



# Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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## MERRIMACK CONSERVATION COMMISSION

MARCH 2, 2015

### MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, March 2, 2015 at 6:33 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman  
Michael Boisvert  
Cynthia Glenn  
Gage Perry  
Councilor Thomas Mahon

Members of the Commission Absent: Robert Croatti, Alternate  
Lauren Kras, Alternate

Also in Attendance: Peter Mikolajczuk, 88 Naticook Road  
Katie Weiss, Bedford Design Consultants, Inc.  
Andrew Duane, Wildcat Falls Sub-Committee  
Tom Wilder, 30 Davis Road  
Jody Vaillancourt, 35 Greenleaf Street

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Commissioner Kras was excused.

PUBLIC COMMENT - None

### APPOINTMENTS

#### **1. Eagle Scout Project at Grater Woods**

Commission to hear from Life Scout Joe Mroz about his proposed project at Grater Woods.

Chairman Tenhave noted Life Scout Joe Mroz was unable to meet with the Commission. He may not be able to be before the Commission until the April timeframe. He is planning an Eagle Scout project in Grater woods, and will present his proposal when available.

#### **2. Visit with Peter Mikolajczuk**

Peter has asked to become an alternate member of the Horse Hill Nature Preserve Sub-Committee.  
Commission to meet Peter, and act on his request.

Chairman Tenhave informed the Commission Mr. Mikolajczuk submitted an e-mail indicating his desire to join the Horse Hill Nature Preserve (HHNP) Sub-Committee as an alternate member. He is an active user of the property and lives in close proximity to it. Mr. Mikolajczuk commented he frequents the area often, cleans up after storms, assists mountain bikers with trail work, etc. Chairman Tenhave has made him aware the sub-committee meets quarterly, and in addition to attendance at meetings, members are asked to participate in at least one project a year on the property.

The composition is such that there is no technical number of alternate positions available. The sub-committee was formed through the Definitive Plan for the HHNP, which neither specified nor precluded alternate members. Currently there is one alternate member serving on the sub-committee.

Commissioner Perry suggested Mr. Mikolajczuk, through his current activities on the property, is already behaving like a member. Chairman Tenhave noted, during meetings, alternate members are afforded the opportunity to actively participate in discussion. In instances where participation by an alternate is required to achieve a quorum, the alternate member would have voting rights. The meetings are typically very informal.

**MOTION BY COMMISSIONER CARON TO APPOINT PETER MIKOLAJCZUK AS AN ALTERNATE MEMBER OF THE HORSE HILL NATURE PRESERVE SUB-COMMITTEE**  
**MOTION SECONDED BY COMMISSIONER GLENN**  
**MOTION CARRIED**  
**6-0-0**

STATUTORY/ADVISORY BUSINESS

**1. AutoFair Realty II, LLC. (applicant) and Helios Investments, LLC. (owner)**

Re-review for recommendation to the Planning Board of an updated application for a site plan to construct a car rental facility and outdoor vehicle storage/parking. The Commission did its first review of the previous plan on 9/15/2014. The Parcel is located at 302 Continental Boulevard in the R (Residential) and Aquifer Conservation Districts. Tax Map 2B, Lot 032.

Katie Weiss, Bedford Design Consultants, Inc., spoke of appearing before the Commission in the fall, and stated, since that time, the owner and developer have determined a smaller site plan is desired as a means of reducing costs.

The new proposal represents a smaller impact to the woods and surrounding area. The types of buffer plantings have changed; a lot of non-native species (Evergreens) have been removed. The original proposal included 3 underground storage areas. The current proposal calls for one underground storage area and two detention ponds.

The home is being raised, and the building will be located in that area, which results in a lesser amount of pavement. When asked about utilities, Ms. Weiss stated the connections to the existing home would be utilized. Sewer and water will also connect into the building.

When last before the Commission the recommendations made were: 1) de-icing compounds be minimized and applicators be Green SnowPro Certified, 2) use of low-phosphate, slow release nitrogen fertilizer; and 3) use of straw as opposed to hay. Ms. Weiss pointed out Sheet #3, Note #21 states: "No salt is allowed for de-icing, however, chemical de-icing is allowed only along the entrance drive to the site for safety reasons. Snow plowing and maintenance shall be performed by a Green SnowPro Certified individual."

Chairman Tenhave remarked the Commission had previously allowed for de-icing on the entrance drive and the associated parking for the rental facility. The current proposal would reduce that to just the entrance drive. Ms. Weiss stated agreement noting the concern is with the steeper slope and trucks entering and exiting with the higher speed on Continental Boulevard.

Chairman Tenhave pointed out Sheet #9, #3 under the heading of Seeding for Temporary Protection of Disturbed Areas calls for 10-10-10 fertilizer or its equivalent. Ms. Weiss stated her belief 10-10-10 would be better for temporary as a means of getting the grass to establish faster. Chairman Tenhave spoke of the presence of slopes, and suggested if mulching isn't adequate, fertilizer could leech down. He restated the recommendation for low-phosphate slow release nitrogen as is noted elsewhere on the plan (Note #19 under General Construction). Ms. Weiss stated that would be identified under temporary protection as well. The Commission also recommends soil testing prior to use of fertilizer to determine if it is necessary.

