

Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION May 15, 2017 MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, May 15, 2017 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Chairman Gage Perry presided:

Members of the Commission Present: Michael Boisvert

Cynthia Glenn

Tim Tenhave, Alternate Member Gina Rosati, Alternate Member

Councilor Jackie Flood

Members of the Commission Absent: Matt Caron, Vice Chairman

Also in Attendance: Don Laliberte, Horse Hill Nature Preserve Sub-Committee

Brian Keane, Forma Beyond Wood, Inc.,

Brenton Cole, P.E., Civil Engineer Keach-Nordstrom Associates, Inc.

PUBLIC COMMENT

Don Laliberte, Horse Hill Nature Preserve (HHNP) Sub-Committee, asked if there was an update available regarding the skidder damage on the HHNP property. Chairman Perry stated the New Hampshire Department of Environmental Services (NHDES) has been out to the site, and did not believe they found anything worth pursuing. The Commission has requested Jeff Littleton, Moosewood Ecological, travel the path the skidder took, and report back with his assessment and recommendation. When in receipt of that recommendation the Commission will have to consider how to proceed relative to the trespass. Mr. Laliberte offered to be available to walk the site and detail the areas of greatest impact/concern with Mr. Littleton and/or NHDES. Chairman Perry commented NHDES has record of the incident, and should areas of concern be specified, they will revisit the site.

APPOINTMENTS

1. Commission to consider the appointment of Don Laliberte as full-time member of the Horse Hill Nature Preserve Subcommittee

Chairman Perry noted Don Laliberte has served as an alternate member of the HHNP Sub-committee for some time. Newt Coryell, Chairman of the HHNP, forwarded a note stating support for Mr. Laliberte's appointment as a full-time member.

Commissioner Glenn highlighted some of the ways in which Mr. Laliberte has been a very valuable member of the Sub-committee.

MOTION BY COMMISSIONER GLENN TO APPOINT DON LALIBERTE AS A FULL TIME MEMBER OF THE HORSE HILL NATURE PRESERVE WITH A TERM TO EXPIRE JULY 31, 2020 MOTION SECONDED BY COMMISSIONER BOISVERT

ON THE QUESTION

Commissioner Tenhave thanked Mr. Laliberte commenting he has been a great asset to the property and all of those involved in its care. He stated appreciation for Mr. Laliberte taking on the role of full-time member.

MOTION CARRIED

6-0-0

STATUTORY/ADVISORY BUSINESS

1. Forma Beyond Wood, Inc. (applicant) and N&P Associates Realty Trust (owner) - Review for recommendation to the Planning Board of a Waiver of Full Site Plan for a manufacturing and warehousing business. The parcel is located at 20 Star Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-1, Lot 012.

Brian Keane, Forma Beyond Wood, Inc., stated he is one of the owners of the company, which manufactures replication wood products and replication steel products for veneering applications. They do a lot of restaurants where specific looks are desired. The company is currently operating in an approx. 4,000 sq. ft. facility in Wilton, NH. Wanting to expand, they have located a property on Star Drive that suits their needs.

Mr. Keane provided a brochure that highlighted the products the company manufactures. The process takes a raw material, applies colors, sealers, etc., and pours it into a mold. It is allowed to cure, is planed down to the desired thickness, and the product is packaged, and shipped.

When asked about the materials and chemicals that are stored onsite, Mr. Keane responded there is not much in terms of chemicals. The material comes in a heavy duty tote. Once poured into a mold, the moisture in the air cures the product.

Commissioner Rosati questioned if the product would have PFOAs, and was informed it would not. Mr. Keane stated it to be a pretty safe product; no off gassing, no waste. Everything cures to a hard product; no liquid, no runoff, no waste per se other than small pieces that are cut up. Everything is environmentally friendly.

Commissioner Tenhave asked, and was informed the structure exists. What is proposed is simply a change of use for the building. Chairman Perry questioned if they would be taking over the entirety of the building, and was informed the occupant of the end of the building would remain. Chairman Perry questioned the length of time required to cure, and what would occur in the instance of a spill. Mr. Keane stated the product begins to congeal in 5-10 minutes. He spoke of its viscosity noting it does not flow like water would.

