



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

Fax 603 424-1408

www.merrimacknh.gov

MERRIMACK CONSERVATION COMMISSION

MONDAY, JUNE 26, 2023

MEETING MINUTES

CALL TO ORDER -

A Meeting of the Conservation Commission was called to order on Monday June 26, 2023 at 6:30 pm in the Matthew Thornton Room.

Steve Perkins, Chair, presided:

Members of the Commission Present:

Michael Boisvert, Vice-Chair
Ellen Kolb
Michael Drouin, Alternate Member
Eric Starr
Gage Perry
Cindy Glenn

Members of the Commission Absent

Gina Rosati, Alternate Member
David Trippett, Alternate Member
Andy Hunter, Town Councilor

Also Participating:

- Paul Lavoie, 24 Peaslee Road. Member of the Horse Hill Nature Preserve Subcommittee
- George Theodorou, 10 Bryce Drive

PUBLIC HEARINGS - None

NEW BUSINESS –

- **Presentation by Paul Lavoie of the HHNP Subcommittee regarding a new trail on the property**

Mr. Lavoie explained that the New England Mountain Bike Association (NEMBA) is looking to expand trails in the area. At NEMBA's request, the HHNP subcommittee recommends that the existing trail system be expanded between Ledges and Twister trails, including the re-opening of an old snowmobile trail. The

proposed project would be approximately 40% opening old trails and 60% building new trails, for a total distance of approximately 1.4 miles. The new trails would be drier than existing trails in the area. Ideally, the project would reduce use of the Loop Trail by mountain bikes. He provided commissioners with a rough outline

Commissioner Perry asked Commissioner Kolb if the Subcommittee had reviewed the trail. Commissioner Kolb confirmed it had been reviewed but stated they had not drawn a map up yet. Mr. Lavoie added he and another subcommittee member had walked the portion of trails to which he was referring. Commissioner Kolb said they would like to be pointed in the direction of what the Subcommittees next steps should be.

*Trail map referred to in the minutes is attached below

Commissioner Perry and Vice-Chair Boisvert confirmed the location of trails on a map with Mr. Lavoie. There is a bridge that would need some minor work, but is in good shape overall. Commissioner Perry noted one of the concerns with bridges on the property is that they either have to be low to the ground or quite substantial since horseback riders frequent the property. Mr. Lavoie said the current bridge was built for snowmobiles and is larger than some of the other bridges still standing.

Commissioner Glenn asked if new trail development would mean cutting down a lot of trees. Mr. Lavoie said no, since the bicyclists zigzag around trees. The area is clear enough so that a brush-cutting project should clear any proposed path. Chair Perkins asked if NEMBA and HHNP subcommittee members would be doing the work; Mr. Lavoie said yes. Commissioner Perry requested a GPS map of the proposed trail routes. Mr. Lavoie will have one prepared and sent to Commissioner Kolb for submission to Community Development and the Commission as part of these minutes. Chair Perkins asked what the trail would be named; Commissioner Kolb said that hadn't been decided.

Commissioner Kolb noted that NEMBA has liability insurance on file with the Town. Commissioners Perry and Kolb stated NEMBA has always been a great partner to work with in the past. The consensus of MCC members after hearing this presentation is to approve this project.

- **Grater Woods property update presented by Jeff LeCours of the Grater Woods Subcommittee**

This item was skipped as Jeff LeCourse was not present to discuss the item.

- **Vote to appoint George Theodorou to the Sklar Subcommittee as a full member with a term to expire 6/30/26 – Submitted by Michael Drouin**

Mr. Theodorou explained that he began getting involved with the subcommittee last spring. He started a landscaping business 3 years ago and has completed the land stewardship program offered by UNH Cooperative Extension. He enjoys

hiking with his children on the Sklar property, and he believes his work on the subcommittee will help his children set roots in the community.

Motion by **Chair Perkins** to appoint George Theodorou to the Sklar Subcommittee as a full member with a term that expires on 6/30/26.

Seconded by **Vice-Chair Boisvert**

Motion Carried

6-0-0

- **Feedback from the Town Council Retreat – Submitted by Andy Hunter**

The Commission will push this discussion to the next meeting as Councilor Hunter was not present to speak about it. Chair Perkins noted there were several items on the Town Council retreat agenda of interest, including a Conservation Officer.