Chairman Tenhave pointed out a few areas on the plans where reference is made to hay, and should state straw. Chairman Tenhave commented, during the last presentation, he had the sense if all of the basins did not catch all of the water it would eventually run under Continental Boulevard. Ms. Weiss stated the water would come into the underground basin and will discharge out into a swale. Along the swale, in the grass, is a catch basin for Continental Boulevard. The water will not make it across Continental Boulevard.

Chairman Tenhave spoke of current conditions and the parking that occurs along the access roadway and around the home. Ms. Weiss noted construction is taking place at present. She stated there would be no parking along the entranceway.

Chairman Tenhave stated a letter would be submitted to the Planning Board identifying the recommendations of the Commission as: 1) de-icing compounds be minimized and applicators be Green SnowPro Certified, 2) use of low-phosphate, slow release nitrogen fertilizer; and 3) use of straw as opposed to hay.

#### OLD BUSINESS

##### **1. Visit with the Wildcat Falls conservation Are Sub-Committee**

Commission to continue a conversation with the sub-committee to review needs for trail markings and signage.

Andrew Duane, Wildcat Falls Sub-Committee, informed the Commission he has re-worked the map to remove several of the older trails that were mostly on the State area of the property. Those trails will not be marked. Come spring and summer the Sub-Committee will look at some mitigation techniques for blocking them off so they don't have the appearance of trails. Most of them are very old and hard to spot. It is believed if they are blocked off, in time, they will simply go away.

There will be no marked trails in the wetland area along the south side of the river even though there is an existing marked trail there. The blazers will be painted over and the entrance blocked off. The only pieces that will be left behind are the connector that goes to the highway underpass and the bridges, which is used by a great many to connect to the high school/West Chamberlain Road entrance and eventually the Town Center trail, and the beach trail that goes from the falls to the beach area below it on the river. It is a paved trail that would not be feasible to block off. There is the belief if it were to be marked as closed the amount of traffic would increase.

There is a small section of the trail that exhibits some erosion. That will be watched, and a way to mitigate it sought. The erosion has not increased significantly over the past 5-6 years, and, therefore, is not believed a major concern. If necessary, it would be possible to cut a switch back in there.

Signage requirements: five (5) numbered intersection signs (8' lengths of 4x4 painted and perhaps routed with numbers), four or five (4-5) small miscellaneous wording signs, e.g., to parking area, and optionally ten (10) minor intersection markers. The Sub-Committee has not yet determined how to mark the minor intersections (side trails); likely small blazers on the trees. Total trail length is approximately 4 - 4.5 miles. There is the need to calculate the number of plastic trail blazers. Commissioner Perry stated it to be dependent upon the type of trail, e.g., if long distance and visible from post to post that is sufficient. If short with a lot of switch backs, more would be needed.

Mr. Duane stated the major concern is wintertime. During the summer months the major trails where blazers would be placed are blatantly obvious; however, during the winter, some of the trails disappear into the trees as you cannot see the areas that are packed down. As soon as enough conditions allow, the area will be walked and a review conducted of areas on the trails that will need a little more consideration. Chairman Tenhave stated the Commission typically likes to place markers about every 50' unless there is such a long site distance that they could be further apart. If marking every 50' over the course of a mile, 100 markers would be needed. Mr. Duane stated his belief significantly less would be needed as a great many of the trails are blatantly obvious. As an example, he spoke of one of the four major trails where the power lines are the markers. He would anticipate the need for only 3 blazers for that trail, which is over a mile in length.

When asked how to acquire the markings, Vice Chairman Caron stated the Commissioner has an established vendor. Markers must be installed during the summer months to avoid damage (will snap if installed in cold weather). Mr. Duane stated a trail date is being planned with the volunteer core to put up signage in early spring.

With regard to color, Vice Chairman Caron stated Class B trails are identified by blue triangles. Mr. Duane commented the HHNP utilizes all white markers, which is not indicative of the type of trails they are. Chairman Tenhave stated the HHNP was done prior to the identification of specific colors/shapes, and that it was marked according to a standard that followed the Appalachian Trail; white being the main trail and blue all of the offshoots. When dealing with markings for Grater Woods the standard was refined to include both shapes and colors. Mr. Duane questioned if there are separate markings for major and minor trails. Chairman Tenhave responded in Grater Woods categories of trails were used because of the variety of different uses permitted there. In the case of Wildcat Falls, all trails are non-motorized resulting in one category.

Chairman Tenhave questioned the will of the Commission. Vice Chairman Caron spoke of the visibility of the white signs during summer months. With the main trail at Wildcat Falls markers will be pretty far off the trail given there aren't any trees directly along the trail. However, in the winter time if the markers were off the trail and white they would blend right in with the snow, which is something that is being seen now at the HHNP. Commissioner Perry stated he would be hesitant to have a third site marked differently. His preference would be to continue use of blue triangles. Agreement was expressed by other members of the Commission.

Mr. Duane provided a sample of the revised map. He stated the intent to place a large, detailed map at the entry kiosk and a small box with tri-fold maps.

In addition to the funding request for map printing, a request was made for funds to purchase the box and Plexiglass for the kiosk board. Vice Chairman Caron stated he has Lexan, which is a better quality material, and one which should be flush mounted. Mr. Duane also requested a small amount of funds to produce [\(QR\) codes](#) and [Whiztags](#). The Sub-Committee will be testing the online map and link for the site and Commission.