Commissioner Tenhave remarked it is an existing building without proposed modifications. The building had to have been permitted previously. The plans do not indicate roof drains, etc., to address water runoff. When asked if the parking lot is gravel, Mr. Keane stated the location they would be in is paved. Chairman Perry noted there is a lot of exposed earth around. Directly in front of the building is paved. Commissioner Tenhave commented the plans the Commission was reviewing were from 1982, and questioned if anything existing is new from the time the plans were produced. Mr. Keane stated the drawings were updated only to address parking.

Commissioner Tenhave questioned if the project will seek approval for existing parking (asphalt) or if more is being sought, and was informed what is current is what permitting is being sought for. When asked, Mr. Keane stated they are not planning any outside storage of material.

2. KNA Associates, Inc. and Charles H. Hazen (applicants) and Richard P. and Juliana D. Hazen (owners) - Review for recommendation to the Planning Board of a Lot Line Adjustment and Subdivision Plan for a five parcel minor subdivision. The parcels are located at 90 & 94 Wilson Hill Road in the R-1 (Residential) and Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 4B, Lots 114 and 114-02.

Brenton Cole, P.E., Civil Engineer, Keach-Nordstrom Associates, Inc., stated the Hazens have owned the property for some time (began as a 70-acre parcel), and through the years the property has been sub-divided to create parcels for their family. That is what is being proposed with this project; sub-division of Tax Map 4B/Lot 114 and 114-02 to create three additional lots for their children. The project is two-fold; to do a lot line adjustment between lot 114-02 and 114, and then sub-divide the remainder into 4 total lots; 3 additional. Lot 114 is roughly 28 acres, has frontage along Wilson Hill Road, Upham Road, and the Souhegan River. The property is within the Residential, Wetland Conservation, Shoreland, and Aquifer Conservation Districts.

Richard Hazen resides at 114-02, which is in the right hand corner of the lot and Charlie Hazen lives on the large parcel. Both properties are served by private well and onsite septic systems. The same is proposed for the additional lots that would be created.

The Applicants met with the Public Works Department (PWD) and Fire Department onsite to walk Upham Road. Out of that came two requests. The first was to create a proper turn around at the end of Upham Road for fire trucks, plows, etc. There is an existing easement in the area (set up for it), but over time it has grown in a little and created a driveway. Gravel will be put down and a proper turn around created. In order to do so there is the

need for a Shoreland Permit (by notification) as that area is within the shoreline protection area of the Souhegan River (roughly 2,820 sq. ft. of disturbance; all within the 250' and at the very edge). The second request was to flatten the steep slopes near the culvert that travels under Upham Road.

On the west side of Upham Road, the slope is approx. 1 to 1 and there is remnant of an old rock wall. Mr. Cole remarked he assumes there is likely a rock wall there that created the headwall for the culvert. Over time, that has sluffed off and it has become a 1 to 1 slope. The desire is for a proper 3 to 1 slope. In order to do that, a culvert extension will need to be created, which will result in wetland impact. A minimum wetland impact permit will need to be obtained from NHDES.

In the review with NHDES, Fish & Game requested a vernal pool study be conducted. That was completed, and the results received the prior weekend. The wetland that would be impacted is a vernal pool, and was created due to a lack of maintenance on the culvert. The culvert is completely silted in, which created a 1-2' pond area. The area currently has turtle egg masses. It is a sensitive area for the Blandings Turtle, Spotted Turtle, and the Wood Turtle, which is why NH Fish & Game requested the vernal pool study. The Wetland Scientist, in the report, states that this is a modest value vernal pool because it doesn't have any shade. There are two more vernal pools near the Souhegan River, which would not be impacted. Fish & Game has asked that a 35' no-cut buffer be added around those vernal pools. One will be easy to do as it is within the 25' no-cut buffer. The other will have a no-cut buffer in place. It is in a field right now, and the desire is for signage to be placed so that trees, over time, can grow back up and create cover over the vernal pool.

The overall wetland impact will be 517 sq. ft. The PWD has reviewed the plans, and requested the existing culvert be fully replaced and not just extended the 4'. That plan revision will be made prior to submission to NHDES.

