



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION MARCH 15, 2021 MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, March 15, 2021 at 6:32 p.m.

Steven Perkins, Chair, presided:

Members of the Commission Participating: Michael Boisvert, Vice Chair
Gina Rosati, Secretary
Cynthia Glenn
Gage Perry
Eric Starr
Tim Tenhave, Alternate Member

Members of the Commission Absent: Michael Drouin, Alternate Member
Councilor Peter Albert

Also Participating: Kyle Fox, Director, Public Works Department
Matt Caron, Member, N.E. Mountain Bike Association

Due to the COVID-19/Coronavirus crisis, and in accordance with [Governor Sununu's Emergency Order #12](#) pursuant to [Executive Order 2020-04](#) (extended by Executive Order 2021-02), this Commission is authorized to meet electronically.

As stated on the agenda, the meeting was aired live on Merrimack TV (Channel 20). Telephone access was available for members of the public wishing to provide comment; 1-312-626-6799 US / 1-929-205-6099 US (Meeting ID: 954 6698 7844).

Also identified on the agenda was the opportunity for public comment to be submitted leading up to the start of the meeting via email to: CommDev@MerrimackNH.Gov.

In accordance with [RSA 91-A:2 III](#), Each member of the Commission was asked to state, for the record, where they were, why their attendance in person was not reasonably practical, who, if anyone, was with them, and whether or not they were able to hear the proceedings.

Chair Perkins

Stated he was participating electronically from his office, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Vice Chair Boisvert

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Commissioner Rosati

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was alone in the room she was in, and could hear the proceedings.

Commissioner Glenn

Stated she was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, she was alone in the room she was in, and could hear the proceedings.

Commissioner Perry

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Commissioner Starr

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Commissioner Tenhave

Stated he was participating electronically from home, attendance in person was not reasonably practical due to COVID-19, he was alone in the room he was in, and could hear the proceedings.

Chair Perkins designated Commissioner Tenhave to sit in for Councilor Albert.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS - None

NEW BUSINESS

**MOTION BY COMMISSIONER ROSATI TO TAKE FROM THE TABLE THE SOUHEGAN RIVER TRAIL PROJECT
MOTION SECONDED BY CHAIR PERKINS**

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn,

Commissioner Perry, Commissioner Starr, Commissioner Tenhave

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Nay:

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MOTION CARRIED

1. Souhegan River Trail Project

Kyle Fox, Director, Public Works Department (PWD), remarked the discussion for this evening differs from the last discussion around potential mitigation projects associated with this project. The focus of this discussion is the wetland application, which was submitted by the consultant, Quantum Construction Consultants.

The Souhegan River Trail Project began in 2009 with the Town Council's adoption of the Pedestrian Trail Master Plan that was created by the Town Center Committee in association with the Integrated Transportation and Community Planning Program (iTRaC) project. This was one of the projects that came out of that master plan.

What the project seeks to accomplish is connectivity in the trail systems from the Town Center area to points west; west of Daniel Webster Highway and up to the Everett Turnpike and points west of there.

It originates in Watson Park. A slide was shown depicting the proposed trail and where it connects to the existing sidewalk in Watson Park. It will come down in the grassy area of the park to the area of an existing chain link fence, through the fence, along the overgrown areas and into what is referred to as the old stock pens that were used with previous uses of the Watson Park parcel (prior to being donated to Town). The sluiceway used to carry water under the Chamberlain Bridge outside of the channel where the river flows. The Chamberlain Bridge has a section that carries the Souhegan River and a second arch that carried the sluiceway.

The project proposes to carry the trail underneath D.W. Highway, which will promote safe passage east and west across the highway through the old waterway/sluiceway, adjacent to the Merrimack Fire Department, and will cross the impoundment (location of wetland impacts). From there, it will go across to the wooded area where it meets existing trails.

The last 260' of the trail is located within the wetland. The area used to be full of water when the Pennichuck dam existed. When the dam was removed the impoundment area became dry. It is currently classified as a wet meadow. A single stream comes from the Woodbury Street area and collects water from stormwater bringing it through a channel and eventually to the Souhegan River. Proposed is placement of a culvert to carry the stream crossing for any backflow that would be blocked up by the trail.

