



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

JUNE 19, 2017

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, June 19, 2017 at 6:32 p.m. in the Merrimack Memorial Conference Room.

Chairman Gage Perry presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Michael Boisvert
Tim Tenhave, Alternate Member
Gina Rosati, Alternate Member
Councilor Jackie Flood

Members of the Commission Absent: Cynthia Glenn

Also in Attendance: Michael Dudash, Acting Police Chief, Merrimack Police Department
Mason Landry, Life Scout, Troop 401
Chris Guida, Wetland Scientist/Soil Scientist, Fieldstone Land Consult.

Chief Dudash spoke of having met with Councilor Flood and Eileen Cabanel, Town Manager, regarding vandalism occurring on Commission property. He commented the department tries to get into the areas when possible, and remarked, although difficult, it is the responsibility and duty of the department to ensure they keep an eye on property owned by the Town.

During the meeting, they discussed what additional efforts can be put forth to provide assistance. He spoke of the NH Fish & Game ATV grant that comes out every year. This year the grant is under \$1,000, which does not provide for more than 3 or 4 details. Those funds have not yet been expended for the year given weather conditions. The department is readying to deploy those details. In addition, the Town Manager has authorized some overtime for the bicycle patrols to get into these areas and show more of a presence. They will look to get deeper into the woods along the trail system.

Chief Dudash stated his belief a representative of the Commission would provide the department with maps that delineate the areas of most concern. Once received, the department will devise a plan for when to get into those areas and precisely where to target.

Chairman Perry stated future reports regarding concerns on Commission property would be funneled through Tim Thompson, Director, Community Development Department, which would provide the Commission a mechanism for tracking of issues/concerns. Chief Dudash noted he sat in on a meeting with Director Thompson where that reporting process was discussed.

Chief Dudash commented the officers are responsible, through their routes/shifts, to check on parks, and that will continue.

Vice Chairman Caron noted vandalism that has occurred at the gates on Grater Road (connects Wilson Hill Road into Amherst), which has not been specifically reported. When asked, he stated he had specific information, which would be provided.

Commissioner Rosati noted information provided on a social media site relative to vandalism on the Merrill's Marauders Bridge. Chris Burke, Chris Burke's Painting, has volunteered to clean up some of the graffiti. She expressed her gratitude.

PUBLIC COMMENT - None

PUBLIC HEARINGS

1. The Conservation Commission will conduct a public hearing to consider the acquisition of real property for conservation purposes pursuant to NH RSA 36-A.

The parcel is located at an unnumbered location on Caron Street. Tax Map 3D-1, Lot 003.

Chairman Perry declared the Public Hearing open at 6:41 p.m.

Commissioner Boisvert stated the parcel to be 31 acres located along the Merrimack River. The Commission has been working towards acquisition of the property for the past year. It is believed the property could be a future location for a park and is a buffer zone to protect the river and its water resources. The parcel has potential historical significance; may be the Thornton's Ferry landing.

Through the deed process a number of restrictions will be put in place. Chairman Perry stated the restrictions to be the standard restrictions the Commission applies to its properties, which are in force in perpetuity. No commercial venture will be allowed, e.g., no building or construction other than trails and passive recreational activities, no motorized vehicles, etc. The purchase price is \$154,000. Commissioner Boisvert stated the assessed value to be \$154,000.

Chairman Perry noted the property is bound by the railroad track, and there is no permanent crossing over the tracks. There is a small bridge underneath. There is no way to get construction vehicles into the area, which has dramatically affected the value of the property.

It is the desire of the seller for there to be conservation protections on the property. The property will be named after the Sklar family.

The Commission has discussed the use(s) of the parcel. It is believed the parcel would be utilized by the Town as a Parks and Recreation property. That will have to be discussed further with the department.

Councilor Flood commented there had been some discussion of cleaning of debris from the site, and remarked she is uncertain if that has had forward movement. Chairman Perry suggested that might be a task that could be addressed by volunteers. It is a beautiful parcel, and there may be a willingness to assist with such a project.

Vice Chairman Caron expressed gratitude to the Sklar family, and Commissioner Boisvert for his efforts with regard to making the purchase a reality.

No public comment was offered.

Chairman Perry declared the Public Hearing closed at 6:51 p.m.

