



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION

JUNE 15, 2015

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, June 15, 2015 at 6:33 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Michael Boisvert
Cynthia Glenn
Gage Perry
Kristi Bradshaw, Alternate

Members of the Commission Absent: Matt Caron, Vice Chairman
Councilor Jody Vaillancourt
Robert Croatti, Alternate

Also in Attendance: Jay Francis, 4 Klara Drive

Vice Chairman Caron and Councilor Vaillancourt were excused.

Chairman Tenhave informed the Commission that Robert Croatti has decided not to seek reappointment to his position as an Alternate member.

The Commission will meet once during the month of July. The meeting is scheduled for July 20, 2015. At the Commission's next meeting, appointments to sub-committees will be considered. Anyone interested in serving in that capacity should make that desire known in writing. There are also openings available on the Commission.

PUBLIC COMMENT

Mr. Jay Francis commented on recent discussion by the Commission of flags seen in the Horse Hill Nature Preserve (HHNP). He stated he found 3 flags sitting at Sign Post 11 (Loop Trail). He looked in part of the area Vice Chairman Caron had suggested; however, did not locate any other signs. It appears as if someone may have either collected some and placed them in one area, or they may have been the only ones present.

With regard to beaver activity, he stated he has not seen any in his neighborhood. However, he has seen beaver building up over the B&M Railroad Trail between Lawrence Road and Bedford Road.

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

OLD BUSINESS

1. NED Pipeline

Commission to have a general discussion on the NED project and any immediate actions it may wish to take. Particular items to be covered include initial thoughts on questions to be raised during scoping meeting(s) with FERC.

Chairman Tenhave questioned the will of the Commission with regard to how to proceed in the gathering of questions to be presented at scoping meetings. He suggested the Commission could break questions down into categories and assign individual Commissioners to address particular categories. Another possibility would be to appoint a single Commissioner to compile and present the information.

Commissioner Perry stated a preference for a single Commissioner to be charged with spearheading the effort. However, noted he is currently unavailable to take on such a task. Commissioner Bradshaw stated a willingness to be the point person with regard to gathering and organizing the information; however, would prefer another be charged with presenting the questions at scoping meeting(s). Commissioner Boisvert was pleased with the idea of a single individual pulling the information together, and stated a willingness to assist in the overall effort.

How questions will be posed is not yet understood. It may be that a single representative of the Town would bring all questions forward. Chairman Tenhave spoke of having done some research, and his belief the meeting would begin with an explanation of the project itself and perhaps a statement regarding the purpose of the meeting and the type of input requested.

Chairman Tenhave noted the following statement found on the FERC [website](#) under Frequently Asked Questions:

"Scoping meetings, which are sponsored by FERC, are utilized by staff to identify relevant issues of major Certificate projects, pursuant to NEPA. Scoping is the process of defining and refining the scope of an environmental impact statement (EIS) or environmental assessment (EA) and the alternatives to be investigated. The scoping process is one of the opportunities for public involvement. Affected property owners and other stakeholders can provide detailed comments about issues pertaining to their properties. For example, stakeholders can provide information on sensitive environmental features in the project area; suggest alternatives to be evaluated; or help identify construction constraints."

It goes on to state scoping meetings are typically held during the pre-filing process, scoping meetings are open to the general public and are structured for people to make statements to the FERC staff about the project. FERC staff describes the environmental review process with members of the public, provides relevant information, and answers procedural questions. It also states "One of the main purposes of a formal scoping meeting is so the members of the public get an opportunity to speak their concerns."

"Scoping meeting transcripts are accessible and placed in the record through the Commission's eLibrary system, in the docket number assigned to the proceeding."

Commissioner Boisvert suggested the results of the Commission's Environmental Impact Study would likely identify a number of questions that require addressing.

Chairman Tenhave suggested the following topics:

Wetland Mitigation; if the project would result in wetland impacts there would be the need for mitigation. Perhaps the question could be asked of whose rules for mitigation would be followed. We should be prepared to identify the process preferred by the Commission. He suggested the Commission give consideration to the type of wetland process that would be desired, e.g., NHDES process following Wetland Rules 900-925, etc. Chairman Tenhave stated concern Kinder Morgan may want to utilize a process they have used in another location and could make the argument it meets the spirit of the request.

Commissioner Boisvert questioned how the Commission would address the potential for impact to rare species habitat; specifically if mitigation could be in the form of restoring another area for the habitat. Chairman Tenhave agreed a request could be made to either avoid the area or establish another.