When asked for clarification of the total expense, Mr. Duane stated the greatest expense to be the five 4x4s and approximately 4-5 small signs (roughly 4" x 12"), which he believes will come to approximately \$50. He suggested the total cost, including printing, to be in the area of \$100. When asked, he stated the Sub-Committee is in need of materials only. A member's spouse has the necessary tools, and has volunteered to notch and route numbers into the signs. They will acquire a quart of paint in the appropriate color, and the volunteer core will take care of installation in the spring.

Commissioner Perry commented instead of trying to route the arrow point in the direction, the Commissioner has utilized plastic squares made with a single arrow that can be put up in the direction desired.

Mr. Duane stated the intersection posts would be modeled after the ones at the HHNP although they will likely not have trail names on them as the Sub-Committee is still considering trail names. There are only 3 major trails and a few connecting trails, and although they identify them by name internally, it is not believed the maps will include names. Chairman Tenhave questioned if the lack of trail names would pose an issue for search and rescue. Commissioner Perry stated there is the need for some means of identification even if by number. Mr. Duane commented that had not been considered; however, they do have names for the trails; North Loop Trail, Power Line Trail, and Falls Trail. When asked, he stated the Falls Trail is the whole loop; however, it will be a partial loop as about 1/2 of the trail is on State land. That portion will not be blazed and will likely not be included on the map. He requested guidance stating the Sub-Committee's idea was to leave the trails in place and mark that area in a different background color to identify it as State owned land. There are conservation area boundary markers in place at all trail crossings.

Chairman Tenhave looked to Councilor Mahon with regard to advertising trails that are not on Commission property for the sake of safety and convenience. Councilor Mahon stated his impression that would be acceptable because of the recreational use and the fact the State has pretty much the same protections as the Town. Commissioner Perry suggested a notation that the area is not maintained. Mr. Duane stated there are boundary markers that point into the Wildcat Falls Conservation Area. Equivalent signs could be placed in those areas. Chairman Tenhave suggested the language could be along the lines of now leaving Merrimack conservation property or State owned trails, not maintained. Mr. Duane stated there would be the need for three such signs.

Commissioner Boisvert stated his preference for the State owned area to be shaded differently on the map. Mr. Duane suggested a notice could be attached to the large map in the kiosk area indicating the State property. When asked, Mr. Duane stated he was comfortable with reimbursement of costs after the fact.

Mr. Duane questioned if there were approved vendors that should be utilized for printing of the maps. Chairman Tenhave responded the maps for the HHNP are printed in-house and the cost paid by the Commission. It was suggested he contact Sue Holstein in the Community Development Department. There is the option of utilizing a printer if desired. Mr. Duane stated the desire for the main sign for the kiosk to be done professionally.

Commissioner Perry suggested the possibility of laminating the small maps with the hope users of the property would utilize the maps and then return them to the box. He commented he would not have believed such an approach would be successful; however, having recently visited a large park he noted every kiosk had laminated maps, which were well used, and had been returned. Mr. Duane stated an electronic copy of the map (pdf and downloadable GPS file) would be provided to be placed on the website.

Vice Chairman Caron was asked to ascertain the cost of approximately 300 blue triangle trail markers, and present that information at the next meeting.

**MOTION MADE BY COMMISSIONER BOISVERT TO APPROVE THE CONCEPT FOR MARKING OF TRAILS AND IDENTIFICATION OF TRAILS ON A TRAIL MAP FOR THE WILDCAT FALLS CONSERVATION AREA AND THE EXPENDITURE OF AN AMOUNT NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) TO COVER COSTS ASSOCIATED WITH POSTS, SIGNS, PRINTING OF TRAIL MAPS, AND PURCHASE OF A SMALL MAP BOX, QR CODES, AND WHIZTAGS**  
**MOTION SECONDED BY COMMISSIONER CARON**  
**MOTION CARRIED**  
**6-0-0**

## **2. NED Pipeline and Commission Properties**

Commission to approve plans for an environmental impact study to be done on the Commission's and abutting properties. Commission to make plans, discuss, and may take action to potentially include comments to the Federal Energy Regulatory Commission (FERC).

Chairman Tenhave stated he, Commissioners Perry and Boisvert, and Assistant Town Manager/Finance Director Paul Micali have been working with Jeff Littleton of Moosewood Ecological LLC to put together a Statement of Work and identify a cost for an Environmental Impact Study.

The Scope of Work is broken down into tasks. Task I calls for a total of 4 meetings; 1) initiate the project, e.g., identify specific study areas, concerns, etc., 2) present preliminary findings, 3) present results, and 4) site walk on each property to highlight findings of field work. Additional meetings can be scheduled as needed.

Task II calls for a review of existing information. Mr. Littleton will utilize information available online such as the U.S. Geological Survey (USGS) topography maps, NH Fish and Game Wildlife Action Plan (WAP) habitats, NH Natural Heritage Bureau known rare elemental occurrences, etc. or information he gathered when preparing the Biodiversity Conservation Plan (2010). Information gained from these sources will form a base from which to work.

Task III is ecological assessments and wetland evaluations. The task will entail field work. Mr. Littleton will utilize the 2010 Biodiversity Conservation Plan to validate wetlands previously identified. He will conduct a very fine scale habitat check, e.g., vernal pools, den sites, slopes, etc. He will also look to identify any unique plants, invasive species, timber resources, etc.

Chairman Tenhave commented the idea of the study is to cover the properties in depth so that the data is not only usable for the assessment regarding the proposed pipeline project, but in perpetuity.