MOTION BY COMMISSIONER BOISVERT TO APPROVE THE ACQUISITION OF 30.9 ACRES OF REAL PROPERTY IDENTIFIED AS TAX MAP 3D-1/LOT 003 FOR THE SUM OF ONE HUNDRED FIFTY FOUR THOUSAND DOLLARS (\$154,000) AND LEGAL FEES ASSOCIATED WITH THE ACQUISITION IN ACCORDANCE WITH NH RSA 36-A AND THE COMMISSION'S PURCHASE AND SALES AGREEMENT. SOURCE OF FUNDING IS FUND 53

MOTION SECONDED BY VICE CHAIRMAN CARON

MOTION CARRIED

6-0-0

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. Eagle Scout Project – Mason Landry, Troop 401, is presenting his project to rebuild the benches for the Grater Woods Outdoor Classroom.

Mason Landry, Troop 401, stated his Eagle Scout project to be renovation of the Outdoor Classroom in Grater Woods. The Outdoor Classroom is located directly behind the Merrimack Middle School. The project would entail replacement of benches as well as cutting down of trees to provide greater access to the meadow. In addition, some of the undergrowth and shrubs would be cleared out to create a clear view of the meadow.

With regard to the benches, concrete posts would be dug at an adequate depth, braces bolted to the concrete, and the concrete to the benches (2' x 12'). This would allow the benches to be replaced over time, when necessary. There would be descending lengths of benches (stadium style) to the area where the teacher's bench would be located. The trees behind the teacher's bench would be cleared to open up the area. The project is expected to cost approximately \$1,200. An excavator will be required for the project. Anyone interested in volunteering for that activity is encouraged to contact Life Scout Landry.

Fundraising will consist of a pancake breakfast as well as advertising to local businesses seeking donations of materials/discounts.

Life Scout Landry noted the next Eagle Board meeting is scheduled for August. Until the project is approved, he cannot proceed with fundraising or construction efforts. If approved in August, the intent would be for the fundraiser to be conducted on September 16th. The hope is that the project will commence on October 7th.

Commissioner Tenhave questioned who would determine which trees would be removed. Life Scout Landry explained the trees that he would like to remove are approx. 3" in diameter. When asked about the types of tools that would be utilized, he indicated he has not made that determination as of yet, although it is likely they would be gas powered. Commissioner Tenhave noted the proximity of the project to a wetland, and the need to be cautious of how fuel, oil, etc. is handled, and stated the need for experienced individuals to operate the tools. Any debris that is removed should be pulled out of rather than allowed to fall into the wetland.

Life Scout Landry spoke of several members of the troop that work for a landscaping company, and are trained in the use of the tools. When asked, he stated the current materials in the classroom would be cleared out in advance of the start of the project. Chairman Perry questioned the will of the Commission with regard to the necessity of removing the existing lumber. Commissioner Tenhave stated his only concern would be that the materials, if left behind, would be utilized by others for undesired activity. Chairman Perry spoke of a large slope in the back of that area where the wood may be able to be left. It was reiterated the intent is to remove the existing materials.

Vice Chairman Caron questioned if the benches located the furthest from the teacher's bench would have 3 posts to provide support, and was informed that would be the case for the benches up to those 8' in length. When asked, he stated he has identified carriage bolts to hold the brackets in place. Chairman Perry noted the reference to drilling into the top of the stands to bolt them down, and remarked there is a lot of bracketry out now that can be placed in the sonotube and poured in place, which eliminates the need for drilling, and would result in the bracket being affixed permanently to the top of the concrete.

The Commission expressed its support of and gratitude for the Eagle Scout project.

- 2. William Lastowka (applicant) and Land of Goshen, LLC. (owner)** - Review for recommendation to the Planning Board of a Subdivision Plan for a twelve lot cluster subdivision. The parcel is located at 6 Watkins Road in the R-1 (Residential) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 4C, Lot 449.

Chris Guida, Certified Wetland Scientist/Soil Scientist, Fieldstone Land Consultants, stated the Applicant was able to secure a Variance to allow for a cluster sub-division, which will allow the project to avoid impacting any additional wetlands. There are a fair amount of wetlands across the entirety of the property. The only impacts would be the edge of the manmade pond. An existing driveway forces access on Watkins Road, which results in an impact of approx. 1,100 sq. ft. of wetland on the corner of the manmade pond. The only other modifications proposed are to replace the outlet structure on the pond. There is a concrete structure, which is in some disrepair although still functional. The intent is to increase the berm and replace the structure, which will allow for utilization of the pond as detention and control any additional stormwater coming off of the property. The topography is hilly and there are boulders present. It appeared to be ledge, although when the digging began it was seen to be a very well drained till to almost excessively drained sand and gravel. Mr. Guida referred to the area of ridgeline noting a lot of the ridge will be leveled down and will allow for all of the lots to access off of the roadway (will stay higher and will avoid runoff coming into the roadway).