Fire Protection; what would the Commission like to have in place to help minimize the impact of a forest fire, etc.

PIG Stations; the Commission may wish to comment on the location of the PIG stations, relief valves, etc. Commissioner Bradshaw stated her understanding Kinder Morgan will identify those types of structures in its next filing.

Chemical Management; the Commission may wish to address how a spill would be managed during the construction process.

Blasting; the Commission may wish to specify that the Town's regulations be adhered to within the Town's borders.

Wildlife/Habitat; it is likely there will be a host of issues highlighted as a result of the Environmental Impact Study.

Horizontal Drilling; the Commission may wish to touch on this subject, and perhaps specify a process for a particular area of conservation land, e.g., getting under Long Pond.

Chairman Tenhave suggested, as the driver of the effort, Commissioner Bradshaw may wish to look to have other Commissioners research particular areas, etc. Commissioner Bradshaw stated a desire to perform some of her own research on scoping meetings, gather the ideas expressed and perhaps identify additional areas of concern/questions before looking to the rest of the Commission for assistance.

Chairman Tenhave stressed the importance of adhering to the Right-to-Know Law with regard to email communication, e.g., neither the Commission nor a quorum of the Commission should engage in an email exchange that results in discussion of Commission related matters outside of a publicly noticed meeting. He spoke of the Commission's desire to be as transparent as possible in all of its business.

Chairman Tenhave suggested Commissioner Glenn could share information that came about during recent Regional Open Space Team (ROST) meetings. He remarked additional information will be provided, through the Environmental Impact Study, on vernal pools. Apparently there are in excess of 40 at the HHNP. If certain invasive plants are identified within the pathway being proposed, the Commission may wish to specify how that is addressed.

Commissioner Boisvert commented on information provided with regard to Best Management Practices (BMPs), and suggested the Commission may wish to request Kinder Morgan follow established BMPs. Commissioner Glenn remarked, during a ROST meeting, it was suggested Kinder Morgan be asked to utilize the New Hampshire Method of Wetlands Assessment.

Chairman Tenhave commented on the proposed pipeline route going through the Old King's Highway, and suggested the Commission may wish to specify the manner in which digging occurs in that area. That highway dates back to the 1600s.

Commissioner Perry suggested the following areas be addressed:

Emergency procedures; what mechanisms would be put in place with regard to notification, evacuation, practice drills, etc. The exact path is not yet known; there is the potential for residents to be stuck on a dead-end street. How would those individuals be evacuated?

Commissioner Bradshaw commented the Town of Amherst has requested the project avoid all cul-de-sac neighborhoods where there is only one means of egress.

Herbicides; there is controversy over the type of herbicides Kinder Morgan utilizes to keep pathways clear. If the route were to be over some of our water table and ponds, there is a reasonable need to understand what would be used for herbicides, and some authority to prohibit certain types.

Mowing; the Commission may want to dictate, if mowing takes place, it only be done during the winter months when the ground is frozen, which would avoid amphibians and other small critters from being out on the ground when that activity takes place.

Commissioner Glenn questioned if the material traveling through the pipe would be identified, e.g., scenting agents, etc. She commented she has read somewhere if the mix is a trade secret, that information could be withheld.

Monitoring; how would monitoring occur with regard to leaks, security, etc.

Open Wet Trench; Commissioner Perry stated a desire to understand alternatives to open wet trench; particularly with regard to Long Pond. He is not comfortable with the idea of simply burying the pipe just below the water line. Given the intent to cross a lot of water tables, he would like to understand if baseline testing would be conducted

prior to any construction activities, who would be responsible for (work and cost) and how long monitoring would occur. He commented there is a great deal of surface water that ultimately ends up in the ground water.

Compressor Stations; who would monitor access to compressor stations. There are areas within the HHNP where vehicular traffic is prohibited. Is there an expectation access would be granted for maintenance vehicles? If so, who would be responsible for monitoring as vehicles travel through wetlands, etc.?

Commissioner Bradshaw questioned if a response has been received relative to the Survey Access Agreement between the Town and Kinder Morgan. Chairman Tenhave stated his belief an agreement has not yet been reached.

Commissioner Bradshaw noted surveys have been done on some corporate properties in Town. Commissioner Boisvert questioned what occurs in an instance where a private landowner denies access. Chairman Tenhave stated his belief in lieu of a ground survey, they would utilize aerial photography, GIS mapping, and other available documentation.