When evaluating wetlands, Mr. Littleton will utilize the Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire (revised 2011). The intent is to follow best practices and proper scientific procedures. The desire is for the results to be as accurate as possible and undisputable.

In doing the ecological assessments, Mr. Littleton will place special emphasis on "species of conservation concern, as well as other focal species (such as bear, moose, otter, beaver, and mink). These focal species can be used to better understand the ecological integrity of the property as a means to identify future desired conditions for land use."

Task IV is an Ecological Inventory and Impact Assessment Report. The report will identify what the impact would be of the proposed pipeline project, and how to manage those impacts if necessary. The Impact Assessment Report would either be an appendix or a separate document.

Commissioner Perry stated his preference for the report to be in the form of an appendix, which would ensure it remains as part of the report, and can be used as a template in the future.

The cost breakdown, which encompasses both the Gilmore Hill Memorial Forest and the HHNP, is as follows:

|   |                 |
|---|-----------------|
| Task I – Meetings (3 plus field trip)                       | \$ 1,200        |
| Task II – Review Existing Information                       | 960             |
| Task III – Ecological Assessments                           | 21,500          |
| Task IV – Ecological Inventory and Impact Assessment Report | <u>4,800</u>    |
|   | <b>\$28,460</b> |

Commissioner Perry suggested the words “and the installation” be added to the last sentence of the paragraph entitled Task IV – Ecological Inventory and Impact Assessment Report. He noted placement of a pipe (36” wide) will require a great deal of equipment, which will have an impact during installation. He also stated a desire to understand impacts to the area of the emergency buffer zone/blast zone/incineration zone. The area is large and the potential exists for damage to occur. He noted concern that would push the review into areas of private property. Commissioner Boisvert suggested inclusion of the blast zone would be beyond what the report can handle. Commissioner Perry suggested what might be able to be done is identification of areas that may need additional assessment.

Councilor Mahon spoke of understanding what is being asked to be provided, e.g., contractors for Tennessee Gas Pipeline Company are looking for materials within ¼ to ½ mile of the centerline of the project. They are only asking to look at our properties. They are not asking to look at the private properties because they have already asked those private property owners for the ability to look at their properties and make those same assessments. Anything the Commission/Town provides that is beyond its own property may not be considered when it comes down to the review by the Federal Energy Regulatory Commission (FERC). He suggested the Town’s legal counsel be consulted regarding going further up field than the properties owned by the Commission/Town. He stated the Town has already informed one group that it will not assess privately owned properties. That is the responsibility of the property owner.

Commissioner Perry spoke of the area that traverses the HHNP and suggested that is a space where the whole width of the zone could be reviewed. Councilor Mahon noted the Town owns that property, which is an entirely different example. Commissioner Perry used the example of Mr. Littleton, in the conduction of his work, discovering a rare plant. If it migrates into someone’s property, he would be interested in being informed of the entirety of the area. When it comes to areas of potential impact, he would like to understand the area continues on into private property. That type of information would allow the Commission to follow up with the property owner to see if access could be granted to determine the exact area of impact.

Chairman Tenhave spoke of the Gilmore Hill Memorial Forest, and noted the 170’ of powerline is not an easement. Eversource owns that piece. The Commission owns from Greens Pond all the way to the powerline area, Eversource owns the powerline, and the Commission owns a triangle area on the back side of it. When the previous owner sold the property stipulations were made that allow the Commission to walk across that path back and forth. Agriculture is an allowed use of the property. Activity not allowed is placement of buildings, planting of trees, or anything that would interfere with activities Eversource conducts on the property.

Chairman Tenhave noted the area consists of the Commission’s parcel, the Merrimack Village District (MVD) parcel, Scott Drive parcel, and the Atrium Medical Supply parcel, which all come together in the middle of that wetland. He had questioned how Mr. Littleton would treat that, and had been told he would need to gain permission from all owners to allow him to enter their property. When asked he stated he would only go across in order to know what was there if he had permission to do so.

Chairman Tenhave stated he has located the contact person for Atrium Medical, has the contact for MVD, which has provided permission for the consultant to do whatever is believed necessary, and has spoken to the President of the Scott Drive Homeowners’ Association and the President of the Horseshoe Fish & Game Club. He has not explored property owners around the HHNP.

Mr. Littleton has stated he would like to have the permissions in place so that he could walk, but he is doing the work for our property, and the walk would just give him the ability to know whether or not the wetland extends further, or a particular species continues on, etc. Councilor Mahon suggested a legal opinion be sought. He noted if Mr. Littleton were to contract out to another there is the potential for conflict. Councilor Mahon spoke of the action taken by the Town Council, and noted the allowances being made that Kinder Morgan provide the Town with whatever they find on the properties so that it can be compared with what we have identified.

Councilor Mahon stated there is nothing in the draft agreement with Moosewood Ecological regarding whether we retain Mr. Littleton's services to address any areas between the two reports that may be disputed. He noted the language in Article IV, which states "Additional services may be requested that extend above and beyond the scope of services in Exhibit A at a rate of \$60/hour." However, he would prefer to see something more specific in that regard. He suggested a legal opinion be obtained. When asked, he stated a willingness to follow up with counsel.

Commissioner Perry suggested it may be desirable to request Mr. Littleton present his findings to the Town Council simply to provide a better understanding of what is identified in the area. Councilor Mahon responded that would be desired. Chairman Tenhave noted the purpose of the third meeting under Task I is to "present the results of the project to the MCC". That meeting could be a joint meeting of the Commission and the Town Council. Councilor Mahon suggested the MVD and others could be invited to attend.