Mr. Guida remarked approval of the Variance request allows for a much better development of the site, e.g., prevents having to cross the wetlands with driveways to access areas in the back of the property.

Councilor Flood questioned whether there would be shared septic, and was informed the project proposes individual systems. Mr. Guida stated there would likely be additional test pits done depending on the type of home chosen for each lot. When asked about reserve areas, he stated in his experience, 99% of the time they are not used. Commissioner Tenhave commented back in the '70s the Town experienced quite a few failed septic areas that were poorly installed and did not have much room, which forced the Town to add sewer in a lot of places. That contributed to the R1 district, etc.

When asked if blasting would be necessary, Mr. Guida responded he would be very surprised if any blasting were necessary based on the test pits that were done.

Commissioner Tenhave questioned how the existing well located at the end of the cul-de-sac would be decommissioned. Mr. Guida stated it is an old fieldstone (dug) well. It would be backfilled in with native material. The New Hampshire Department of Environmental Services (NHDES) has identified Best Management Practices (BMPs) for well closures. Mr. Guida stated he would follow up on that in regard to a dug well.

When asked if there would be any drainage structures installed in the road in the area of the well, Mr. Guida stated there is no closed drainage through the roadway; everything sheds off the sides and is captured in the pond.

When asked about the reference to conservation land, Mr. Guida indicated he has not had the opportunity to speak with anyone regarding any type of common land covenants, etc. He stated a willingness to ascertain that information, and provide it to the Chairman. Commissioner Tenhave stated his belief it would be the Commission's preference that the edge of properties be noted and land owners be aware wetlands have particular rules, etc. He went on to state that information should be noted in the individual deeds.

Chairman Perry spoke of the note referencing a drain going under the road; calls for a 12" HDPE pipe. When the reference (page 8 of the plan set) was highlighted, Mr. Guida stated his belief that is not under the roadway, but allows for the driveway to the existing house to continue; basically a driveway culvert. He stated he would look into that further to ensure it is represented clearly.

Chairman Perry remarked Note #12 on the last page of the plan indicates fertilizers should be restricted to low phosphate, slow release nitrogen fertilizer, and stated the preference for a **no** phosphate fertilizer. Under the notes for Erosion Control, Item #3; hay should be changed to **straw**. Chairman Perry stated his desire for water testing to be done in the event **any** blasting is believed to be necessary.

With regard to the common land, Mr. Guida questioned if the Commission had a preference on what occurs with that space, e.g., if conservation land, would the preference be for it to be controlled by the Town, a Homeowner's Association, etc. Commissioner Tenhave responded when it is given to an association, over time, as the original owners move out and new owners move in, it usually is forgotten and becomes people's backyards. If considered common land, the property owners will all be taxed on that parcel. The Commission would like something reflected in the deeds regarding restrictions relative to what can and cannot occur in that area, and that the area be marked in some way.

OLD BUSINESS

1. Map Pricing & Kiosk Sizing

Chairman Perry noted the information Commissioner Rosati provided regarding kiosk sizes, and indicated he was unable to acquire quote(s) on pricing given the time of year and the fact that local printers are busy with graduation announcements. He expects to receive a call, at the earliest, by the end of the week.

Commissioner Tenhave noted he obtained the measurements of the kiosk at Wildcat Falls, and will pass that information along. He commented it appears 22" x 18" is a pretty standard size across the board. The Beebe Lane kiosk is smaller than most. It was suggested a few maps could be acquired in a smaller size. Commissioner Rosati suggested a new piece of Plexiglas for the Queens Way kiosk.

Vice Chairman Caron questioned whether there would be an announcement of some sort, e.g., press release, informing the general public of the availability of new maps. Commissioner Tenhave noted the website notes new maps will be forthcoming. He suggested simply posting a notice that they are now available and where they can

be downloaded and printed from. Chairman Perry remarked there is the ability to utilize gmail for those who have signed up to receive information in that manner.

Commissioner Rosati stated her belief the Merrimack Outdoors Facebook page includes information regarding the new maps. It is believed that forum references the interactive maps.