Mr. Cole stated his understanding the project was before the Commission seeking a recommendation for the subdivision, as it is within the Aquifer District and the Commission's signature on a Minimum Expedited Wetland Impact Plan for NHDES.

It was noted the Commission did not have the plan in its possession (submitted on April 25th). Mr. Cole was able to provide a copy for review.

Commissioner Boisvert questioned if the culvert would replace the existing, and was told it would. When asked for additional information on the vernal pool, Mr. Cole stated it is a 15" culvert. The water level is currently at the top of the culvert. Once it is cleared and maintained, the vernal pool will drop by 15".

The desire is for the work to begin shortly. Chairman Perry stated it would be the desire of the Commission for the timing to coincide with the end of the current year's use of the vernal pool by its inhabitants.

Commissioner Tenhave noted there to be wetland challenges in terms of where homes might be located. Mr. Cole depicted on a map the area where the stream runs down the side of the property, the Souhegan River, and the wetland being impacted (drainage way). He highlighted the areas of buildable space. He also noted the lot that has about 50' between wetlands to provide either a driveway or if someone wished to place a septic line out to a septic field. Mr. Cole noted a 12-20' driveway could be placed in the area. It may be that it would impact the wetland buffer, but the Town's regulations allow for a driveway within a wetland buffer.

Commissioner Tenhave noted if the actual wetland were impacted, the project would have to come back before the Commission, but if the driveway did not go through the wetland itself, the project would not be required to come back before the Commission.

Chairman Perry noted the turf establish schedule addresses the use of fertilizer. The recommendation of the Commission is that the soil first be tested to determine if fertilizer is required. The plan notes identify 10/20/20 (nitrogen/phosphorus/potassium). Generally, the Commission's preference is for use of low-phosphate, slow release nitrogen fertilizer. Given the location of this project, the recommendation would be for no phosphate, slow release nitrogen. Commissioner Tenhave commented there is so much standing water and feeding of the river, that phosphates could be washed into the water.

Chairman Perry stated the plan calls for use of hay where the Commission prefers straw be used. Commissioner Rosati stated the need to ensure the wildflower variety utilized is native species.

Commissioner Tenhave noted concern with the amount of space available on parcel 4B/114 (most westerly parcel that goes from Wilson Hill Road all the way down to the river) to include septic, well, and a home in the upland area without an impact to the wetlands given the need for a keep out zone for the well and the requirements for distance from the septic system. Mr. Cole described a few available options that would not result in wetland impact.

Commissioner Tenhave questioned, and was informed the Minimum Expedited Wetland Impact permit involves 517 sq. ft. of impact. The impact is in the area of the culvert itself. Sheet 8 of the Wetland Impact Plan shows the impact; some 10' off the road along the wetland to provide a safer slope from Upham Road down to existing grade. The work is being done at the request of the PWD.

Commissioner Tenhave questioned if water on the road surface would wash beyond the wetland area as a result of the way the road surface is being structured, and was informed the road surface will be put back to where it is today; sheet flows away from the vernal pool onto the abutter's property.

MOTION BY COMMISSIONER TENHAVE TO AUTHORIZE THE CHAIRMAN TO SIGN OFF ON THE WETLANDS PERMIT WITH A COMMENT TO NHDES THAT STATES THE DESIRE OF THE COMMISSION FOR WORK TO HOLD OFF UNTIL THE VERNAL POOL HAS COMPLETED ITS EARLY LIFECYCLE, EGGS HAVE HATCHED, AND CURRENT INHABITANTS HAVE MOVED ON MOTION SECONDED BY COMMISSIONER BOISVERT

ON THE QUESTION

When asked, Commissioner Tenhave stated his belief it is likely the current inhabitants will have moved on by the July timeframe. He noted the Commission can make a recommendation and NHDES can validate it, nix it, or change it. Mr. Cole stated respect for the Commission's opinion and that they would be willing to put that on the plan.