Commissioner Glenn questioned if the intent was for the report to include identification of impacts to the area of the emergency buffer zone, within Commission property. Commissioner Perry acknowledged such an addition to the scope of work may impact the cost. The consensus was for that language to be added. Commissioner Perry commented we would have to rely on Kinder Morgan or others to provide information on what that radius truly is. Councilor Mahon suggested that question could be posed at the March 26<sup>th</sup> Town Council meeting as representatives of Kinder Morgan will be present.

Vice Chairman Caron stated the actual study covers the entirety of the two parcels. Although it would be nice to understand impacts that could occur outside of the parcels, he does not believe Mr. Littleton's time is best spent gaining access to abutting properties. Commissioner Perry stated the only change would be in the identification of the impact zone. Mr. Littleton will perform an environmental study of the entirety of the parcels and identify the whole of the impact zone, e.g., if something is identified that continues further and onto private property, that could be identified so that it calls attention to the need for the Commission to make contact with the private land owner to determine the extent.

Commissioner Perry noted the desire for the report to be broken down into two separate reports; one for the Gilmore Hill Memorial Forest and one for the HHNP.

Commissioner Perry spoke of the need to have a set schedule established that can be conveyed to the Police Department, etc. so that Mr. Littleton's presence and affiliation is understood. Councilor Mahon suggested he acquire an I.D. tag from the Police Department.

Commissioner Glenn questioned the timing of the final report. Chairman Tenhave responded Mr. Littleton has stated he would be happy to put together data in a more preliminary manner if the need arose. It is anticipated the final report would be due in July or August, which would be prior to when Kinder Morgan would submit their application. It may be that the Commission would want some data to support scoping meetings that would take place beforehand. Councilor Mahon stated the Council would like to have a general overview as soon as one could be provided. Chairman Tenhave stated his belief a lot of that general information is already available; it is simply a matter of understanding the depth of information desired.

Councilor Mahon stated the letter being drafted for FERC contains general statements about river crossings, protected properties, endangered species, etc. He will confer with legal counsel to gain a better understanding of the depth of information that should be provided, e.g., attaching reports already completed such as the Definitive Plan, the Master Plan, the Ecological Assessment, and wetland system maps already available in the GIS system.

Chairman Tenhave stated Mr. Littleton will be present at the Commission's next meeting. He questioned the will of the Commission with regard to next steps.

**MOTION MADE BY COMMISSIONER PERRY TO APPROVE THE CONTRACT, AS AMENDED, IN AN AMOUNT NOT TO EXCEED TWENTY EIGHT THOUSAND FOUR HUNDRED SIXTY DOLLARS (\$28,460) AND TO AUTHORIZE CHAIRMAN TENHAVE TO APPROVE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED TEN PERCENT (10%) OF THE TOTAL CONTRACT COST. FUNDS ARE AVAILABLE IN FUND 53.**

**MOTION SECONDED BY COMMISSIONER CARON**

**MOTION CARRIED**

**6-0-0**

Chairman Tenhave questioned the will of the Commission with regard to the proposed Northeast Energy Direct (NED) pipeline project, e.g., comment on the survey letter the Town Council is moving forward with, etc. He noted the Commission is the management body for both parcels (Gilmore Hill Memorial Forest and HHNP).

Commissioner Perry stated he does not want any construction taking place on conservation property. He cannot believe the only path is routing through conservation property. Commissioner Glenn stated agreement. For the purpose of the Commission, the goal is to keep the proposed project out of any conservation land. It would certainly not benefit the land, and there is no way of knowing the land would return to its current state should this be allowed. She commented she has some hesitancy in providing access to the property. She suggested they could come back and say we agree the path proposed is not ideal, but what if we just move the path over slightly, which would result in our having spent our funds focusing on a particular area. Councilor Mahon stated the proposed route should not be viewed as the final route. Commissioner Boisvert voiced his opinion the Commission has to keep its focus on conservation land.

Vice Chairman Caron remarked there have been meetings conducted around the issue of closing trails for mud season as a way to avoid a 1.5" impact on a 3' wide trail. The current proposal would result in a 36" pipe being buried at a depth that is unknown and an impact area of potentially 150' in width. He can understand the concern. The Commission has been protecting this land for quite some time, and the proposal seems to be a great impact. There is the need for a consultant to identify what the true impact would be. He stated his desire for Mr. Littleton's focus to be on what would be the after affect, e.g., what the footprint would be. He suggested the Commission provide Mr. Littleton with everything currently known about potential impacts, e.g., in other locations where this activity has occurred and based on what the potential plan includes. At present, the Commission is reacting emotionally to what it believes may happen. He is looking forward to hearing from a scientist what the impact would be. With that information, the Commission could make an informed decision.

Commissioner Boisvert questioned the time constraint. Councilor Mahon stated a document he recently reviewed stated categorically Kinder Morgan is not planning on presenting anything to FERC until September 15, 2015. Chairman Tenhave stated the ability to provide comment continues until the application is filed. That being said, they could, theoretically, after 180 days of submitting their pre-application, file a formal application; however, it is highly unlikely they would have been able to do enough study, etc. to be able to do that within two weeks' time. By their own documents they state they want to be ready for September. The Commission should have until September to make any pre-application comments.