Chairman Perry noted the Telegraph and/or Merrimack Journal could be used to get the information circulated in newsprint. Vice Chairman Caron noted the Chamber of Commerce magazine will be coming out shortly, and will have the link to the Commission's website.

Commissioner Tenhave stated he would update the website. Commissioner Rosati volunteered to prepare written text to submit to local newsprint. When asked, Commissioner Tenhave noted the MerrimackOutdoors.org website and the website for Parks and Recreation do link to each other.

NEW BUSINESS

1. Presentation Regarding Friends of Merrimack Conservation

Commissioner Rosati spoke of having met with Paul Micali, Assistant Town Manager/Finance Director, on Tuesday, May 2nd regarding requirements to start a non-profit organization aimed at raising funds to replenish the Merrimack Conservation Commission's Fund 53. The working name of the proposed non-profit is currently Friends of Merrimack Conservation.

There would be considerable start-up costs particularly related to attorney and accountant fees, which are estimated at \$2,000 for the first year. Attorney fees would include the filing of 501(c) (3) status with the IRS. If an attorney could be identified who would be willing to do this work pro bono, start-up costs would be reduced significantly. The attorney would need to establish Friends of Merrimack Conservation as a non-profit organization within the State of New Hampshire. The attorney would also assist in drawing up bylaws, articles, and any rules required. Insurance would be needed for onsite events and/or the Merrimack Conservation Commission would have to sponsor the Friends of Merrimack Conservation, and every participant would have to sign a waiver stating that they would not sue the Town. An Accountant would be required for the yearly filing of tax returns.

Prior to filing for 501(c) (3) status, there is the need for an executive board consisting of a president, treasurer, and secretary. A bank would need to be chosen and an account set up. Assistant Town Manager/Finance Director Micali noted the Digital Credit Union has been utilized by other local non-profits.

Nice but not necessary prior to filing is the establishment of a website that would link to the MerrimackOutdoors.org website, a plan of action for membership including a list of fees and descriptions of membership perks, and a plan for educational events and fundraising activities that would highlight unique aspects of each of the conservation properties.

Commissioner Rosati stated the initial start-up costs are an obstacle as is the need for two additional individuals to make up the executive board.

Councilor Flood commented when the Watson Park project was started it was able to avoid the need for 501(c) (3) status; the Town held funds in a separate account/line item. The donations were tax deductible. When asked, she stated the committee was established for a particular purpose, and once the identified purpose was achieved, the committee was dissolved. Chairman Perry suggested that may be the difference. Commissioner Tenhave noted the former committee was created by the Town, members were appointed by the Town Council, and the Town was the recipient of all funds. He noted the Town created the Commission. Currently, people can write a check to the Town of Merrimack identifying it for conservation purposes, designated for Fund 53, and they could enjoy the tax write-off of that. What the Commission would need approval for would be to do its own fundraising. That is the difference.

Commissioner Rosati commented although there is the desire to fundraise, the intent of the Friends of Merrimack Conservation is to educate the public about the conservation properties.

Commissioner Rosati commented if this effort is initiated and does not raise \$2,000 in the first year, those monies would come out of Fund 53. Commissioner Tenhave stated that would only come out of Fund 53 if the Commission decided to expend those dollars in that manner.

Chairman Perry touched upon the point made that most of the desired efforts can be accomplished already through other means. Commissioner Tenhave stated that to be correct, but noted if the Commission were to be actively fundraising, it would require a discussion with the Town Council around what the rules and regulations would be that govern that activity as it is not outlined/included in the Commission's Charter. Councilor Flood suggested that discussion take place. Chairman Perry suggested the Commission approach the Town Council with the concept of creating another sub-committee exclusive for the purposes of education, outreach, and fundraising.

Commissioner Rosati questioned if the Commission could fundraise for a specific property without the need to start a non-profit organization. Commissioner Tenhave suggested that could be the case; however, recommended she speak with Assistant Town Manager/Finance Director Micali regarding that. Commissioner Rosati questioned if it would serve the need to simply fundraise for specific properties. Commissioner Tenhave stated the Commission would have to understand how the Town would want to structure some of those events, e.g., is a permit required, is there a need for participants to sign a waiver, etc.

It was suggested that Commissioner Rosati speak again with Assistant Town Manager/Finance Director Micali to address the additional questions raised, and if he feels it merits a discussion before the Town Council, the Commission could agenda the item to continue its discussion after which the Commission could request the matter be placed on a future agenda for the Town Council.