MOTION CARRIED 6-0-0

OLD BUSINESS

1. 17th Annual Seedling Give-Away Results

Chairman Perry remarked the Seedling Give-Away was well attended although not as well as the prior year. A fair amount of seedlings remain. A few requests have come in for some of the hard woods and Pines, Spruce, etc. He stated his preference for the seedlings to be distributed to the Sub-committees for planting on Commission properties. However, timing is an issue as the seedlings are currently housed in a fridge, and need to be planted. There would be the requirement for a commitment not only to plant the seedlings, but to maintain them for a period of time, e.g., watering. Commissioner Boisvert stated concern with the ability to follow-up with maintenance and the proximity of water to areas where the seedlings might be planted. The Commission was in general agreement the likelihood of the plantings being watered through any means other than Mother Nature is unlikely.

Commissioner Tenhave suggested the more wetland type could be planted and forgotten. It is the Pines, Spruces, and Sugar Maples that would be of more concern.

Chairman Perry stated the desire to pick the seedlings up from Currier Orchards by the weekend. Those that can survive in the wetland areas can be planted on Commission property. Commissioner Tenhave volunteered to bring plants out to Wildcat Falls and Commissioner Boisvert volunteered to bring plants out to Grater Woods on Saturday morning. A time for pick-up will be coordinated. Councilor Flood will be present to pick up some plantings to distribute. The conifers will be given to those who have requested them. Commissioner Glenn noted Tim Adams, Horse Hill Nature Preserve Sub-committee, has volunteered to do some planting.

2. Summit Trail Re-route Decision at Next Regular Meeting on June 5, 2017

Chairman Perry questioned if Commissioners have had the opportunity to walk the trail and would be ready to take a formal vote at the June 5th meeting. Commissioner Boisvert responded he had seen the trail in the winter. Although he was not able to see first-hand the area of wet, he understands that the alternative route would be wetter. Commissioner Tenhave stated he would be prepared to take a formal position at the June meeting.

Chairman Perry noted the start of the trail is seemingly seasonally wet. It may be that there is the need for a bridge in that area.

Commissioner Glenn noted she would not be in attendance at the June 5th meeting. She remarked it appears the issues are the location of the Heron nests on Long Pond, the water, and the size of the trail. She is of the belief there are three options; one trail, the other trail, or no trail (close the whole trail). Commissioner Boisvert noted Mr. Littleton walked the trail and provided his recommendation. Commissioner Glenn commented Mr. Littleton stated the proposed trail (to the right of the existing trail) isn't any worse than the existing trail as far as its relation to the Heron nest. Chairman Perry commented on the information Deb Huffman, former member, HHNP Subcommittee provided relative to Heron nests and proximity of human pressure on the nests. The information came from a Vermont State agency, and their recommendation is keep a minimum of a 300' buffer. The proposed trail is 600' from the nests.

When asked if the Sub-committee membership was in agreement with the recommendation of Mr. Littleton, Commissioner Glenn remarked there were many who were unable to attend the site walk. She is unsure if they are aware of the issues that could arise with the other proposed trail, which would be further away from the Heron nests; however, was noted to be very wet at the time of the walk.

It was explained what is now the Summit Trail is a logging road. Because of the slope of the trail (straight up the hill), it has had erosion problems and a number of other issues. Last year two proposed routes to re-route that section of trail were brought forward. Both brought out issues for and against. The Commission determined it would make a decision come spring. The options are to do nothing, to discontinue the trail altogether, or to go for one of the proposed options or a compromise. One of the optional routes would be approx. 50' closer to the Heron Rookery. Last fall the Commission requested its Ecological Scientist visit the site and provide an opinion. His feedback was in essence that the impact currently being felt, if there is any, would be the same with the proposed re-route. The other proposed route goes a different path to get to the two end points. Attempts are made to close the trail during nesting season.

Commissioner Glenn noted members of the Sub-committee were informed when the route was flagged so that those unable to attend the site walk could visit the site at their convenience. Commissioner Tenhave noted the Sub-committee voted late last fall to recommend their alternative route. Additional feedback received would be from individual members. When asked how the Sub-committee's recommendation fits with the recommendation of Mr. Littleton, Commissioner Tenhave noted Mr. Littleton was not asked to look at the route proposed by the Sub-committee, and therefore, has not provided an opinion on that option.

Commissioner Tenhave stated the current trail allows for many different uses. With a proposed re-route the possibility of changing the allowed uses could be discussed. It is believed neither of the alternatives, as proposed, would be suitable for snowmobiles, which is currently an allowed use.