The trail itself will be a 5' wide path with 4-1 side slopes to allow stability and safe passage. A chain link fence will be on either side of the trail to keep pedestrians from falling off the slope or getting into the wetlands. A featured needed for the practicality of construction, but a nice benefit, is a trail that will go to the Fire Department property. It will be used for construction access but will be left as a formalized access to provide increased access to the trail system by the Fire Department.

The wetland impacts for the project are approx. 7,600 sq. ft., 6,200 of which are permanent. When designing the project, several mitigation techniques were considered to try to limit the wetland impact. The first was the do nothing alternative, which was deemed impractical as the purpose of the project is connectivity from Watson Park to the trail system west. The second was a boardwalk. Some on the Town Center Committee were in favor of that idea. It was explored. The problem they ran up against was the requirement (when utilizing Federal dollars), that the project itself last 75-100 years. To build a boardwalk that would last that time would require drilling concrete shafts, etc. The net effect would have been a much higher cost, which would make the

project undoable within the budget. It also would have the same wetland impact because of all the machinery that would have to be used.

The third technique was used. Originally the project was approved through the Transportation Alternatives Program (TAP) Grant as a pedestrian way, which Federal Highway requires to be 10' wide with 6-1 side slopes. Working with our partners at Federal Highway and Department of Transportation (DOT), the project was reclassified as a pedestrian trail, which allows the trail to be narrowed up to a 5' configuration with 4-1 side slopes. Going from 10' wide with 6-1 side slopes to a 5' wide trail with 4-1 slopes, greatly reduced the wetland impact.

Asked, he stated the surface would be a compacted gravel. Commissioner Rosati spoke of the trail that would be left as fire access noting 5' is not sufficient for an emergency vehicle. Director Fox noted the department has smaller vehicles, and the idea is the ease of getting manpower into the trails. With the existing slope, it would be difficult.

Commissioner Tenhave questioned temporary impacts and was informed they would be the slope work tie-in, the equipment being able to work in the area, and around each end of the culvert where some excavation would have to occur to place the culvert. Temporary impact is 1,400 sq. ft. The PWD will maintain the trail in perpetuity. That is a requirement of TAP Grant funding.

Commissioner Tenhave questioned where maintenance would end going west and was told it would end at the tree line (limit of project). Commissioner Tenhave noted the Commission had not received preliminary information and can now see there are 167 pages of documentation. He requested a review of the first few pages. Director Fox displayed the wetland application.

Commissioner Tenhave commented this may be the last wetland permit application he would be reviewing during his current term on the Commission. He wished to scroll through the application so that members of the Commission could raise any questions.

Director Fox displayed the pages of the Dredge & Fill Wetland Permit Application. The full permit application was prepared as the project did not meet the qualifications for an expedited permit due to the extent of the work, and that it is a Priority Resource Area (PRA). Answering yes to the question of whether the project qualifies for an Impact Classification Adjustment was the result of it being a wet meadow. The response to the question of floodplain wetland contiguous to a tier 3 or higher watercourse was a yes because of the Souhegan River. The response to the question of whether the property is within a Designated River Corridor was yes because of the Souhegan River. Noted was that a copy of the permit was sent to the Souhegan River local Advisory Committee. Their input on the project will be sought. Any project within ¼ mile of the Souhegan River is required to go to the local advisory committee. The same is true with the Merrimack River (Southern Merrimack River Local Advisory Committee).

The application requires identification of the project description and location, identification of nearest water body, applicant, preparer of application, etc. Resource specific criteria must be identified. This project differs from typical dredge & fill permits in that there is a special section for trails, paths, and boardwalks.

Director Fox stated the application could be placed on the Town's website for further review. The section around avoidance and minimization is where the mitigation alternatives that were considered are covered.

Commissioner Tenhave remarked this part of the permit is where the Commission could argue that the applicant chose the wrong path. The comments to NHDES could be that the Commission would prefer another approach.