2. Beaver Management Policy

Commission to have a general discussion on the next steps to take for creating a new/updated Beaver Management Policy for the Town. Commission to consider the recent work of our contractor as part of this discussion. This is a planning discussion. Current policy can be viewed [here](#).

Chairman Tenhave spoke of the report completed by the consultant, GZA GeoEnvironmental, Inc. (GZA), which includes a matrix to be followed when addressing problem areas. He stated the desire to utilize the data to prepare a draft policy to bring before the Town Council. Commissioner Perry suggested the information provided in the report should be in more of a concise flowchart format for use by Town departments. It was suggested draft language could be proposed for a policy, which would reference a procedure.

Commissioner Perry spoke of ongoing mitigation efforts be conducted by Town departments. He provided the following examples; Hansen Drive where culverts continue to be cleaned on a regular basis although located on private property and the wetland in the center of the pond beside Bishop Field, which is plugged on a regular basis, and is being cleaned by the Public Works Department. As a result of the cleaning, a flush of water is sent down behind Madison and all the way out into Mitchell Woods, which is a location where the Commission has placed a leveler device.

Chairman Tenhave stated the intent behind amending the current policy was to ensure all Town entities were following an established procedure. To date, the areas the Commission has addressed through installation of the recommended devices have had positive outcomes, which include alleviating the need for Town personnel to regularly expend man hours on tasks such as cleaning culverts. Commissioner Perry will work towards compiling the data into a format that is more suitable for presentation. Chairman Tenhave stated a desire to bring a proposed language before the Town Council in the October timeframe.

Commissioner Perry questioned the will of the Commission with regard to addressing the other areas identified for beaver management. Chairman Tenhave stated the Commission reached the decision to move forward on the identified projects, and suggested the item be placed on the July agenda so that a vote could be taken on a dollar amount or a "not to exceed" amount.

Commissioner Perry spoke of having discussed the area of Lyons Road with Matt Shevenell, Business Administrator, School District. Mr. Shevenell indicated he was not aware the water level/beaver activity was as large of an issue, and the amount of time being expended on it. He has expressed a desire for the area to be reviewed. Commissioner Perry suggested the contractor could be asked to provide an assessment on the area.

NEW BUSINESS

1. Next Properties to More Formally Manage

Commission to have a general discussion on how or if it wants to move forward with creating management plans for Wasserman Conservation Area and Fields Farm.

Chairman Tenhave spoke of previous discussions around what should be included in a Property Management Plan. An agreement was reached that plans would have a forest component. He questioned the will of the

Commission with regard to charging the Forester to collect data for 1 or 2 of the properties, and work on summarizing it during the off season.

Commissioner Perry commented, if charging the Forester to complete the work, he would like to see some of the larger properties addressed first. By default, the work being done on Gilmore Hill will likely result in a management plan. He suggested Fields Farm be one of the areas considered. Commissioner Glenn questioned what would be involved in managing the property, e.g., establishment of a sub-committee. Chairman Tenhave stated that as an option for consideration. Commissioner Perry remarked with some of the properties the management technique will be decreed by deed, e.g., if deed restrictions prohibit activity beyond walking trails, that would result in active management being limited.

Commissioner Boisvert questioned if there is a forestry plan in place for Gilmore Hill. Chairman Tenhave stated there to be a small plan (approx. 3 pages in length) that was created some 20 years ago.

Chairman Tenhave suggested consideration be given to the Wasserman Conservation Area, which is an 80-acre parcel adjacent to a recent purchase of a 20± acre parcel. Each parcel has a different set of rules, e.g., the 80-acre parcel has very strict deed restrictions as LCIP monies were involved in its purchase. As the two parcels touch they should be viewed as a single parcel. Chairman Tenhave commented he had previously believed forestry should be done in that area particularly given the amount of blow down that resulted from storms over the past few years. Having hiked the area recently, he is now of the opinion a cleanup is more appropriate. Commissioner Perry stated it is a space that is being actively used.

Chairman Tenhave spoke of benefits of understanding what is present on the properties, e.g., it could be that routing of trails should be altered based on what might be identified on the property. The recently purchased parcel has not been forested in some time. There may be opportunities there for a forestry project, which could generate revenue to help better manage the property. Commissioner Perry spoke of Burning Bush located on the Wasserman Conservation Area.