NEW BUSINESS

1. 2017 Eversource Transmission Right-of-Ways Reliability Program

Chairman Perry spoke of an email he received from Eversource that provided a summarization of what was discussed at the May 11, 2017 Town Council meeting. There is nothing involved in the project that he believes the Commission would view as unusual. The project will consist of mechanical trimming, e.g., no herbicides.

The Transmission Right-of-Way Reliability Program is an effort to maintain rights-of-way to the full easement width where applicable. In May 2011 and 2012, three extreme weather events impacted transmission lines in New England resulting in several vegetation related outages across the region. These storms, in addition to several others, led to the Federal Energy Regulatory Commission (FERC) conducting an audit in 2012. One of the recommendations that came from that audit was to maintain the Eversource and other utilities' rights-of-way to the full width of the clearing.

In addition to the FERC recommendation, these trees can pose a hazard to the infrastructure as well as the customers residing near them. Unlike other vegetation maintenance, which would be under the wire zone, the Transmission Right-of-Way Reliability Program will take place mostly on the peripheral zone, and that is where most of the clearing will take place for the work in Merrimack.

Specifically for Merrimack, Eversource is looking at a very small amount of work on the lines. There are two lines that are active currently that work will begin on shortly and a few others that work will be done on later in the year. The W157 (approx. 28 properties with work on them) and the 380 (approx. 33 properties) are both lines that run east to west throughout Town. One is in the center and the other in the south center part of Town. Both lines have about ½ an acre of work on them. These lines go through Grater Woods, Wildcat Falls, and the HHNP.

Chairman Perry commented Eversource has seemingly been very proactive about the needed work, and in ensuring public outreach.

The Commission discussed the various options of disposal of the downed trees. Eversource has indicated if the desire of a private property owner, the wood could be left onsite, if the property owner does not wish to retain the wood, Eversource will pursue full removal of the wood and/or grinding of the stumps and potential replacement depending on the nature of the tree, e.g., ornamental. If the property is what they call traditional right-of-way where it is off in the woods, and back a ways, different avenues of wood disposal are pursued, e.g., chipper and/or brontosaurus mower and basically process the wood onsite and turn it into woodchip mulch on the ground to decompose.

Commissioned Glenn spoke a turtle sensitive area in the HHNP, which could be impacted. Commissioner Tenhave stated the sensitive areas of the HHNP and Gilmore Hill are noted on the maps, which could be provided. There are New Hampshire rare and endangered species in that area, and this time of year, those species are nesting or have laid their eggs. Commissioner Tenhave will forward the information to Chairman Perry who will in turn forward it to Mike Stanek, Certified Arborist, Eversource Transmission Department.

Chairman Perry commented on having had the opportunity to speak with representatives of Eversource following the Town Council meeting, and that he found them very much in tune with the efforts of the Commission.

2. LCIP Monitoring – Wasserman Conservation Area report

Commissioner Tenhave noted, as a requirement (in perpetuity) of the LCIP funds accepted back in 1990 when Wasserman Park was purchased, the Town is required to conduct yearly monitoring of the property. He stated his preference for the work to be done in the fall, which would provide for better visibility (with leaves falling) and avoids the hot summer months. The requirement is that the monitoring be completed by December 31st.

Commissioner Rosati stated a willingness to participate to become familiar with what is required. Chairman Perry suggested it might be worthwhile to try to coordinate that with a walk on the extension property.

The item will be placed on the agenda for the Commission's September 11, 2017 meeting.

OTHER BUSINESS

Well on Quarry Trail

Commissioner Tenhave spoke of the small dug well on the Quarry Trail that leads from Naticook Road into the HHNP. The Town does not own the land, but has a walking trail easement through there. The well had been compromised when the grate had either fallen down through or been removed and rocks had been disturbed. The well is now covered with a tarp, plywood, and rocks. Commissioner Tenhave stated his belief the well has no historical value, and his opinion it needs to be closed. The issue came up through the Town Manager and others, e.g., the Police Department took a report in case the circumstance was related to vandalism. Commissioner Tenhave commented where the Commission does not own the HHNP or the easement, he believes it to be a Town activity to make the well safe. He has forwarded an email to Kyle Fox, Director, PWD, making him aware of the situation. He has made the Town Manager, Director Fox, and Tim Thompson, Director, Community Development Department, aware of his belief it is a Town activity. Chairman Perry has provided information on the proper closing of a well. Commissioner Tenhave stated he is awaiting a response from the Town.