Director Fox noted NH RSA [482-A:11](#), the first three paragraphs address what the Commission's role is in reviewing wetland permits.

Section 9 of the permit application addresses the requirement for the mitigation pre-application meeting. Director Fox noted the department met in Concord with representatives from the Aquatic Resource Management Program to receive guidance. Following that, he met with the Commission. The two parcels the Commission has recommended for mitigation were submitted for consideration. The department has not yet received input from NHDES on those proposals.

The application outlines the impacts; both permanent and temporary. Utilizing those numbers, the fees for the project to be submitted to the State is determined.

The consultant develops the wetland application, brings copies to the Town Clerk and the Town Clerk distributes them to the Commission, Town Council, and Planning Board.

Commissioner Tenhave noted this is where the Commission would formulate any comments and provide them to the applicant. This would be the time the Commission would take comments and draft a letter to NHDES with any comments. Comments could simply be that we have no concerns or could be more extensive suggesting a different mitigation option, etc.

Director Fox stated NHDES will wait for a response from the Commission. If they receive no response, they will wait 40 days before acting on the application. The hope is that the Commission will provide a response to the application in a timely manner. Director Fox was uncertain which office would need to be contacted. He will provide the contact information to the Chair.

2. New England Mountain Bike Association (NEMBA)

Matthew Caron (former Commissioner) stated the desire to speak to the Commission regarding what the New England Mountain Bike Association can do to assist the Commission. They are available to assist with trail maintenance. When part of the Commission, he found it easier to have conversations about the snow grooming that they had historically done. This year, he realized the volunteers that are doing the grooming probably did not have the conversation with the Commission to notify of when the activity would occur. He stated the Association is available to assist with grooming and small trail maintenance items. He also wished to ensure the Commission is aware the Association is on the trails doing these activities.

Commissioner Rosati spoke of the good relationship in that the two entities can assist each other, e.g., the Association may look to conduct events on the properties.

Mr. Caron had requested feedback from Association members. A lot of people use the parking lot at the Horse Hill Nature Preserve (HHNP). There are maps present. There are not a lot of trail networks that have the amenities that the HHNP has. Notification was sent out to the Association membership stating this to be the time of year users should not be riding on the trails; should be letting them dry. Feedback from the group is what a great place the HHNP is for beginners to ride. The maps integrate to an app that a lot of riders use (Trailforks). The Nashua Regional Planning Commission (NRPC) integrated that into a system called OpenStreetMaps and then Trailforks pulls from OpenStreetMaps.

Vice Chair Boisvert commented on the number of trees that have recently come down across some of the biking trails in Grater Woods. He asked if Mr. Caron typically addressed the clearing of downed trees on his own while on the Commission. Mr. Caron remarked he would. He just finished doing that last week.

Commissioner Rosati spoke of the need to identify a means for the Commission to take on the responsibility of removing downed trees. She suggested going through the volunteer list and asked if Mr. Caron had any input that could be provided to volunteers for clearing trails noting the concern with volunteers going onto the properties with chainsaws, etc., not knowing individual skillsets.

Mr. Caron commented he believes there to be 7 members who are State certified cutters. Those are the only individuals you would want in the woods with chainsaws. A lot of times people will utilize hand saws, particularly if in an area of a bike path. Hand saws can do a great deal. A member of the Association created an app that can be used when on a trail and wanting to identify the location of a downed tree. That GPS pin goes to anyone who signed up on the maintenance side of the application. There are people on the maintenance side of the application (him included) who are notified when a location is identified. There is also an opportunity for the individual identifying the location to note specifics of the tree(s), e.g., diameter. Mr. Caron will provide the Commission with information on how to access the app.

Asked what is involved in becoming State certified, Mr. Caron stated there to be a requirement for participation in a class (costly and 3-day commitment). The class is taught by a State Forester.

Vice Chair Boisvert questioned how far a Town employee would travel into the properties to address a downed tree, if needed. The suggestion was to create a work order offering to guide the employee(s) into the trail so that the work can be done.

Asked if the Association has any upcoming events, Mr. Caron stated they are following the Governor's orders closely. They are not even leading group rides currently.