- **RSA mapping of invasive species – Submitted by Gage Perry**

Commissioner Perry stated he was working with the UNH cooperative extension on this. He said last time he went over the topic with them, they pointed the Commission to a website called EDD Maps which is an app allowing users to map and track invasive species. He will confirm if this is still the current tool being used to track these species. Anyone can make an account and start tracking using the following link: <https://www.eddmaps.org/>

- **Information on E-Bikes – Submitted by Ellen Kolb**

Commissioner Kolb advised the commissioners about the current definitions for e-bikes, with information from NH RSAs and the Bike-Walk Alliance of NH. Class 1 e-bikes have an electric motor and a maximum assisted speed of 20mph, with electric power provided only when the user is pedaling. Class 2 has a maximum assisted speed of 20mph, with electric power whether or not the user is pedaling. Class 3 has a maximum speed of 28mph. Any bike with a motor providing more than 1 horsepower or 750 watts is considered an OHRV and is subject to OHRV laws and regulations.

She stated that under chapter 111, class 1 and 2 are allowed on MCC trails. Vice-Chair Boisvert questioned this, saying that he thought only class 1 was allowed. She stated that if future issues arise due to e-bike usage, the Commission can ask the Town Council to revisit the ordinance. Commissioner Kolb asked the Bike - Walk alliance of NH if there is standardized e-bike signage and was told there currently is not. The Commission could post a sign at trail entrances stating that no class 3 e-bikes allowed.

Questions regarding whether or not the class of an e-bike was marked anywhere on the bike were discussed. Mr. Theodorou stated that e-bikes can be imported and branded in non-standard ways, leaving users in the dark about the class of the e-bike. He said it is probably not easy to determine the class of an e-bike. Chair

Perkins said that e-bike policy was the biggest sticking point in the revision of Chapter 111.

- **Request from Michael Drouin of the Sklar Subcommittee for funding to complete lawn mowing at Sklar property – Submitted by Michael Drouin**
Commissioner Drouin stated that up until this point he has been funding mowing at Sklar and completing the work with David Trippett. He said he has been paying for the rental of the necessary equipment, the cost of gas, and other associated costs. Since he won't be doing the work anymore, this will need to be figured out. Mowing needs to be done every 3-4 weeks to keep Riverview trail clear of poison ivy and fast-growing grasses since the property lies in a floodplain. Poison ivy interfered with a recent group hike. Also, ruts in the trail make mowing difficult.

Commissioner Perry asked if the Commissioner Drouin had put in a request for the Department of Public Works (DPW) to complete the mowing. Commissioner Drouin replied that he didn't remember. Another company was going to volunteer to do mowing, but when they visited the property they said the trails weren't in good enough condition due to trail rutting. Commissioner Perry asked what Commissioner Drouin was using to mow. Commissioner Drouin said a regular push lawn mower.

Vice-Chair Boisvert said part of the problem at this property was the frequency of mowing, it wasn't something that could be done twice a year. Commissioner Drouin said he slacked on it last year and ended up needing a brush hog to get through it. He stated the poison ivy is terrible at the property especially on the Riverview trail which also happens to be the most heavily used trail. At some places, the trail is hard to tell apart from the ruts that had been closed off. Mowing helps to define the trail.

Chair Perkins asked what Commissioner Drouin's recommendation was. He said he didn't think DPW would be willing to use a push mower, and would want to use a machine. However, he said they would need to improve the trails in order to use a machine to clear the area. This would require a lot of fill for the ruts and labor. He felt a subcommittee member should do the work and be reimbursed up to a certain amount since costs are always changing.

Commissioner Perry said that if ruts along any trail need to be filled, NHDES would need to be consulted since the area is in a floodplain. This might be alteration of terrain permit territory. He agreed that Sklar is a high-maintenance area. To prevent these issues would require getting the property into a state that allows easier care. Discussion of how often flood events happen and their effect was briefly covered.

Chair Perkins said that if Town funds are used to rent mowing equipment, it becomes a Town project. This would mean the user would need to be on the

Towns liability insurance and would no longer be a volunteer initiative. Commissioner Kolb recommended that DPW be asked to evaluate the property for mowing. There had been some turn-over in the department and it may be a good time to inquire how they may be able to assist at the property.