A meeting has been scheduled for Friday morning at which he, the Town Manager, Director Thompson, Director Fox, and Chief Doyle and/or their representatives will be in attendance to discuss how situations like this will be managed. Commissioners, as volunteers, cannot be responsible for things that are liability issues to the Town.

Commissioner Tenhave commented when situations occur at one of the Town's parks, there is a Parks and Recreation Director who gets right on the issue and carries it through to completion. If something happens on a Conservation property/easement area, there is no Town staff person who, at this point, believes it to be their responsibility to take ownership of the issue and take it from start to finish; whatever it takes whether that is talking to NHDES, the Police, Public Works, or just going out there with a shovel and doing what has to be done. He stated his belief if anyone felt it were their responsibility they would take care of it. The point of the meeting is to identify who that contact person is. By Charter, the Town Manager is responsible for all real property of the Town.

The well is located on private property. The Town has a walking trail easement over that portion of the property. The homeowner is concerned with liability and safety issues involved.

Councilor Flood questioned whether it would be the homeowner's responsibility. Commissioner Rosati stated her opinion, given there is an easement, and people are utilizing it, it is the responsibility of the Town to ensure those using the trail can do so safely. Commissioner Tenhave noted the current homeowner purchased the property with the easement in place and all of the adornments and improvements that go with it.

Water Level - Madison Drive

Another matter the Commission requested the PWD look into is the water level down Madison and into Mitchell Woods. Chairman Perry stated he received a call from the PWD a few days ago. When he returned home the water level had dropped an inch or so, but the level is up over 1'. In the 20+ years he has lived there, there are areas that are now wet that have never been wet before. Discussions have occurred with a few professionals who have indicated when you are in a flat level area; you need deep water to put leveling devices in. Other than regular maintenance to keep the dams down and the potential for trapping, there is nothing that can be done.

Chairman Perry stated he has not heard back from the PWD regarding what they were able to do. Whatever it was, it lasted a day. It was noted with water rising up into backyards eventually it will result in septic systems failing.

There are reports of beaver activity occurring in the area dating back to the '70s. Chairman Perry commented the original intent was for that whole area to be filled. For whatever reason, they were stopped from filling all the way through that section. Some of the notes describe driving backhoes into the swamp and taking care of the dams or Town employees taking their shotguns out and addressing the beaver issue that way.

Agenda Item

Commissioner Rosati requested a discussion of "Friends of Merrimack Conservation Commission" be an item placed on a future agenda.

Bird Walk

Commissioner Tenhave stated a Bird Walk will be conducted at Wildcat Falls on Saturday, May 20, 2017. Details can be found on the Commission's website, www.merrimackoutdoors.org.

Trail Cleanup

Commissioner Tenhave informed the Commission Rebecca Brenton, Wildcat Falls Sub-committee, and her Husband, Chris, went out and cleared 4-5 trees that had fallen down across the trail. He thanked them for their efforts.

PRESENTATION OF THE MINUTES

The following amendments were offered:

Page 5, Line 13; replace "us" with "use"

Page 6, Line 54; insert "there was" following "if"

MOTION BY COMMISSIONER ROSATI TO ACCEPT AS AMENDED MOTION SECONDED BY COMMISSIONER GLENN **MOTION CARRIED** 5-0-1

Councilor Flood Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Rosati commented although not something the Commission created; Steve Larson has been doing a good job of highlighting the efforts of the Commission on the Merrimack Outdoors Facebook page.

ADJOURNMENT

MOTION BY COMMISSIONER GLENN TO ADJOURN MOTION SECONDED BY COMMISSIONER BOISVERT **MOTION CARRIED** 6-0-0

The May 15, 2017 meeting of the Merrimack Conservation Commission was adjourned at 8:28 p.m.

Submitted by Dawn MacMillan