Commissioner Tenhave questioned the Association's position on E-Bikes. Mr. Caron commented the position has changed; the new position mentions only level 1 bikes. It puts the onus of whether the bike is allowed on the property on the property owner. The previous stand was a bit of an advocacy approach. With the initial position the Association sort of drew a line saying we are New England Mountain Bike Association and only advocate for human powered mountain bikes. The current stand is to help those wanting to ride E-Bikes create an advocacy organization.

Mr. Caron commented on agreements the Association has with towns that permit grooming to occur. Should the Commission wish to have a written agreement to permit the Association to conduct the grooming, one can be provided. Commissioner Perry stated the desire for a written agreement to be in place. As the Commission changes, it is important for new members to understand the need for grooming to occur. Commissioner Rosati suggested getting an agreement in place over the summer months in preparation for the fall/winter.

**MOTION BY COMMISSIONER ROSATI TO TAKE FROM THE TABLE THE APPOINTMENT
OF AN EX-OFFICIO MEMBER TO THE HORSE HILL NATURE PRESERVE SUB-
COMMITTEE
MOTION SECONDED BY COMMISSIONER PERRY**

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn,

Commissioner Perry, Commissioner Starr, Commissioner Tenhave

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Nay:

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MOTION CARRIED

3. Horse Hill Nature Preserve Ex-Officio vote

Commissioner Starr volunteered to serve in this capacity.

**MOTION BY COMMISSIONER ROSATI TO APPOINT ERIC STARR AS EX-OFFICIO
MEMBER OF THE HORSE HILL NATURE PRESERVE SUB-COMMITTEE FOR THE
REMAINDER OF THE 2020-2021 TERM**

MOTION SECONDED BY COMMISSIONER GLENN

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn,
Commissioner Perry, Commissioner Starr, Commissioner Tenhave

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Nay:

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MOTION CARRIED

OLD BUSINESS - None

OTHER BUSINESS

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

Commissioner Rosati expressed gratitude to PaperGraphics for once again providing the Commission with maps for the various properties.

2. Sub-Committee Updates - None

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. March 1, 2021

The following amendments were offered:

In each instance it occurs; correct the spelling of "Matt Peterson"
Page 3, Line 7; correct the spelling of "aisles"
Page 7, Line 36; correct the spelling of "conscious"
Page 7, Line 44; replace "my" with "by"
Page 9, Line 9; replace "Peterson" with "Fairbanks"
Page 11, Line 4; replace "Perry" with "Perkins"

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY CHAIR PERKINS**

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Rosati, Commissioner Glenn,
Commissioner Perry, Commissioner Starr, Commissioner Tenhave

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Nay:

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MOTION CARRIED

PUBLIC COMMENT – None

COMMISSIONER COMMENTS

Vice Chair Boisvert stated the desire to follow up with Director Fox regarding removal of several pine trees that cross trails. Chair Perkins suggested that kind of work wait a few weeks (past mud season). Vice Chair Boisvert stated concern that a false trail could be created as a means of navigating around downed trees.

Commissioner Rosati reminded residents to be watchful of the need to take in bird feeders.

Commissioner Perry commented on it being mud season and requested users of the trails provide the necessary time for trails to dry up.

Asked if he was able to successfully order the seedlings for the annual giveaway, Commissioner Perry stated he received confirmation from the State that they received the check and have processed the order. The order had to be changed due to items being sold out.

TABLED

1. Discussion and vote to re-treat the invasive Knotweed that is taking hold again on property off Brookside Drive. This will require a licensed applicator.

Tabled 9-21-20

ADJOURNMENT

MOTION BY COMMISSIONER TENHAVE TO ADJOURN
MOTION SECONDED BY COMMISSIONER PERRY

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

Yea: Chair Perkins, Vice Chair Boisvert, Commissioner Glenn, Commissioner Rosati,
Commissioner Perry, Commissioner Starr, Commissioner Tenhave

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Nay:

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MOTION CARRIED

The March 15, 2021 meeting of the Merrimack Conservation Commission was adjourned at 7:56 p.m.

Submitted by Dawn MacMillan