is managed correctly.

OTHER BUSINESS

- Subcommittee Updates
 - **Horse Hill Nature Preserve** – Next meeting February 22, 2022, 7:00pm. A few members of the subcommittee are meeting with UNH extension regarding invasive species cutting. They will report back with any new information.
 - **Wildcat Falls Conservation Area** – Next meeting January 11, 2022, 6:30pm Memorial Room.
 - **Grater Woods** – Next meeting February 9, 2022, 6:30pm.

Commissioner Perry spoke of a few trails that need to be addressed. The new road by the middle school has taken out part of the Ridge Trail. Parts of the trail have become a detention pond. The subcommittee is working on drying the property up by cleaning up the stream areas that have overflowed.

Commissioner Perry noted that the subcommittee started working on a document for residents of Caster Drive to sign a while back. The document outlines that there is a trail on their property, but states that property owners will not interfere with the trail. This allows some protection from NH open space rules. The subcommittee did not want to put the trail on a map until the document was signed by homeowners.

- **Sklar** – Next meeting January 27, 2022, 6:30pm. They will be working on a plan/map of the property using the Grater Woods plan template. Sklar will also be meeting February 13, 2022.

Commissioner Drouin shared that a car recently got stuck on the boat ramp at Sklar and thinks it would be a good idea to eventually put a gate to close the ramp for winter. Commissioner Glenn questioned if the boat ramp will be closed temporarily.

Issues with off roaders have persisted. The subcommittee would like to put a rock wall to resolve the issue. Commissioner Perry said the Department of Public Works is willing to help with moving/giving the subcommittee rocks to create a wall from around town if they are not being used for other purposes.

Commissioner Drouin also suggested property walks of all subcommittees so members could be familiar with all of the different properties.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. [December 6, 2021](#)
Councilor Hunter was Absent

The following amendments were offered:

Page 3, Line 119 should read “... put in a gutter along the side of the building that faces the parking lot ...”

Page 6, Line 267: replace “instating” with “about”

MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY CHAIR PERKINS
MOTION CARRIED 6-0-1

Councilor Hunter Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Rosati questioned if there will be a moonlight walk at Sklar. Commissioner Drouin did not have any firm plans for a walk. Commissioner Rosati stated if he does decide to schedule one, he should make sure to have another Commissioner present.

Vice-Chair Boisvert brought up the Fields Farm property. On Social Media he saw information about great bike trails on the property. The Commission doesn't know anything about this, but word is getting out.

Commissioner Perry noted that the Conservation Commission has held off on creating a Field Farms subcommittee until that last parcel was given to the Commission as part of the deed. He couldn't recall if the land had been handed over yet. Members of the Conservation Commission plan to walk the property in small groups or individually and report back at the next meeting.

Commissioner Drouin suggested looking at the islands that the town of Merrimack owns. Perhaps looking at the area and seeing what's going on over there would be a good idea.

Commissioner Starr commented that he turned in the LCIP submittal since the last meeting.

ADJOURNMENT

MOTION BY COMMISSIONER ROSATI TO ADJOURN

MOTION SECONDED BY COMMISSIONER PERRY

MOTION CARRIED

7-0-0

The January 3 2022, meeting of the Merrimack Conservation Commission was adjourned at about 8:15 p.m.

Submitted by Stefanie Brinn