Commissioner Boisvert stated agreement with requesting a professional assessment by the Forester. Chairman Tenhave agreed it would be beneficial to have the different tree stands (groups of trees having the same characteristic) identified, etc.

Commissioner Perry suggested the Management Plan for Grater Woods could be used as a template. Chairman Tenhave noted, as part of that plan, Bay State Forestry mapped out the different tree stands and described any concerns as well as the monetary value. He suggested that same type of model study be conducted. The Commission could choose to incorporate the information into its own management plan.

Chairman Tenhave spoke of the sale of the Tomasian property, development going on, and a discussion around a portion of the common land associated with that development becoming part of the Town whether by easement or donation. He stated a desire to see that process come to completion before addressing Fields Farm.

Chairman Tenhave spoke of the Riverside property, which is a piece of common land behind Riverside Drive and Davidson Ave. The parcel is approx. 10 acres, abuts the Souhegan River and comes into the neighborhood in two areas (50' right-of-ways).

The consensus of the Commission was to seek a quote from the Forester to complete a Forest Plan for the Wasserman Conservation Area to include the abutting property.

2. Pedestrian Bridge in Wasserman Conservation Area

Commission to have a review of costs and potentially approve a proposal to build a pedestrian bridge in Wasserman Conservation Area.

Chairman Tenhave spoke of having visited the Wasserman Conservation Area along with Vice Chairman Caron. Coming out of Naticook Lake there is a stream, which eventually dumps into Green Pond. Trails are located along the stream, and it is apparent users are crossing the pond. Vice Chairman Caron has proposed constructing a pedestrian bridge. He had hoped to have details available in time for the Commission to review costs and consider approving placement of a pedestrian bridge. The item will be added to the agenda for the Commission's next meeting.

OTHER BUSINESS

- Invasive problem on Brookside Drive, update on activities of last year and what needs to happen this year.

Chairman Tenhave spoke of invasive species identified on Commission owned property on Brookside Drive and abutting private property, and the concern with Knotweed making its way into Baboosic Brook and creating colonies further downstream. Last September, the Commission approved spraying, which was done on both properties.

Chairman Tenhave informed the Commission he has communicated with Mr. Powers via email. Mr. Powers responded "I stopped by the Brookside Drive project last week. It looks like quite a bit of the Knotweed was controlled, but I was hoping for a little more mortality than what had occurred. Knotweed is pretty tough to kill. The site could definitely use some follow-up work." Mr. Powers requested the opportunity to meet and discuss the matter further.

Commissioner Boisvert agreed to meet with Mr. Powers at the property. The Commission would like to gain an understanding of what would be required to address the issue, e.g., number and timing of applications required. Chairman Tenhave reminded the Commission of efforts made to notify neighboring property owners prior to spraying.

During last November's storm, a few large trees came down on the parcel. Although it appears some have been cut, remnants remain. Pallets as well as brick remain onsite as ownership was never determined. There is the need to understand whether the Commission needs to do some preliminary work before any additional spraying to ensure the spraying is as effective as possible.

Commissioner Perry suggested notifying the public of the availability of hard wood. Chairman Tenhave stated it would first need to be prepared for removal. Given its location, within the wetland, there is the need to understand how to best manage that. The question will be asked of Mr. Powers. Chairman Tenhave commented as it impacts the ability of the Town to manage stormwater, it may be something the Town needs to address.

- Preparation for the July meeting of the Commission. This is the annual meeting to review our Bylaws, elect officers, and appoint members to our sub-committees.

The July meeting is the Commission's Annual Meeting during which officers are elected. The Commission generally utilizes the opportunity to review its Bylaws as well as appoint members to sub-committees. Chairman Tenhave commented he and Commissioners Perry and Glenn, as ex-officio members of the three sub-committees, will be gathering information on current members who wish to be re-appointed.

- Update on gates for South Grater Road in Grater Woods.

No update was available. The item will be included on the agenda for the Commission's next meeting.

- Joint Meeting with Merrimack Planning Board

Chairman Tenhave informed the Commission of discussion underway with regard to a joint meeting with the Planning Board for August 4th.

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

Mr. Littleton along with the Biologist continue to conduct their plant survey and have done some bird surveys; capturing sounds of birds as well as creating calls to see who answers back.