Commissioner Tenhave commented he could work with Wetherbee Creative to create an avenue for donations on the MerrimackOutdoors.org website, once the rules associated with that are understood.

Old King's Highway

Chairman Perry commented the Commission had anticipated a request to review a lot line change. A review of the property indicated it did not fall within the Aquifer Conservation and/or Wellhead Protection District. Therefore, the property did not fall under the purview of the Commission. It is, however, an item relative to Old Kings Highway. He spoke of having been contacted by two abutters who indicated it seems as though the erection of fences, etc. has limited the passage of Old Kings Highway. The lot line adjustment will impact Old Kings Highway, but he is unsure there is anything for the Commissioner to say or do. Commissioner Tenhave responded, unless the Commission is an abutter, it would have no input as a Commission. He suggested if the Historical Society or Heritage Commission were aware, they may be interested in pursuing the matter.

When asked, Chairman Perry noted Old Kings Highway is an easement that cannot be blocked, which is information noted within deeds.

OTHER BUSINESS

Discussion on communications or correspondence received concerning regulated MCC activities and any issues concerning MCC managed lands.

Discussion to include:

- Sub-Committee updates

Wildcat Falls

Commissioner Tenhave stated the Sub-Committee is looking to re-schedule the trail day that was washed out. When a date is identified the calendar on the website will be updated and the Commission informed.

Commissioner Tenhave noted it is in the month of July that the Commission appoints/re-appoints members to the various sub-committees. He suggested the chairmen and/or representatives to the sub-committees reach out to any members whose terms are coming to an end to ascertain whether or not they wish to be re-appointed.

Commissioner Tenhave noted the next quarter for the contract to update the website is approaching, and requested Commissioners having suggestions for items to be addressed make them known. Commissioner Rosati brought up the issue of a donate button. Commissioner Tenhave stated he could request Wetherbee Creative explore ways to do that and report back.

Grater Woods

Vice Chairman Caron thanked Chairman Perry for spearheading the bridge project. Chairman Perry remarked, despite the changes that had to occur, the project remains under budget. Some supplies remain, and can be used for ongoing maintenance. The bridge itself is complete. There is the need to determine the final plan for the boardwalk.

Vice Chairman Caron spoke of the volunteers that trimmed back all of the early summer/late spring growth into the trails. He expressed gratitude for the time and effort expended by the volunteers.

Horse Hill Nature Preserve

Chairman Perry stated the sub-committee was notified of the vote on the route for the Summit Trail. The sub-committee will need to plan out how that trail will go forward. The issue of multi-use continues to require addressing; identifying an appropriate path for the multi-uses to get to that same spot.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. June 5, 2017

The following amendments were offered:

Page 1, Line 35; delete the comma after "building"
Page 2, Line 8; insert "drainage" after "stormwater"
Page 2, Line 19; replace "slope" with "sloped"
Page 2, Line 22; replaced "slope" with "sloped"
Page 2, Line 43; replace "bailed" with "baled"
Page 3, Line 47; replace "either" with "neither"
Page 3, Line 52; delete "with the"
Page 4, Line 12; replace "Commissioner Perry" with "Chairman Perry"
Page 6, Line 20; replaced "Fart" with "Barred"
Page 7, Line 33; replace "6-0-1" with "5-0-1"

**MOTION BY COMMISSIONER TENHAVE TO ACCEPT AS AMENDED
MOTION SECONDED BY VICE CHAIRMAN CARON
MOTION CARRIED
6-0-0**

PUBLIC COMMENT – None

COMMISSIONER COMMENTS

Commissioner Rosati spoke of having seen a Cottontail Rabbit in her yard, and of a video she watched that indicated rabbits put their babies down and then pull fur out of their chest and cover them up. She cautioned residents to be careful of coming across such areas when mowing the lawn, etc.

Chairman Perry informed the Commission he would be meeting with the Public Works Department on Friday to discuss some alternative methods of addressing the ongoing issue on Madison Drive. He commented the water level is higher than he has seen in his 20+ years of residing in the area.

ADJOURNMENT

**MOTION BY COMMISSIONER TENHAVE TO ADJOURN
MOTION SECONDED BY VICE CHAIRMAN CARON
MOTION CARRIED
6-0-0**

The June 19, 2017 meeting of the Merrimack Conservation Commission was adjourned at 9:03 p.m.

Submitted by Dawn MacMillan