Chair Perkins will bring this to DPW's attention. Vice-Chair Boisvert asked that at the same time, DPW be reminded of the need to mow Gateway and Red Maple trails in Grater Woods. Commissioner Glenn expressed concern about ruts and possible re-vegetation of the affected areas. She also expressed concern about gas and oil from rental equipment washing into the Merrimack River, commenting that there had to be a better alternative than mowing. Commissioner Drouin acknowledged that Sklar is a unique property because of its proximity to the river. Commissioner Drouin said there are many options such as chemical treatments or using a packer machine

Commissioner Starr asked how long Commissioner Drouin's mowing sessions usually take and how much gas is used. Commissioner Drouin replied that the job takes about 3 hours. Commissioner Glenn said they had spoken about reimbursing members in the past but had decided this was not something the Commission would do. If someone decides to work, they are volunteering their own time. She didn't think that volunteers mowed any of the Conservation properties, but that the Commission relied on the Town for this work.

No motion was made. Group consensus was that they would like to know how DPW could assist. Chair Perkins to contact DPW.

- **EPA Public Hearing regarding a Five Year Operating Permit for St. Gobain – Submitted by Steve Perkins**

Chair Perkins said there was a public hearing that recently took place in Merrimack regarding this matter. The Commission was not asked for its input, but public comment to NH Department of Environmental Services (NHDES) is open until July 5. Commissioners are aware of the problems regarding PFAS contamination linked to the company's operations in Merrimack. The Commission can send comments if there is a consensus among the group.

Commissioner Glenn said that the Commission is tasked with protecting the Town's water which is still being polluted. On that basis she feels the Commission should oppose issuance of the permit, or else recommend that it be re-evaluated in one year rather than five. Vice-Chair Boisvert agreed, and noted PFAS contamination was widespread and a big problem. He said that the state will provide residents with a rebate for water filters in homes whose water is found to contain PFAS at a detrimental level.

Commissioner Kolb said she had not watched the recording of the hearing, but she supports a short-term permit rather than a five-year permit. St. Gobain needs

to rebuild public trust, and frequent testing/oversight is a way to do this. Commissioner Starr said he had not yet watched the video recording of the hearing. Commissioner Perry said he hadn't watched it but was skeptical of a five-year permit term. Commissioner Drouin said that if a private individual had caused damage similar to that linked to St. Gobain, there would be no question of a permit being issued, and he believes the company shouldn't be allowed to operate anywhere near us.

Chair Perkins noted that the St. Gobain facility is currently meeting state and federal standards, and he questioned whether in view of that we can say no to the permit overall. Commissioner Glenn replied that we have no-salt areas in town; how about no-PFAS areas? Chair Perkins and Vice-Chair Boisvert pointed out that we all use products like the ones made by St. Gobain. He noted the problem is not necessarily St. Gobain but the products being manufactured.

Commissioner Kolb said that perhaps we can't say yes or no, but we can ask that the permit require annual review. Chair Perkins read a few options of comments he drafted for NHDES to the group. Chair Perkins will send the letter expressing MCC's desire for a shorter-term permit than the one sought by St. Gobain.

- **Report on the 6.15.23 Souhegan River Local Advisory Committee (SoRLAC) meeting – Submitted by Ellen Kolb**
SoRLAC rotates its meetings around the towns in its region, and this month was Merrimack's turn. SoRLAC is concerned with the restoration, management, and protection of the Souhegan watershed.

Commissioner Kolb attended this meeting, as did Andrew Duane and Karen Labonte from the Wildcat Falls subcommittee. Merrimack residents George May and Nelson Disco serve on SoRLAC and were present for the meeting. The committee first met at Watson Park to see the Souhegan River at that location. Commissioner Kolb and Mr. Disco told the members about the proposed trail along the river that could someday link Watson Park with the Everett Turnpike crossing and possibly Wildcat Falls. The committee also visited Twin Bridges Park to see Baboosic Brook, a river tributary. A business meeting followed at Merrimack Town Hall.

Interested members of the public are welcome to apply to join SoRLAC; up to three members per town in the committee's region may serve. The process begins with a letter of interest to the Town Manager's office. More information about the committee can be found on the Nashua Regional Planning Commission website.