Commissioner Perry questioned if the rare plant species has been located. Chairman Tenhave stated the species of greatest concern has been located.

Mr. Littleton has tracked and noted locations where nesting turtles have been seen; rare and threatened. He has successfully tagged and put transmitters on the turtles of interest (2 different species). The transmitters are already providing information on where they are nesting, traveling to, etc. The transmitters could last up to 3 years. Mr. Littleton has stated his belief, with the study work and the observations they are making, he can scientifically make an estimate as to the density of the critters.

Mr. Littleton is beginning to gather information around research he is doing in order to better understand impacts the proposed pipeline would have on certain species, e.g., silt fencing, chemicals, and past practices used in conjunction with pipeline projects. He is looking to identify both temporary and permanent impacts. Mr. Littleton stated a hope to have all field work completed by early July. He had suggested the Commission may be interested in doing some particular insect studies; however, will first look to identify if there is enough information to indicate an insect of interest is potentially there. Bat surveys were looked into. The cost identified to do an adequate study along the corridor area was \$6,000 - \$7,000. Chairman Tenhave informed Mr. Littleton of his impression bat surveys were not something the Commission would be looking to do at this time.

Mr. Littleton has stated the ability to provide preliminary data should the Commission become aware of dates for scoping meetings. Mr. Littleton is also performing work for the Town of Brookline, which he has stated to be in the Town's advantage as some of the things Brookline needs to learn about Merrimack also needs. He is able to utilize the funding from both sources to do what is best for both communities. Another town has inquired about his services, and was informed his schedule is full.

- Horse Hill Nature Preserve Parking Lot

Chairman Tenhave commented on previous discussion around the possibility of expanding the parking lot. Kyle Fox, Deputy Director, Public Works Department, visited the area, and has suggested there are possibilities. However, he would want a Wetland Scientist to be brought in to delineate the wetlands before providing concrete recommendations.

Chairman Tenhave questioned the will of the Commission with regard to requesting quotes for a Wetland Scientist. Commissioner Perry suggested, given the ongoing vernal pool studies in the area, that a request be made for the wetlands to be well marked and GIS data provided.

The consensus of the Commission was for Chairman Tenhave to work with Paul Micali, Director, Finance Department, to put together a Request for Quote/Proposal.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. June 1, 2015

The following amendments were offered:

Page 1, Lines 37 and 38; insert "rear" between "existing" and "parking"
Page 1, Line 43; insert "rear" between "the" and "parking"
Page 1, Line 54; insert "front" between "the" and "paved" in both instances

MOTION BY COMMISSIONER PERRY TO ACCEPT AS AMENDED MOTION SECONDED BY COMMISSIONER BOISVERT

4-0-1

Commissioner Tenhave Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Perry asked if Commissioners had any comments/questions regarding the factsheet that was passed out at the last meeting. Commissioner Glenn questioned if a paragraph could be added providing additional information about beaver, e.g., Keystone species, importance, etc.

NON-PUBLIC SESSION

**MOTION BY COMMISSIONER GLENN THAT THE COMMISSION ENTER NON-PUBLIC SESSION, BY ROLL CALL, PURSUANT TO RSA 91-A:3, II(d) CONSIDERATION OF THE ACQUISITION, SALE OR LEASE OF REAL OR PERSONAL PROPERTY WHICH, IF DISCUSSED IN PUBLIC, WOULD LIKELY BENEFIT A PARTY OR PARTIES WHOSE INTERESTS ARE ADVERSE TO THOSE OF THE GENERAL COMMUNITY AND REVIEW OF THE NON-PUBLIC MEETING MINUTES OF APRIL 6, 2015
MOTION SECONDED BY COMMISSIONER PERRY**

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Kristi Bradshaw, Cynthia Glenn, Gage Perry, Tim Tenhave, Michael Boisvert

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Nay:

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MOTION CARRIED

The Commission went into non-public session at 8:22 p.m.

The Commission came out of non-public session at 9:15 p.m.

Chairman Tenhave stated, for the public record, that the non-public meeting minutes were sealed by Roll Call vote during the non-public portion of the meeting.

ADJOURNMENT

MOTION BY COMMISSIONER BRADSHAW TO ADJOURN

MOTION SECONDED BY COMMISSIONER GLENN

MOTION CARRIED

5-0-0

The June 15, 2015 meeting of the Merrimack Conservation Commission was adjourned at 9:16 p.m.

Submitted by Dawn MacMillan