Commissioner Glenn commented the Commission could put to writing that this activity is something it would not allow any other party to do, that we are reviewing the property in detail to identify potential impacts, and are against the project on conservation land. Councilor Mahon stated the need to keep in mind that there are federal laws on the books that provide them the opportunity to do this. He agreed the Commission should stick with what it has on the properties it owns. These are conservation lands, protected properties in some instances, ecologically sensitive, etc. All of those issues play right into the National Environmental Policy Act (NEPA) requirements, and that is what will stop the project dead in its tracks; if there is sufficient information that they cannot comply or produce something that meets the criteria. Kinder Morgan has admitted themselves the reason they are here is because they couldn't overcome those issues in Massachusetts.

Chairman Tenhave stated agreement; these are conservation properties, and a pipeline is completely adverse to why we have these properties. Therefore, he would not support any pipeline on any of the properties the Commission is charged with managing. If FERC determines there is public necessity and convenience and issues the permit, then we have to determine how we will deal with that decision.

He questioned the will of the Commission relative to providing input to FERC. He stated his opinion, as the entity responsible for managing the parcels, the Commission is a stakeholder, and should let FERC know the Commission considers itself a stakeholder in the process. He suggested, when the time comes, the Commission may want to be identified as an intervener. He proposed the Commission inform FERC of the position of the Commission with regard to the properties it is charged with managing, of the intention to participate in the process as stakeholders, and request a scoping meeting be conducted in Merrimack.

He offered to draft a letter for review and approval by the Commission in time for its next meeting. He suggested the letter be submitted to FERC in advance of Kinder Morgan's attendance at the March 26<sup>th</sup> Town Council meeting, and that the Commission be afforded the opportunity, during that meeting, to present the questions and concerns of the Commission. Commissioner Perry agreed to assist in preparing the letter.



***Commissioners expressed agreement with the proposed action.***

Chairman Tenhave questioned what, if any, action the Commission would like to take with regard to the Access Agreement Re Field Surveys. Commissioner Perry stated he was pleased with the letter. Councilor Mahon remarked the Town Council put some restrictions on what the Town is willing to allow them to do in addition to requiring a representative of the Town accompany Tennessee Gas Pipeline, LLC or its designated contractors any time they are on Town owned property.

Commissioner Perry questioned who would represent the Town during visits to Town owned property. Councilor Mahon was unsure. He stated there will come a time when we will have to identify who will accompany them, and suggested it might be that Mr. Littleton is asked to accompany them on properties managed by the Commission. Chairman Tenhave questioned if the survey letter stops at this point or if this is point A. Councilor Mahon responded they will likely go back and forth. Chairman Tenhave expressed his hope it would not be used as an excuse to say Merrimack wouldn't let us on the property so therefore we think it needs to be here, and then try to deal with that during scoping meetings, etc. Councilor Mahon stated the Council is being very reasonable with the whole issue. They take that tact at their own peril.

Vice Chairman Caron noted dates have not yet been identified. Chairman Tenhave questioned if the Commission supports the action of the Council in its initial response to the request to survey. Commissioner Perry stated he is pleased with the response, and believes it to be reasonable. Councilor Mahon stated the Access Agreement has certain conditions, e.g., notification, accompanied by Town representatives, certain activities restricted, and information obtained is shared with the Town.

Commissioner Glenn questioned whether Kinder Morgan is required to publicize the March 26<sup>th</sup> meeting. She stated concern with providing anything in writing prior to their attendance at the meeting. Chairman Tenhave stated Kinder Morgan has committed to something similar in Amherst a few days before the Town Council meeting. They are also holding a meeting in another town on the same evening.

***The consensus of the Commission was to report back to the Town Council the Commission's agreement with the letter as stated.***

Chairman Tenhave spoke of the Town's response to AECOM regarding the letter from the Tennessee Gas Pipeline Company, LLC requesting the Town identify whether sensitive environmental areas exist within .25 or .50 miles (dependent on the nature of the sensitive area) of the proposed Northeast Energy Direct Project.

Chairman Tenhave stated there to be no direct impact on that to the Commission. He questioned the will of the Commission with regard to the letter. Councilor Mahon explained part of the reason they are requesting the information is to have something to compare to when doing their own work. Chairman Tenhave stated his opinion they should be provided with the Master Plan and the Ecological Assessment. Commissioner Perry commented much of that data is already compiled, e.g., the Natural Heritage Bureau keeps up their information regarding rare species, etc. Councilor Mahon remarked they are simply trying to avoid surprises on their part.

Chairman Tenhave stated he is not of the opinion the Commission would want to identify the area of every turtle on the property, etc. Commissioner Perry noted the Commission has been cautioned about identifying the location of rare species.

***The consensus of the Commission was agreement with the approach taken by the Town Council.***

*Chairman Tenhave opened the floor for public comment.*

Tom Wilder, 30 Davis Road

Spoke of having attended the joint meeting conducted with the Amherst Conservation Commission. He stated the desire to make the Commission aware of what was stated by the Amherst Selectmen at their last meeting; Selectman D'Angelo stated: "The Pipeline Task Force (PTF) has been unable to meet because of snowstorms over the last two weeks. The PTF will meet Wednesday evening (February 25) and next Tuesday (March 3) to put together a draft response to FERC by the deadline of March 18th. The response will not include alternatives; only reasons why the current proposed route is not a good one."