- **Acknowledgment of service for Commissioners leaving the board – Submitted by Ellen Kolb**
Terms for several commissioners come to an end on June 30, 2023. The Commission wishes the best for the departing commissioners: Mike Boisvert, Mike

Drouin, Cindy Glenn, and Gina Rosati, and thanks them for their selfless volunteer spirit.

OTHER BUSINESS –

- **Review Conservation Commission Rules of Procedure. Tabled from the 5.22.23 Conservation Commission Annual meeting – Submitted by Steve Perkins**

Chair Perkins said the only section that needed to be edited was the membership paragraph to allow for a student representative. This would be similar to the Parks and Recreation Committee's set up. Tim Thompson, Director of Community Development said having a student representative on the Commission might be do-able as long as the student isn't a voting member.

Mr. Thompson ran the question by Town Legal Counsel who advised that in terms of statute compliance, it is not possible for the person to be a voting member as they can't comply with the 3 year term restrictions. However, if the Commission wants to have a student representative as a non-voting member, the student would be able to attend and participate in the meetings.

Article IV, membership, would need to be edited. They would probably need to change the number of alternates to two so the membership of the group does not exceed ten members. A portion of the town charter states that the membership has to be ten and changing this may be a lengthy process. Commissioner Perry stated if they are not a voting member, and are just an alternate, they don't have an official capacity. He wasn't sure why they needed to change their rules of procedure to take away an alternate position.

Consensus was to recommend that a student representative be welcomed as a non-voting member, and the school board can be consulted to recommend candidates for the position. Chair Perkins will propose this idea to Mr. Thompson.

Commissioner Perry said that in view of recent clarification from Community Development, references to "ex-officio" throughout rules of procedure need to be removed and changed to MCC Representative.

Review of the rules of procedure remains on the table for action at a future MCC meeting.

- **RSA 91:A Reminder – Submitted by Steve Perkins**

Chair Perkins reminded commissioners that the use of "reply all" on town emails, addressed to four or more commissioners, technically constitutes a meeting under RSA 91-A, with associated requirements for posting. Commissioner Perry also noted it may be a good idea to change the settings on personal devices to not download emails to ensure that they stay on the town server. In this case, their device would not need to be turned over if a Right to Know issue were to arise.

- **Request to reconsider vote from May 22 meeting:**

Commissioner Drouin recalled the vote at the last meeting to reject a motion renewing his and Commissioner Trippett's membership on the Sklar subcommittee. He requested that the Commission reconsider the motion. Chair Perkins said that under the procedure outlined to him by Mr. Thompson of Community Development, such a motion has to come from someone voting on the prevailing side, i.e. someone who had voted Nay on the May 22 motion.

Commissioner Perry said that this would need to go on an agenda for the next meeting. If a reconsideration motion were to pass, the underlying motion (naming the commissioners to the subcommittee) would have to take place at the meeting after that. No commissioner moved for reconsideration.

Mr. Theodorou told the commission that what the Commission sees of Commissioners Drouin and Trippett in terms of working relationships isn't what the subcommittee members are seeing. Keeping the commissioners off the subcommittee would throw off the good things that have been happening. If sharing information between the Commission and the subcommittee has been a problem, Mr. Theodorou would be glad to take up the job. He watched the video of the May 22 meeting and understands where all parties are coming from. Regarding the two commissioners, he said that their boots-on-the-ground work benefits the whole town.

Commissioner Perry said he thinks they are at least two meetings way from being able to deal with this. Since it wasn't on the agenda, they shouldn't be discussing it. He isn't trying to shut down the discussion, but it needed to be placed on the agenda for discussion. Chair Perkins reiterated it could only go on the agenda if someone made the motion to reconsider the decision.

Commissioner Drouin left the meeting at this point.

APPROVAL OF MINUTES –

Motion by Vice-Chair Boisvert to approve the May 22, 2023 Conservation Commission minutes with the following amendments.

Page 1, Line 36 – Change “did know” to “didn't know”

Page 10, Line 416 – Change “Shed” to “She”

Page 13, Line 561 – remove “until”

Motion Seconded by Commissioner Glenn

Motion Carried

6-0-0

ADJOURNMENT –

Motion to Adjourn by Commissioner Glenn

Motion Seconded by Vice-Chair Boisvert

Motion Carried

6-0-0

The June 26, 2023 meeting of the Conservation Commission was adjourned at 7:35pm.