Mr. Wilder stated his recollection, during that meeting, they discussed going near the high school or going through the bog, and they wanted to try and push it south on 101A. Chairman Tenhave had commented if it were going along 101A it would be near one of Merrimack's wellhead areas. Chairman Tenhave stated those comments were made during the joint meeting with the Amherst Conservation Commission on February 11<sup>th</sup>.

Mr. Wilder stated they are clearly taking a direction. What that direction is they are not yet stating; however, by March 18<sup>th</sup> they are going to come up with something; it doesn't include an alternate route, only why the current route isn't a good one. He suggested, by saying that, they are trying to push Kinder Morgan into another route. He wished for the Commission to be aware that could be the 101A route.

Mr. Wilder questioned if it would be worse for the pipeline to go across those properties or through the HHNP and the Gilmore Memorial Forest. Chairman Tenhave stated what he had highlighted is the area is near the well areas, which was his concern. Ideally there would be a discussion as to what they are thinking of doing so that there could be back and forth dialogue. He remarked if running along 101A through that section would it then hook a left or right, depending on perspective, and go down Continental Boulevard, would it continue with 101A and go into Nashua and then cross the river somewhere, etc. None of those details are known. He reiterated his comment at the February 11<sup>th</sup> meeting was simply to state he had concerns with that area because of the wellhead area.

Those same concerns were brought out when the line was supposed to come up through Hollis and Beaver Brook. The initial route would have come out right near what used to be the Apple Pie Company. When they approached the Town and MVD, and it was known there was the potential of bringing the gas line out there, MVD stated that would be in the well area. They then shifted the Hollis route to be just outside of the well area to end up in Amherst rather than Merrimack. The last version of that was a shift a bit further west so that it stayed completely in Hollis. Then low and behold we were informed it all moved north.

Chairman Tenhave stated he wanted to be sure that when Amherst was proposing that, they understood their Task Force member. The individual who was speaking was an Alternate Member of the Commission who was on the Task Force, appointed by the Selectmen, and he wanted to make sure he was aware Merrimack has wells there, as people might think that area is not even Merrimack anymore. The current route takes it between wells 3 and 4. That also has the same concerns for him.

Councilor Mahon remarked Merrimack is the biggest blockade to the pipeline. After you get through the HHNP and the Gilmore Hill Memorial Forest and get further down between the HHNP and the river that is the biggest block on the pipeline. It is the biggest opportunity to say it is not coming this way just because of the topography, sewer lines, etc. He spoke of a meeting that took place with Pennichuck Water Works about the properties on Continental Boulevard, which started the discussion that led to the purchase of the parcel by the Commission. During those discussions they were lamenting the fact that previous managers had pursued policies that were making it more and more difficult and becoming more costly to provide safe, clean water to their customers. They particularly pointed to Pennichuck Square because of the runoff from Pennichuck into that whole area and down that brook on the other side of 101. The area has been so heavily developed in the last 25 years it is more ecologically fragile than it has ever been before, and the slightest thing you do has an impact.

The pipeline itself may not be an issue, but the construction, installation, etc. that goes along with it further degrades the ability to handle this stuff. The distance between the edges of the wellhead protection area between wells 3 and 4 is the only hole Tennessee Gas has to get the gas pipeline through to the river.

Jody Vaillancourt, 35 Greenleaf Street

Thanked the Commission for devoting time to the proposed project, and stated she is pleased with all of the work put into the impact study.

To the point made regarding installation, she stated if people don't understand what the installation of the pipe entails physically to the landscaping they can go online and view a video.

She stated there to be nothing to prevent the Commission from taking a formal stand saying that natural gas pipelines don't belong in our conservation areas. She noted her appreciation the Commission seems to be in agreement on that position. She stated support for the Commission's position of allowing for the survey. With regard to timelines, she stated the information is not published, presented in writing, etc. The March 18<sup>th</sup> deadline was assumed based on the typical practice for a period of six months from the date of the pre-filing period to

provide comment. Kinder Morgan has written to FERC stating they have no idea where that March 18<sup>th</sup> date came from and that they will not stop listening to comments, etc.

Kinder Morgan is the entity laying out the timeline. Now they are saying they will hopefully file an application by September 2015. If the final version of the environmental impact study isn't presented until August, the window for providing comment will be short. She stated her support of the Commission's comments that Kinder Morgan be provided with information we have currently and informing them updates are being prepared.

Ms. Vaillancourt questioned if the attorney representing the Town Council is also representing the Commission. Chairman Tenhave stated the attorney is hired by and represents the Town Council. The Town Manager and Town Council have allowed the Commission to ask questions and participate with that attorney, but the attorney is retained by the Town.

Ms. Vaillancourt questioned whether the Commission intends to retain its own legal representation, and was told that possibility has not been discussed.

NEW BUSINESS – None

OTHER BUSINESS

- Beaver Management and Water Level Control Activities

Commissioner Perry stated he has viewed the areas and witnessed flowing water (under ice). To date, all devices appear to be working well. There are signs of beaver activity in the snow.

- Duck Boxes

Vice Chairman Caron stated he has been quoted a price of \$60 each. He was unable to identify a local builder of duck boxes. The count is 10, which would replace two on White Pine Swamp, one on Lastowka Pond, and add six at Grater Woods. There would be 1 remaining. When asked about the quality and openings, he stated the design he has seen has two hinged sides. Typically you use one for cleaning (big door) and the second (smaller) is a door for the wood ducks. It stays closed unless they push their way through it as a means to escape a predator that gains access.

When asked, he stated his belief they could be placed during the winter months. He noted the need to acquire the bedding material. In the past, a member of the HHNP has provided it (wood shavings). He will look to that individual again. Commissioner Boisvert offered his assistance in the installation of the boxes. Vice Chairman Caron stated uncertainty with regard to shipping costs.

**MOTION BY COUNCILOR MAHON TO AUTHORIZE THE EXPENDITURE OF AN AMOUNT NOT TO EXCEED EIGHT HUNDRED DOLLARS (\$800.00) FOR THE PURCHASE OF TEN (10) WOOD DUCK BOXES, SHAVINGS, AND ASSOCIATED ANCILLARY EXPENSES. FUNDS ARE AVAILABLE IN FUND 53**  
**MOTION SECONDED BY COMMISSIONER GLENN**  
**MOTION CARRIED**  
**6-0-0**

- HHNP Donation - 3C Race Productions

Chairman Tenhave informed the Commission of a donation received from 3C Race Productions in the amount of \$318.00. Funds have been put into the HHNP fund. He thanked 3C Race Productions for the donation.

- HHNP Expense for Bridge Work

Chairman Tenhave informed the Commission of an expense of \$32.60 for the purchase of baseboards utilized to update some of the bridge work on the HHNP.

**MOTION BY COMMISSIONER PERRY TO APPROVE REIMBURSEMENT OF THIRTY TWO DOLLARS AND SIXTY CENTS (\$32.60) EXPENDED TO PURCHASE BASEBOARDS TO UPDATE BRIDGE WORK ON THE HORSE HILL NATURE PRESERVE**  
**MOTION SECONDED BY COMMISSIONER CARON**  
**MOTION CARRIED**  
**6-0-0**

- Review of Meeting with Amherst Conservation Commission on 2/11/15

Chairman Tenhave spoke of the joint meeting conducted with the Amherst Conservation Commission (ACC). Minutes will be available through the Amherst Conservation Commission's normal process.

During the meeting, discussions took place regarding Grater Woods, conservation, and work being conducted by both commissions. Liaisons were appointed for Grater Woods; Vice Chairman Caron for Merrimack and Wes Robertson for Amherst. The Liaisons will be responsible for updating their respective commissions on activities taking place and action required by the Commission. The group also discussed the possibility of a trail connection and improvements. Commissioner Perry noted there is a Grater Woods in Amherst, which abuts the Grater Woods in Merrimack.

Chairman Tenhave remarked the parking area was discussed briefly as was the forestry operation being considered. One of the members of the ACC will look at the access for that in case the project moves forward. It was noted the Merrimack Conservation Commission wishes to close down part of South Grater Road. Discussion took place around the proposed pipeline and what both commissions were doing as of February 11<sup>th</sup>. An update was provided on the efforts of the Amherst Task Force.

- Review of NHACC Meeting on 2/23/15

Chairman Tenhave spoke of the meeting conducted in Milford and sponsored by the New Hampshire Association of Conservation Commissions where members of various commissions affected by the proposed pipeline got together. The group heard from Christophe Courchesne, Senior Attorney, Conservation Law Foundation and a Wetland Scientist. The meeting was purely for the purpose of information exchange. There were no decisions made or votes taken. The intent was to get the commissions of the communities that wanted to participate up to a base level of knowledge.

- Correspondence

Chairman Tenhave made Commissioners aware of information received and available for review, e.g. NHACC Forest Notes.

- Non-Public Session

Commissioner Boisvert questioned when the non-public session might be scheduled. Chairman Tenhave noted Commissioner Boisvert has been pursuing options based on the last meeting of the Commission. Commissioner Boisvert stated the letter to Mr. Nash was mailed earlier in the day. Chairman Tenhave stated he would try to set up a non-public session to occur in April.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. . . . . January 5, 2015  
Merrimack Conservation Commission. . . . . January 26, 2015

**MOTION BY COUNCILOR MAHON TO TABLE THE MINUTES OF JANUARY 5, 2015 AND JANUARY 26, 2015 UNTIL THE NEXT REGULARLY SCHEDULED MEETING**  
**MOTION SECONDED BY COMMISSIONER GLENN**  
**MOTION CARRIED**  
**6-0-0**

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Councilor Mahon stated at the time the Town purchased the HHNP, there were funds available from the Society for the Preservation of New Hampshire Forests (Society). It was noted Society funds were not utilized in the purchase. Councilor Mahon questioned whether the Commission has reached out to the Society in regard to the proposed pipeline project. He suggested another group that might be contacted is the New Hampshire Timberland Owners Association. He suggested contact be made to assess their level of interest. He noted he had reached out to the Conservation Law Foundation and questioned their approach. He was informed they would approach it from the aspect of necessity.

Commissioner Perry stated a willingness to reach out to the Society, and question, what, if any, action they are taking.

Vice Chairman Caron questioned whether anyone was able to attend the Winter Carnival, and was told no Commissioners attended. Councilor Mahon commented the estimate for attendance was 350.

ADJOURNMENT

**MOTION BY COMMISSIONER PERRY TO ADJOURN  
MOTION SECONDED BY COMMISSIONER CARON  
MOTION CARRIED  
6-0-0**

*The March 2, 2014 meeting of the Merrimack Conservation Commission was adjourned at 9:10 p.m.*

Submitted by Dawn MacMillan